

Report on Corruption in Respect of Truck Driving Licence Applications

2 November 2017



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Corruption and Crime Commission

Postal Address	PO Box 7667 Cloisters Square PERTH WA 6850	Email	info@ccc.wa.gov.au
		Website	www.ccc.wa.gov.au
Telephone	(08) 9215 4888 1800 809 000 (toll free for callers outside the Perth metropolitan area)	Twitter	@CCCWestAus
		Office Hours	8.30 am to 5.00 pm, Monday to Friday
Facsimile	(08) 9215 4884		

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CORRUPTION AND CRIME COMMISSION

Hon Kate Doust, MLC
President of the Legislative Council
Parliament House
Harvest Terrace
PERTH WA 6000

Hon Peter Wilson, MLA
Speaker of the Legislative Assembly
Parliament House
Harvest Terrace
PERTH WA 6000

Dear Ms President
Dear Mr Speaker

In accordance with the *Corruption, Crime and Misconduct Act 2003* s 84, the Commission presents its Report on Corruption in Respect of Truck Driving Licence Applications.

Yours sincerely

A handwritten signature in blue ink that reads "John McKechnie". The signature is written in a cursive style.

John McKechnie, QC
Commissioner

2 November 2017

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INTRODUCTION

Overview: How driving assessment was corrupted

- [1] Driving a heavy truck, especially with trailers, takes skill and demonstrated competence.
- [2] Mr Previn Narayanan entered into an Agreement with the Department of Transport (DoT) to conduct Practical Driving Assessments (PDAs) for classes of heavy vehicles. In so doing, he became a public officer within the Commission's jurisdiction.
- [3] He was supposed to assess the competence of the students attending his company, Mines West Truck Driving School (Mines West).
- [4] During 2017 and earlier, he did not do so.
- [5] Mr Narayanan admits that his behaviour was wrong and dishonest. He made numerous false entries in the DoT Licence Assessment Provider System (LAPS), pretending he had carried out PDAs when he had not. He manipulated entries by falsifying times and dates to make it appear he had carried out assessments.
- [6] Assessments were not carried out on designated routes, as required by the Agreement between the DoT and Mr Narayanan. A theory test, required to be completed before a PDA, frequently was not.
- [7] Undertaking instruction for the purpose of assisting a student to obtain a licence to drive heavy trucks generated the principal source of revenue for Mines West. Although income from the PDA itself was minimal, it is essential to the desired outcome of obtaining a licence.
- [8] From the student's perspective, the outcome was a markedly less rigorous assessment process. This made Mines West a popular truck driving school. Mines West also offered the convenience of a truck training and PDA 'package' for a set price.
- [9] Shorter routes, two students per 'assessment', together with the falsification of LAPS, allowed Mr Narayanan to grow his business.
- [10] His dishonesty did not end there.
- [11] Some students travelled from elsewhere in Australia to receive instruction and get assessed, avoiding stricter controls in their home state. Mr Narayanan counselled some students to change addresses on bank statements and other details to make it appear they were locally resident in WA, a requirement for a learner's permit. They flew to Perth, presented the

altered documents to DoT to get a learner's permit and were given some instruction at Mines West. Mr Narayanan entered their details into LAPS as a pass. After obtaining a licence from DoT, they returned home and transferred their new WA licence to a home state equivalent.

- [12] On 27 March 2017, the Commission commenced a co-operative investigation with DoT into Mr Narayanan's activities. As part of the investigation, the Mines West premises at Neerabup were kept under observation. Other covert technologies were utilised and information was gathered and assessed.
- [13] On 28 June 2017, Commission and DoT officers raided the Mines West premises, seizing documents and computers. Mines West effectively ceased trading.
- [14] Mr Narayanan was privately examined by the Commission on 11 and 29 August 2017. To his credit, Mr Narayanan was open and generally frank with the Commission. He did not attempt to hide his conduct and made admissions as to the main points in issue, accepting that he had acted dishonestly and repeatedly falsified public records. Mr Narayanan was provided with a copy of the draft report and has made submissions which have been taken into account.
- [15] His explanation is that the business grew organically so that he had no time to carry out PDAs. In order to feed demand, he trusted his instructors to conduct assessments. The Commission does not accept that the success of Mines West took Mr Narayanan by surprise. The clientele precisely reflected his business aims and marketing strategies. The marketing strategy targeted potential clients from a specific ethnic group, Indians, particularly those from the Punjab.
- [16] Driving a vehicle of any sort on a public road is a serious undertaking. A licence is an assessment of competence. When students are not properly assessed, there is an obvious danger that incompetent drivers are on the road. When such a driver is in charge of a heavy rigid or multiple combination vehicle, the danger is magnified. So also is the danger magnified when a student uses Mines West to circumvent the requirements to obtain a C class or ordinary driver's licence and then obtain an extension to carry passengers for reward as a taxi or Uber driver.
- [17] After the raid, DoT immediately commenced a review of licences obtained after a PDA at Mines West. From 30 June to 2 October 2017, 678 licence holders have had their licences suspended in part or in full, 370 fresh PDAs have been conducted and 201 applicants have failed. A further 20 cancelled or failed to attend. Over the course of the PDA reviews, the failure rate of Mines West licence holders has been over 50%. The review is ongoing.

