



NSW Ombudsman

Speedometers and speeding fines

A review of police practice

A special report to Parliament under s 31
of the *Ombudsman Act 1974*

June 2002

NSW Ombudsman

Level 24, 580 George Street
Sydney NSW 2000

Phone 02 9286 1000

Tollfree 1800 451 524

Fax 02 9283 2911

TTY 02 9264 8050

Email nswombo@ombo.nsw.gov.au

Web www.ombo.nsw.gov.au

NSW Government publication

ISBN 07 313 1277 5

© NSW Ombudsman, June 2002



NSW Ombudsman

Level 24 580 George Street
Sydney NSW 2000
Phone 02 9286 1000
Fax 02 9283 2911
Tollfree 1800 451 524
TTY 02 9264 8050
Web www.ombo.nsw.gov.au

June 2002

The Hon Meredith Burgmann MLC
President
Legislative Council
Parliament House
SYDNEY NSW 2000

The Hon John Murray MP
Speaker
Legislative Assembly
Parliament House
SYDNEY NSW 2000

Dear Madam President and Mr Speaker,

I submit a report pursuant to s 31 of the *Ombudsman Act 1974*. In accordance with the Act, I have provided the Minister for Police with a copy of this report.

I draw your attention to the provisions of s 31AA of the *Ombudsman Act 1974* in relation to the tabling of this report and request that you make it public forthwith.

Yours faithfully,

Bruce Barbour
Ombudsman

Background

In the past week, there have been important questions raised about the integrity of speed testing by police. There are concerns that thousands of motorists have been booked for speeding, based on faulty speedometer readings. Recent media reports have referred to a particular police taskforce, 'Operation Sibiu', that investigated infringement notices issued by police driving Subaru vehicles. The media reports have also referred to a subsequent related matter involving 20 police vehicles identified as having faulty speedometers. It is important that any discussion of these matters be based on accurate information.

Communities have attempted to minimise road accidents, and the resulting loss of life and serious injury, through careful determination of appropriate speed limits and the policing of speed. There is a strong expectation that police will act against persons who speed or otherwise drive illegally and recklessly.

However, speeding offences can have serious consequences for individuals, including loss of income or even employment. Infringement notices are also an important revenue source: last financial year over \$140 million was collected through motor traffic infringement notices — including over \$40 million in speeding fines. Confidence in proper enforcement of speed limits can be seriously undermined if there are doubts about how well police carry out speed checks.

The vigorous but fair policing of speed is by and large the responsibility of NSW Police. The community rightly expects proficient and reliable testing of speed by police officers who are certified as competent, police radars and speedometers that are accurate, and proper procedures to minimise the risk of error in speed tests.

The purpose of this brief report is to inform Parliament and the public about some aspects of the NSW Police investigations into speedometer accuracy and speeding fines. My Office is well placed to comment due to our role in overseeing 'Operation Sibiu'. We are yet to complete our review of these investigations. However, in light of the recent public debate, it is appropriate to put on record some of the key issues involved.

Operation Sibiu

In late 1999, NSW Police purchased three Subaru WRX vehicles following a three month trial of the vehicles. An external company initially certified the speedometers in all three vehicles as accurate, meaning they could be used for speed enforcement duties.

Shortly after the vehicles became operational, significant errors in the accuracy of their speedometers were identified. This meant that highway patrol officers could not be confident of the accuracy of speed infringement notices issued while driving these vehicles. Therefore, in recognition of this problem, directions were issued by commanders and supervisors to remove these three vehicles from speed enforcement. Despite these directions, some officers continued to use the vehicles to police speed limits and a number of infringement notices were issued. When senior officers realised that the vehicles were still being used to issue infringement notices, inquiries were undertaken to identify affected motorists.

This resulted in the refund of 530 fines.

NSW Police also commenced an investigation into the issues surrounding the use of the Subaru WRX as a speed enforcement vehicle. This investigation was conducted by a task force known as 'Operation Sibiu'. My Office is overseeing the conduct of Operation Sibiu.

Operation Sibü has involved 17 officers. Interviews have been conducted with more than 150 people. As a result of the investigation, 67 officers have been identified as not performing their speed enforcement or supervisory duties appropriately. The majority of officers were found to have issued infringement notices in contravention of directions or against police policy.