- [18] Most applicants under review did not even try to obtain a truck driver's licence, 80% sought only a C class licence to drive a car. Many had used Mines West as a way to avoid the scrutiny required to obtain such a licence. They had driven on an Indian overseas licence beyond the length of time permitted and avoided the hours of supervised driving required by C class learners.
- [19] Just under half of the suspended licence holders (49%) were permitted to drive an Uber or taxi (an F or T class licence extension), either before or after DoT's review. This indicates the motivation to obtain a licence to drive a truck was not the obvious one. Rather, a truck licence from Mines West provided a means to obtain remuneration transporting passengers.
- [20] Mr Narayanan explains the high failure rate on re-test as a lack of familiarity with the vehicle and lack of instruction prior to the re-test. He submits:
- *All trucks and vehicles are different*
 - *If the individuals undertaking an assessment weren't provided with a preview of the truck's control systems prior to this assessment lead to a higher chance of failure¹*
- [21] These explanations, even if genuinely believed, do not avail him. His dishonesty compromised public safety.
- [22] Mr Narayanan did not take bribes to pass students. He strongly maintains that the student was assessed properly, albeit not by him (a view the instructors' dispute). Moreover, his instructors were not approved assessors.
- [23] In light of his admissions and evidence gathered, the Commission has formed an opinion of serious misconduct in respect of Mr Narayanan's conduct from 1 January 2017 until 28 June 2017.
- [24] In the Commission's opinion, Mr Narayanan has corruptly failed to conduct assessments, a function of his employment.²
- [25] His false entries into the LAPS system may constitute offences of falsifying a public record, *Criminal Code* s 85.³
- [26] This is the third report by the Commission into the activities of vehicle or driver's licence assessors. DoT was vigilant in detecting anomalies in LAPS and notifying the Commission. It is clear that despite the vigilance of DoT, risks remain. Although the report concerns only the activities of one person, Mr Narayanan, the jeopardy to public safety is such that public exposure of the issue is appropriate.

¹ Letter from Hammond Legal (acting for P Narayanan) to the Commission dated 20 October 2017, p 3.

² *Corruption Crime and Misconduct Act 2003* (CCM Act) s 4(a).

³ CCM Act s 4(c).

CHAPTER ONE

Mr Previn Narayanan and Mines West

- [27] Mr Narayanan holds numerous qualifications including:
- Bachelor's Degree in Communications Management
 - Graduate Diploma in Security Management
 - Vocational qualifications including:
 - Certificate IV in Training and Logistics (Heavy Vehicle Instruction)
 - Statement of Attainment in Operations and Multi-combination Vehicles
 - Certificate IV in Training and Assessment.⁴
- [28] Under the *Road Traffic (Administration) Act 2008*, a function of DoT is to provide a scheme for assessing the competency of people to hold licences authorising the holder to drive specified classes of vehicle. DoT may delegate performance of these functions to an agent.
- [29] On 30 July 2015, DoT entered into an Agreement with Mr Narayanan, as agent, whereby Mr Narayanan agreed to provide services for assessing the competency of people to hold driver's licences for specified classes of motor vehicles.⁵ Mines West was one of a number of approved service providers throughout WA. An assessor was required to be approved by DoT to undertake PDAs.⁶ Mr Narayanan was the only approved assessor under the Agreement at Mines West.
- [30] The Agreement, gave Mr Narayanan authority under the *Road Traffic (Administration) Act 2008* to pass or fail PDAs. He thereby became a public officer. A public officer is defined as including a person exercising authority under a written law.⁷
- [31] Serious misconduct occurs if a public officer corruptly acts or corruptly fails to act in the performance of the functions of the public officer's office or employment, or whilst acting or purporting to act in his or her official

⁴ Letter from Hammond Legal (acting for P Narayanan) to the Commission dated 20 October 2017, p 3.

⁵ Department of Transport, Government of Western Australia, Agreement DoT 700215, 'External Provision of Practical Driving Assessments Heavy Vehicles' (signed 23 July 2015).

⁶ Ibid sch 3.

⁷ *Criminal Code* s 1(ad).

capacity, commits an offence punishable by two or more years' imprisonment.⁸

- [32] Falsification of a record by a public officer is a crime punishable by seven years' imprisonment.⁹

Mines West Truck Driving School

- [33] In September 2012, Mr Narayanan commenced truck driving instruction as the registered proprietor of Mines West Truck Driving School. Mines West was registered with the Training Accreditation Council of Western Australia (TAC) as a Registered Training Organisation (RTO). As its full name suggests, Mines West offered instruction in the Heavy Rigid (HR), Heavy Combination (HC) and Multi Combination (MC) types of licences. An MC class licence permits the operation of one single heavy truck connected to two heavy trailers. An HR class licence permits the operation of a vehicle with three or more axles such as a truck or articulated bus. An HC vehicle is a prime mover to which may be attached a single semi-trailer plus an unladen dolly, or a rigid motor vehicle attached to a trailer plus an unladen converter dolly.¹⁰
- [34] Mines West operated from premises at 2048 Wanneroo Road, Neerabup. Mines West remained in operation until 28 June 2017 when officers of the Commission and DoT, as part of a co-operative investigation, executed search warrants at the premises seizing documents and computers. DoT commenced a review of licences and issued numerous suspensions.
- [35] At its peak, Mines West had six trucks and employed a number of driving instructors:
- Mr Curtis Holtom was its principal (full-time) employee.
 - Mr Harinder Singh and Mr Rajender Singh were casual employees but Mr Narayanan considered them as permanent staff (both were working 40 hour weeks). Both were fluent in Punjabi.
 - Mr Narayanan hired three casual employees (who worked 10 hour weeks) prior to the business ceasing trading.
- [36] Mr Narayanan recognised a niche market to give instruction in Punjabi or Hindi for those who wished it. He said that it was often easier for a student to understand procedures when instructed in a familiar language.¹¹ Mr Narayanan targeted Indian nationals, especially those from the Punjab region, on Facebook, other advertising media and through word of mouth. In

⁸ CCM Act s 4(a), (c).

⁹ *Criminal Code* s 85.

¹⁰ www.transport.wa.gov.au/licensing/vehicle-classes.

¹¹ P Narayanan transcript, private examination, 11 August 2017, pp 56-57.

addition to Mr Rajender Singh and Mr Harinder Singh, Mr Narayanan employed an office assistant who was also fluent in Punjabi. Mr Narayanan, who was born in Singapore, does not speak Punjabi.

Practical Driving Assessment fees

- [37] Mr Narayanan gave evidence that the Agreement with DoT was for HR, HC and MC PDAs.¹² DoT did not contract agents to conduct Light Rigid (LR) or Medium Rigid (MR) PDAs.
- [38] The income earned by Mines West through the actual PDA was minimal. Mines West only retained \$40.70 from each fee.
- [39] Clause 6(1)(a) of the Agreement allowed for the fees to be adjusted on 1 July every year.

Driver training fees

- [40] Mines West charged a fee for training including assessment as follows:
- Heavy Rigid automatic - \$660
 - Heavy Rigid synchronised gearbox - \$880
 - Heavy Rigid non-synchronised gearbox - \$1,320
 - Heavy Combination automatic - \$1,670
 - Heavy Combination non-synchronised manual - \$2,160
 - Multiple Combination automatic - \$1,860
 - Multiple Combination non-synchronised manual - \$2,470¹³
- [41] Mines West derived its main income from driver training and did not make any substantial profit from the PDA fees that it collected and shared with DoT.
- [42] There were obvious financial benefits to Mr Narayanan in training more than one person at a time. He claims, though they deny, that he outsourced the inevitable demand for PDAs to his instructors.
- [43] The Agreement with DoT contained a number of conditions to ensure rigour in PDAs.

Practical Driving Assessment routes

(a) At the request of the CEO, the Agent shall prepare and submit for the CEO's approval, proposed assessment routes for the conduct of PDA. Routes are to

¹² P Narayanan transcript, private examination, 11 August 2017, p 9.

¹³ Ibid p 14.

provide sufficient variation to ensure Applicants do not become familiar with the routes and the routes must be structured in such a way as to ensure that the Applicant's ability is tested against the requirements of the PDA.

- (b) PDA routes must not be used by the Agent until approval has been obtained from the CEO.*
- (c) Any variations to the PDA routes must be approved by the CEO in writing prior to implementation.*
- (d) The Agent must only conduct PDA on approved PDA routes.*
- (e) The CEO may at his or her sole discretion provide the Agent with temporary written exemption from the requirement in this Clause 3 to provide the proposed assessment routes in advance for approval. This will be considered on a case by case basis where the Agent can demonstrate to the CEO's satisfaction that there is an urgent and/or unexpected need. The Agent's obligations under this Clause 3 will automatically resume once the exemption period is at an end.¹⁴*

[44] Mr Narayanan admitted that the approved route was not always followed.¹⁵ Mr Narayanan said he would take a person on a route he felt was suitable to assess the driver's skills.¹⁶ On some occasions, he agreed that he did not use the prescribed route in order to take less time.¹⁷

[45] Mr Narayanan submits:

Mr Narayanan carried out the PDA on a one on one basis but did sometimes have two students in the truck.

The effect of conducting the PDA in this way is to create a classroom environment. The second student would observe the first student undertake the PDA.

The first student would then watch the second student complete the PDA.¹⁸

Assessment of competency

[46] Completion of approved Units of Competency Module training relevant to the class of vehicle applied for is a mandatory pre-requisite to an applicant undertaking a PDA. Under the Agreement, Mr Narayanan was required to ensure an applicant had successfully completed the required competency module and verify on LAPS that the applicant had a Statement of Attainment provided by Mines West or another RTO as evidence of completion of the

¹⁴ Department of Transport, Government of Western Australia, Agreement DoT 700215, 'External Provision of Practical Driving Assessments Heavy Vehicles' sch 2 cl 3.

¹⁵ P Narayanan transcript, private examination, 11 August 2017, pp 29-30.