In late October 2001, a panel of senior police officers spent three days reviewing the evidence involving individual officers. My Office monitored this process through one of my staff observing the discussions. The panel made recommendations as to the type of management action to take regarding each officer. In many cases, a recommendation was made to remove the officer from highway patrol duties.

Investigators focussed not only on individual officers, but also on how infringement notices could be issued when speedometers were demonstrably inaccurate. The operation resulted in the development of a number of important proposals which have now been implemented. These include:

- NSW Police changing the company that performs speedometer testing for police vehicles in order to meet best practice testing procedures in accordance with Australian Standards,
- having all police vehicles used in speed enforcement undergo an independent instrument check at the start and end of vehicle life,
- requiring additional training for all highway patrol officers and supervisors to improve police practice in measuring speed,
- at a cost of \$63,000, fitting new digital speedometers into all highway patrol vehicles so that verification of the speedometer is both more accurate and more convenient, and
- strengthening the protocols to ensure the reliability of speed checks.

The changes will lead to substantial improvements in police practice and procedure in this important field.

The vehicles with faulty speedometers

As a direct result of Operation Sibü, NSW Police had the speedometers in all of its highway patrol vehicles tested in early 2001. The tests were carried out by a new company that complied with the testing regime with Australian Standards. The media have reported that the speedometers of 20 vehicles tested were found to be at least 4km/h out.

In assessing the significance of the test findings, it is important to recognise that NSW Police cannot guarantee 100 per cent accuracy of police speedometers on any given day. There are a number of variables that may affect the accuracy of a speedometer including tyre pressures, tyre wear and instrument malfunctions. On the other hand, the risk of speedo inaccuracy does not necessarily mean that the infringement notices have been wrongly issued. In part, the solution is to incorporate safeguards that alert the police to inaccurate speedo readings. In addition, police practice should include a sensible buffer, so that an infringement notice will not be issued where there is doubt as to any speeding violation.

Operation Sibü reinforced the importance of the need for every highway patrol officer, at the start and end of every shift, to conduct a check of their police vehicle's radar and speedometer instruments to confirm accuracy. Before issuing an infringement notice based on a speedometer or radar reading, a highway patrol officer is also required to undertake a 'three-way correlation' which encompasses:

- the officer's own observations,
- a radar check, and
- correlation of the radar speed against the vehicle's speedometer reading.

If there is variance in the correlations, no infringement notice should be issued. In addition, where a police vehicle fails a three-way correlation, it is not to be further used for speed enforcement until appropriate checks are carried out.

It is the combined effect of these safeguards that has led NSW Police to state that the inaccuracy of speedometers in the police vehicles identified in media reports does not necessarily mean that the associated infringement notices are unreliable.

In adopting this position, NSW Police has also relied on legal advice. However, that advice makes it clear that the reliability of the infringements issued from these vehicles is dependent on NSW Police establishing that the officers using these vehicles applied the required checks. NSW Police has informed us that instructions were issued to commanders to ascertain whether police officers who used the vehicles identified as having inaccurate speedometers, applied the necessary checks. Senior management is now seeking advice on the extent to which these instructions were complied with. My Office is also seeking to confirm the exact number of vehicles identified as having inaccurate speedometers.

Further Ombudsman review

Through Operation Sibiu, NSW Police has demonstrated a willingness to respond to serious concerns regarding a central part of policing — enforcement of speed limits and fining offending motorists. It has dealt with both questions of individual misconduct and broader systems issues. The management of Operation Sibiu represents a marked improvement on the poor investigation and inconsistent outcomes in other police investigations on which my Office has previously reported.

Operation Sibiu highlighted potential problems in speed enforcement in NSW. It has resulted in improvements which, if properly implemented, will provide greater integrity in that system, with better trained police officers and more accurate equipment. I am monitoring the implementation of the recommendations. This includes reviewing the full circumstances of all vehicles identified as having inaccurate speedometers. This fresh issue provides an opportunity to test the adequacy of some of the initiatives that have come from Operation Sibiu. In due course, I will report to Parliament on these matters.

NSW Ombudsman

Level 24 580 George St Sydney NSW 2000

Hours of business:

9am–5pm Monday to Friday

or at other times by appointment

Phone: 02 9286 1000

Fax: 02 9283 2911

Toll free (outside Sydney): 1800 451 524

Tel. typewriter: 02 9264 8050

Web: www.ombo.nsw.gov.au