¹⁶ Ibid p 23.

¹⁷ Ibid p 24.

¹⁸ Letter from Hammond Legal (acting for P Narayanan) to the Commission dated 20 October 2017, p 4.

required competency module(s). This must occur prior to an applicant being permitted to undertake a PDA.¹⁹

- [47] Part of the training involved a theory assessment module emailed to the student when a booking was made.²⁰ This module contained a knowledge based questionnaire and a guide book.
- [48] Mr Narayanan gave evidence that although many students brought their completed theory assessment before instruction, some did not. If the student had completed the assessment, Mr Narayanan would look through it but did not undertake a formal marking process. He would discuss the answers with the student.²¹
- [49] Mr Narayanan submitted that if a student had only partially completed the theory component of the PDA, he would conduct the balance of the assessment orally.²² This is contrary to the requirement. He did not state this in evidence and as the theory component was not formally marked, there is no documentary support for his submission.
- [50] Mr Narayanan gave evidence that if a person had not completed their theory module but passed the PDA, he would enter the PDA result in LAPS as a fail. If they subsequently completed the theory module, he would purportedly re-assess and enter a pass.²³ His evidence in this respect was unconvincing. It makes little sense. As Mr Narayanan controlled when data was entered into LAPS (if necessary by falsifying times and dates), why not simply wait until the student had returned the completed module?
- [51] A possible explanation for his action is that it was necessary for Mines West to record some failures so that DoT's suspicions would not be aroused by an abnormally high pass rate. Mr Narayanan denies this in his submissions, but does not offer an alternative explanation.
- [52] In any event, Mr Narayanan's evidence is contrary to the terms of the Agreement. Moreover, there is good reason why a person is required to obtain proficiency in theory before practical assessment of competence.
- [53] Mr Holtom said in private examination that there were a couple of occurrences where he took students back to the office and refused to train them now or in the future. If he had his way, they would have been walking

¹⁹ Department of Transport, Government of Western Australia, Agreement DoT 700215, 'External Provision of Practical Driving Assessments Heavy Vehicles' cl 5.2.

²⁰ P Narayanan transcript, private examination, 11 August 2017, p 13.

²¹ Ibid p 13.

²² Letter from Hammond Legal (acting for P Narayanan) to the Commission dated 20 October 2017, p 4.

²³ P Narayanan transcript, private examination, 29 August 2017, pp 41-42.

home and the car would have been towed. "They shouldn't have been on the road."²⁴

- [54] Mr Holtom quite often found the training at a level of a 16 year old, teaching road rules and how to drive.²⁵
- [55] Whether some students demonstrated knowledge, understanding and compliance with traffic regulations may be doubted.

The Practical Driving Assessment

- [56] Personnel must be pre-approved in writing by DoT to act as assessors involved in undertaking the service.²⁶ Schedule 2 of the Agreement provides for the standards and procedures of the conduct of a PDA:

(a) The Agent is required to assess an Applicant against the Heavy Vehicle Competency Standard or Multi-combination Competency Standard as applicable, relevant to the vehicle type as set out on the Department's website: www.transport.wa.gov.au. The Agent is required to assess the ability of the Applicant to demonstrate that they possess the ability to perform correct driving practices. It is the Agent's responsibility to keep up to date with any revisions to the Standards. The Agent is to assess Applicants against the following:

- (i) operating a vehicle safely;*
- (ii) guiding and controlling a vehicle;*
- (iii) driving in an orderly traffic system;*
- (iv) minimising conflict whilst in control of a vehicle;*
- (v) demonstrating driving skills required for the type and class of Driver's Licence sought by the Applicant;*
- (vi) managing a crisis; and*
- (vii) knowledge, understanding and compliance with traffic regulations.²⁷*

- [57] Crucially, Mr Narayanan admitted that for at least in 2017, he did not conduct assessments. There were also occasions in 2015 and 2016 when he did not conduct an assessment. He said that he trusted his instructors to perform assessments even though he knew this was not in accordance with the Agreement. He said that he tried to follow the spirit of the Agreement in that the assessment was conducted by someone other than the instructor who had done the training.

²⁴ C Holtom transcript, private examination, 6 September 2017, p 7.

²⁵ Ibid p 22.

²⁶ Department of Transport, Government of Western Australia, Agreement DoT 700215, 'External Provision of Practical Driving Assessments Heavy Vehicles' cl 7.1(c).

²⁷ Department of Transport, Government of Western Australia, Agreement DoT 700215, 'External Provision of Practical Driving Assessments Heavy Vehicles' sch 2 cl 1.

- [58] He insisted that every student was in fact assessed, even if the entries into the DoT system were falsified. He professed to trust the expertise of the instructors even though they had not been authorised by DoT to carry out assessments. As two assessors, Mr Rajender Singh and Mr Harinder Singh had only acquired instructor status and commenced in late 2016, it is difficult to know the basis for Mr Narayanan's trust in their skills as assessors.
- [59] Mr Narayanan submits that he trained the instructors so that even though they only received their qualifications in 2016, it does not mean they were unable to completely train and assess students. As no assessment as to the instructors' competence to conduct a PDA was ever made by DoT, Mr Narayanan's assertion cannot be tested.
- [60] The instructors, Mr Holtom, Mr Rajender Singh and Mr Harinder Singh, each categorically deny that they carried out a PDA as an unapproved assessor.
- [61] Mr Narayanan's evidence that PDAs were conducted by the instructors was challenged by each of them in private examination. Each insisted that they did not conduct assessments, although Mr Rajender Singh was prepared to concede that he used a copy of the road driving assessment form.²⁸ Mr Holtom agreed he may have conducted some assessments for an MC class licence.²⁹
- [62] Mr Narayanan said that he would speak to the instructors following an assessment and fill out forms on the basis of what he had been told. He would then enter results into LAPS. Mr Narayanan could record PDA results using LAPS. Additionally, all the information entered in relation to training and assessment of the applicant is automatically collated on LAPS. LAPS is an official record. Mr Narayanan admitted falsifying the LAPS records in relation to numerous applicants. He did so in a number of ways. He claimed to be the relevant assessor when he was not. He claimed that the test occurred on a certain day and at a certain time when it did not.
- [63] It is unnecessary to resolve the competing explanations as to whether the instructors performed assessments in the manner described by Mr Narayanan. He has admitted he did not perform assessments on many occasions.
- [64] Even on Mr Narayanan's account, an applicant for a PDA was 'assessed' by a person who was not accredited by DoT to do so. Their competence to conduct a PDA was never tested. The prescribed route may not have been followed. The applicant was not assessed 'one-on-one', or for an adequate amount of

²⁸ R Singh transcript, private examination, 28 August 2017, p 9.

²⁹ C Holtom transcript, private examination 6 September 2017, p 11.

time to determine sustained competency at managing a heavy vehicle. On occasion, the theory module was not completed before the PDA.

- [65] Mr Narayanan consciously completed PDA forms for assessments when he had not been present, falsely dating and timing the outcomes on LAPS to make it appear he had personally completed the PDA.
- [66] In the circumstances, it is of little moment whether the student went through a form of 'assessment' or whether the instructor simply told Mr Narayanan how the student performed during instruction. Whatever be the true position, the inescapable fact on either version is that no formal approved 'assessment' by Mr Narayanan was undertaken, and Mr Narayanan dishonestly falsified DoT records to pretend that he had.

CHAPTER TWO

The students

- [67] Mr Narayanan did not make particular enquiries as to why a person wished to qualify for a truck licence. This is a reasonable position. He was in the business of providing instruction for truck licences and a potential student's reasons were irrelevant.

Students from Western Australia

- [68] As earlier reported, Mr Narayanan targeted Indians with particular emphasis on those from the Punjab. He regarded this as his niche market and engaged two Punjabi speakers as casual instructors and one Punjabi speaker as office assistant.
- [69] However, on the evidence available to the Commission, it is likely that many students sought out Mines West primarily to obtain a qualification that would enable them to lawfully drive a car. An unascertainable number of students obtained their truck driving qualification to circumvent the requirements of a C class licence. The students achieved this by exploiting anomalies in the process for conversion of interstate and international driver's licences.
- [70] An HR learner's permit may be applied for after holding a car licence for one year. To be eligible to obtain an HR class licence, a person must pass a PDA and have previously held a C class licence in WA, or an interstate or international equivalent licence for a minimum period of two years. After a further qualification period of one year, driving on an HR class licence, the person may then apply to obtain a heavy vehicle licence of a higher class such as HC and MC.
- [71] DoT will recognise overseas licences depending on the class of licence sought and whether the country of licence origin has been deemed by DoT as a 'recognised country', an 'experienced driver recognised country' or a 'non-recognised country'. Allocation to a category depends on the driver licence issuing criteria in operation in that country:
- An applicant seeking a WA C class licence or R class (motorbike) licence does not need to complete a PDA if they hold a recognised country licence. A driver seeking a truck licence would still need to undertake a PDA to get that licence.
 - An applicant seeking a WA C class or R class licence who is 25 years or older and has an equivalent licence from a deemed 'experienced driver

recognised country' is exempt from completing the PDA prior to the grant of a WA licence.

- An applicant seeking a WA C class licence or R class licence from a deemed 'non-recognised country' must pass a road rule theory test and PDA for the relevant class of vehicle. India is a non-recognised country.
- For all categories, the licence must be translated into English.

[72] An Indian licence holder must do the following to obtain a WA licence:

- Meet proof of identity and residency requirements;
- Pass the road rule theory test (online at a DoT Centre);
- Pass a PDA; and
- Meet class eligibility requirements (age and tenure) for relevant vehicle classes.

[73] WA allows a new resident to drive for three months using their overseas or interstate obtained driver's licence. It is then incumbent on the driver to obtain a WA licence.

[74] The Commission has evidence that some new residents illegally drive on overseas licences for two to three years before making applications to DoT.

[75] If an applicant has only been driving in their home country for a short period prior to settling in WA, it is possible to circumvent the tenure requirement because a period of undetected illegal driving operates to establish the tenure period. The case study of Mrs P is an example.

[76] A person can legally drive in WA on an Indian licence for three months once WA is where they 'usually reside' (presuming their overseas licence is valid).³⁰

[77] States that have the most rigorous system are those where the overseas or interstate licence ceases to remain valid three months after arrival in the jurisdiction. Northern Territory is an example.

[78] WA does not cancel the interstate or overseas licence once the three month period of ordinary residency has been reached. Instead, reaching the three month period of 'usual residency' indicates merely the authority to drive on the overseas or interstate licence is withdrawn. For all other purposes (such as to obtain an HR class learner's permit), the licence remains valid.

³⁰ The *Road Traffic (Authorisation to Drive) Regulations 2014* (WA) reg 60 states that recognition must be granted to the holder of a licence 'under a foreign law'; reg (1) states that the licence holder under a foreign law is entitled to drive in Western Australia as if they held a corresponding WA licence; but reg 61(3) states this recognition ceases once the person 'usually resides' in this State and the period of 'usual residence' exceeds three months.

- [79] In addition, the criterion of 'usual residency' is fluid as it requires a discretionary judgment. What constitutes 'usual residence' is not defined.
- [80] If a residency visa is issued, the date of residency is fixed.
- [81] In summary:
- In WA, the three month time period does not commence until the overseas or interstate licence holder considers they are 'usually resident' or a residency visa is issued;
 - After expiration of the three month period, the authority to drive on that licence is 'withdrawn'; and
 - The overseas licence is not automatically cancelled or deemed invalid but can be used as a basis to prove eligibility for an HR class learner's permit.
- [82] In Queensland, failure of a PDA automatically cancels foreign or interstate licences.

Students from other states

- [83] A number of students travelled from other states especially to obtain a relevant licence. At 7 August 2017, the number of interstate licences suspended as a consequence of the DoT review was 67. These are licensees who appear to have relocated interstate since the grant of the WA licence. Mr Narayanan submits that the overall number of students who travelled interstate to obtain a licence from Mines West was approximately four or five. The precise number of students who travelled to WA specifically to undergo instruction and assessment at Mines West is unknown.
- [84] Mr Narayanan admitted that such conduct did happen. Before obtaining a licence it was necessary for a student to obtain a WA learner's permit. A student needed to provide proof of residence in WA. Mr Narayanan counselled a number of students as to how they could falsely pretend they were residents in WA. As an example, a student was advised to have the address on his bank account changed to a WA address and then produce a bank statement to DoT as proof. A lease or rental agreement might also be produced. Mr Narayanan accepted that his advice in these cases resulted in a dishonest application for a learner's permit to DoT by the student.³¹

³¹ P Narayanan transcript, private examination, 29 August 2017 p 15.

CHAPTER THREE

Case studies

- [85] The Commission has selected four case studies to illustrate the risk to public safety from Mr Narayanan's dishonesty and falsification of public records. Each of the case studies fell within Mr Narayanan's target market as they had historically been issued 'non-recognised' Indian driving licences.

Mr A

- [86] Mr A, a 21 year old Indian national, arrived in Perth from India on 17 January 2016. He was issued with a two year student visa and is a full-time student. Mr A had been issued with an Indian licence to drive a C class equivalent vehicle when he was 18 years of age.
- [87] Within two weeks of arriving in Perth, Mr A had his Indian licence verified by the Indian consulate so that he could start the process of obtaining a WA licence. Verification meant that he could forgo the requirement to demonstrate hours of training as an accompanied learner driver.
- [88] In addition to studying, Mr A also obtained a job with a commercial cleaning business, a 40 minute drive from his home.
- [89] Mr A obtained a C class learner's permit from Cannington DoT office on 22 September 2016 and underwent a PDA at Kelmscott on 15 November 2016. He failed.
- [90] Mr A did not attempt a second C class PDA but contacted Mines West on 9 February 2017 to arrange training for an HR class licence. The following day at Cannington DoT office, he swapped his C class learner's permit for an HR class learner's permit.
- [91] LAPS records entered by Mr Narayanan indicate that Mr A was instructed at Mines West but is recorded as having failed his HR PDA on 12 February 2017.
- [92] LAPS records entered by Mr Narayanan indicate that Mr A re-sat his HR PDA at Mines West on 14 February 2017 at 7.00 am and passed. However, the vehicle recorded as the test truck did not leave Mines West premises that day and Mr Narayanan (the recorded assessor) did not attend the premises until 7.11 am. The LAPS entry was false.
- [93] Based on the LAPS entry as a pass, Mr A was issued with an HR class licence by DoT but this was suspended on 3 July 2017. Mr A elected to re-sit his HR PDA on 18 July 2017 at Kelmscott but failed.

[94] He took a further one day training course at another approved truck driver training school and was assessed by an approved assessor. On this occasion, he passed and was issued an HR class licence.

[95] On 18 September 2017, Mr A was driving a truck involved in a collision with a car. One person died and two people were injured.

Mr J

[96] Mr J came to Australia from India in 2014 and works in the restaurant industry as a kitchen hand. He obtained his car licence in India at age 24 without being required to undertake any practical driving assessment. He was required only to have a medical examination. He did not receive any professional driving instruction in India.

[97] In Australia, Mr J drove using his Indian licence for three years. He was motivated to obtain a WA licence only because he decided to supplement his income by driving a taxi.

[98] Mr J attempted the PDA for a C class licence on two occasions at a metropolitan DoT Centre. He failed both times. He was told by the driving instructor that he needed to take some professional driving instruction lessons. A friend told him about Mines West where a truck licence was "easier to get" because the test involved just "driving 15 to 20 minutes" after getting lessons in the truck in which you are tested. Mr J told the Commission "that's why I thought that's the easy way, like first I will get whole day lesson and then I will go for the test".³²

[99] Mr J undertook training at Mines West in a truck with another student over the course of a day with an instructor. Mr Narayanan tested Mr J at 4.00 pm that day with the other student.

[100] The truck was away from the Mines West premises for approximately 30 minutes for the PDA. Mr J was allocated 15 or so minutes to demonstrate to Mr Narayanan that he could drive. Mr J felt confident because he was able to drive the truck better than the other student who bumped the truck into the kerb three times as he left the Mines West premises. Mr J told the Commission he was "fully concentrating", did not hit the kerb and after "maybe 10 to 15 minutes I drove truck" was told he had done well and to drive back to the Mines West premises. Mr J was told by Mr Narayanan that he had passed the PDA when they were back in the office and he was given a certificate of competency to take to DoT to obtain his HR class licence.

[101] Three weeks after obtaining his licence to drive a truck, Mr J applied for a taxi extension to his licence so that he could drive a taxi.

³² Mr J transcript, private examination, 6 September 2017, p 4.

- [102] Shortly thereafter, Mr J's licence was suspended by DoT. Mr J was given the option of sitting another PDA and elected to do a car licence PDA. In his first attempt at Kelmscott DoT he failed the C class PDA but passed on the second attempt. He was subsequently successful in obtaining a taxi extension to his C class licence.

Mrs P

- [103] In late 2013, a 25 year old woman, Mrs P from Rajasthan, India, arrived to reside permanently in Perth with her husband. She held an Indian driving licence obtained one year earlier. One of the first things Mrs P did after arriving was to buy a car, a second-hand Holden Viva. Mrs P then drove herself around Perth for the following two years on her Indian licence.
- [104] Mrs P needed to drive her car 100 kilometres from her home to her place of work five days a week. After two years of driving her own vehicle purportedly on an Indian licence, she embarked on the process of obtaining a C class learner's permit.
- [105] It took her a further 20 months to obtain an ordinary C class licence.
- [106] After 18 months and eight failed attempts to pass a PDA, Mrs P was becoming frustrated. She had been unable to convince eight different driving assessors based in four different metropolitan and country locations that she had the skills to manage a vehicle and the required awareness of the road rules. General comments from the assessors' scoring sheets were that Mrs P drove over the speed limit, over-corrected her vehicle so that it went on the wrong side of the road and failed to stop at stop signs.
- [107] From DoT Centres located from Gingin to Kelmscott, the consensus was that Mrs P was not competent to drive a car without supervision.
- [108] Mrs P's own assessment was that she was a pretty good driver but her car was letting her down during the tests. She tried to rectify this by hiring rental cars for a PDA. When she still failed, she told the Commission that the mistakes she made during the PDAs were minor. However, one driving assessor was concerned enough to write on the score sheet that his intervention during Mrs P's test was "a crisis averted".
- [109] One day on the way to work, Mrs P noticed Mines West in Neerabup. After some research on Facebook, Mrs P was attracted to Mines West because they offered a training/PDA package over one day and the HR class licence she would obtain would allow her to drive her Holden Viva.
- [110] Enquiries made by her with DoT confirmed that she could swap her car learner's permit for a truck learner's permit without meeting any additional criteria.

- [111] Mrs P managed to do this because she had illegally driven on her Indian licence in WA for two to three years. This made it appear that she had legal tenure to obtain a truck licence by having held a C class licence for more than two years.
- [112] On 6 June 2017, Mrs P spent four hours training in a truck. The instructor recalled her inability to park the truck parallel to the curb.
- [113] Mr Narayanan then assessed Mrs P and told her she had passed despite the scoresheet showing four misdemeanours during the PDA, including bumping the kerb while driving the truck in a straight line, failing to indicate, and difficulty accelerating smoothly. When told she had passed, Mrs P wasted no time getting her HR class licence from DoT that same day.
- [114] Mrs P held the HR class licence for one month and drove herself to work before DoT suspended the licence and asked her to re-sit a PDA of her choosing. She chose to re-sit a C class PDA.
- [115] She failed.
- [116] Finally, on 22 August 2017, she successfully passed a PDA conducted 250 kilometres away from her home at the Shire of Trayning. There is not much traffic in Trayning.

Mr S

- [117] Mr S came to Australia from India in 2015 to study. He obtained a driving licence in India when he turned 18 without having to demonstrate competency in a driving test. The Indian licence was valid for 10 years.
- [118] Within a month of arriving in Australia, Mr S bought his own car but he was aware that the rules allowed him to drive in WA for only three months on his Indian licence before having to obtain a local C class licence.
- [119] Mr S failed the C class PDA at Cannington DoT.
- [120] A friend told Mr S about Mines West where he could be given training on driving a truck and then do a truck PDA the same day. Mr S was told that a truck licence would also allow him to drive a normal car. Mr S did not need a truck licence for his casual job as a waiter in an Italian restaurant, but it was an easy way to obtain some extra skills and then be able to drive a car in WA.
- [121] The cost of the training was significant for Mr S but his family in India assisted him to get the \$660 fee together.
- [122] Prior to attending Mines West for training, Mr S was emailed a theory assessment test which he completed at home except for a few questions. On 2 May 2017, Mr S and another student were trained for several hours by a

Mines West instructor. In the mid-afternoon, Mr S and the other student were taken together for a 30 minute 'assessment' by another instructor. Halfway through the 30 minute 'assessment', he swapped the driving with the other student.

- [123] The instructor told Mr S that he passed the PDA. This was confirmed to Mr S by Mr Narayanan back at the office at 4.00 pm. Mr Narayanan gave Mr S the option of returning the following day to collect his certificate of competency or posting it to him.
- [124] Strangely, the LAPS system and the scoresheet from the PDA on 2 May 2017 stated that Mr S had failed the PDA that day. A second PDA scoresheet and LAPS entry dated two days later (4 May 2017) showed Mr S had undertaken another PDA assessment which he passed.
- [125] Mr Narayanan was responsible for all LAPS entries.
- [126] Mr S denies he had to undertake another assessment. This is confirmed by surveillance at the Mines West premises which showed Mr S attended at Mines West on 4 May 2017 for merely five minutes. He left with his certificate of competency and went straight to DoT to obtain his HR class driving licence.

CHAPTER FOUR

The cost and the way forward

- [127] In addition to the potential danger to other road users, investigations and remedial action can have a substantial cost to the public purse.

Department of Transport staff hours attributed to investigation, support to Corruption and Crime Commission and remedial action

- [128] It is estimated that Driver and Vehicle Services staff have spent 3369 hours in activities associated with Mines West since January up until 15 September 2017.
- [129] The functions undertaken include: oversight of the investigation by the Assistant Director Governance including internal and external liaison; auditing of paperwork; data analysis including LAPS and TRELIS; investigation; support to the Commission; document recall; review of individual licence holders; personal service of suspension/cancellation letters; telephone inquiries including taking bookings of PDAs; and the conduct of PDAs.
- [130] The 3369 hours consumed by this matter equates to 449 working days, or the equivalent of the available working hours per annum of two full-time staff.

Estimated financial loss to Department of Transport

- [131] It is estimated that the direct loss to DoT as a consequence of the Mines West matter is around \$194,220. This estimate is for the period January to 15 September 2017.
- [132] The above figure includes staff hours, vehicle costs associated with the service of suspension notices, and lost revenue associated with the re-testing of 351 licence holders.
- [133] The true loss, taking into account continued actions including complaints handling, internal review processes, and the potential requirements to defend decisions made by DoT in the State Administrative Tribunal, will be higher than the figure quoted above.

Department of Transport documentation

- [134] DoT has also taken remedial action and is considering other action.
- [135] The previous process of allowing Authorised Providers (APs) to retain and securely store DoT documentation at their respective sites was revoked in April 2017, and all APs must now remit their documentation on a weekly basis.

- [136] The documentation, upon being received, is scanned into DoT's storage system to allow compliance and risk analytics staff ready access to documentation and enhanced ability to cross-reference information held on other systems such as TRELIS and LAPS.

Contractual requirements

- [137] DoT has conducted a review of the current AP contracts from a compliance perspective. This has also included a jurisdictional analysis of auditing and compliance measures employed by other Australian licensing authorities.
- [138] Of interest to DoT is the requirement on APs in New South Wales, Northern Territory and Victoria to provide an audio and video recording of each PDA conducted on its behalf. Whilst the review is ongoing, DoT views this as an achievable compliance and quality assurance matter. It has yet to be finally considered.
- [139] The jurisdictional analysis confirmed that DoT's existing compliance practices are in line with/or in excess of those undertaken by other States and Territories.

Policy issues

- [140] DoT is considering changes to eligibility requirements of non-recognised licence holders, and also how to deal with overseas licence holders who fail a PDA with DoT, but remain authorised to drive on WA roads on their overseas driver's licence.

External regulation

- [141] DoT and the TAC are considering a Memorandum of Understanding to allow information sharing about its performance reviews of RTOs which are contracted to DoT as APs.³³

Recommendations

- [142] The Commission recommends that the Minister for Transport considers an amendment to the *Road Traffic (Authorisation to Drive) Regulations 2014* to provide:
- A licence issued under a foreign law becomes invalid three months after the holder first arrives in Western Australia; and
 - A PDA failure automatically cancels a foreign or interstate licence.

³³ Letter from Steve Mitchinson, A/General Manager, Driver and Vehicle Services, DoT, to the Commission dated 27 September 2017.