

# Driving Offences & Aboriginal People

Stage 1 Offence Targeting Project  
May 2003

# Aboriginal people and Driving Licence Offences

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## Background

Aboriginal people are significantly over represented in the NSW Criminal Justice System. The rate of over representation for Aboriginal people increases as people progress through the criminal justice system. The NSW Bureau of Crime Statistics and Research found that during 2001 11 per cent of those appearing in court, 10 per cent of those convicted, 19 per cent of those sentenced to imprisonment, and 17 per cent of those sentenced to imprisonment for long terms (i.e. 6 months or more) were Aboriginal people. Currently approximately 17% of inmates in NSW Prisons are Aboriginal, an increase from 12% in 1991.

Driving licence offences have long been a problem for Aboriginal communities. In 2001 Driving Licence offences were the third highest offence category for convictions of Aboriginal people after assault offences and disorderly conduct offences.

The aim of the offence targeting project is to reduce the rates of offending and imprisonment for Aboriginal people in selected offence categories. This project specifically targets driving licence offences and to gain a full understanding of the dynamics of the offence, where and when it is committed, who it is committed by and criminal justice responses. The end result of the project will be the development of strategies aimed at all aspects of the offence such as preventative initiatives, diversion and other criminal justice strategies and custodial alternatives.

## Offences

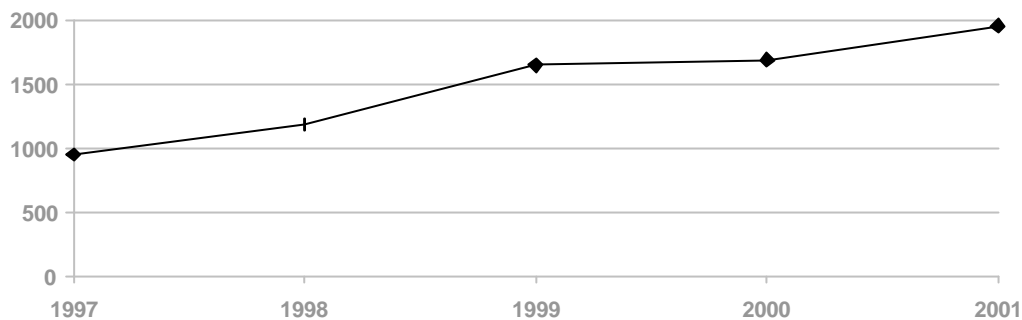
This project examines a number of offences under the Road Transport (Driver Licencing) Act 1997 and the Traffic Act 1909 (now repealed). Specifically the offences examined included:

- possession of licence obtained by dishonest means, s 22 (1)(b) Road Transport (Driver Licencing) Act 1997
- driving without being licenced for that purpose, s25 (1)(a)
- permit non licenced person to drive vehicle, s25 (1)(b)
- never licenced, s25 (2)
- drive while disqualified, s25A (2)(a)
- drive while suspended, s25A (2)(a)
- drive while licence refused s25A(3)(a)

## Convictions

During 2001 approximately 11% of all driving licence convictions involved Aboriginal defendants. In fact between 1997 and 2001 there was an increase in the number of Aboriginal people convicted for driver licence offences from 949 in 1997 to 1957 in 2001, an increase of 51.1%.

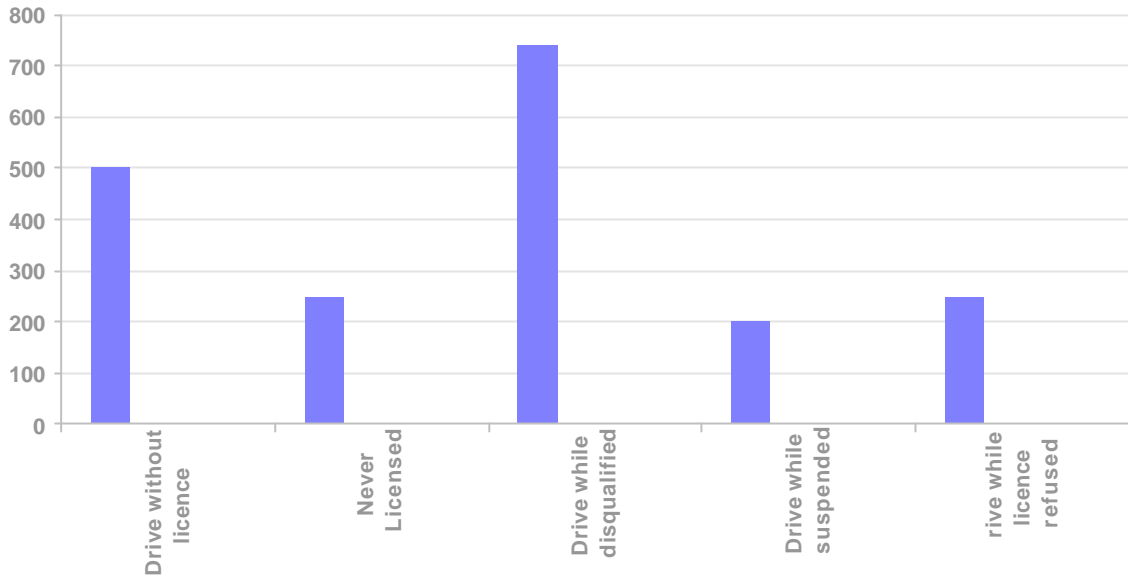
Table1, Aboriginal people convicted for Driving Licence offences by year



While there has been a steady increase in Aboriginal convictions over that 5 year period there was a particular jump between 1998 and 1999. That period coincides with implementation of legislative changes to driver licencing. It is possible that those legislative changes may have slightly added to the increase.

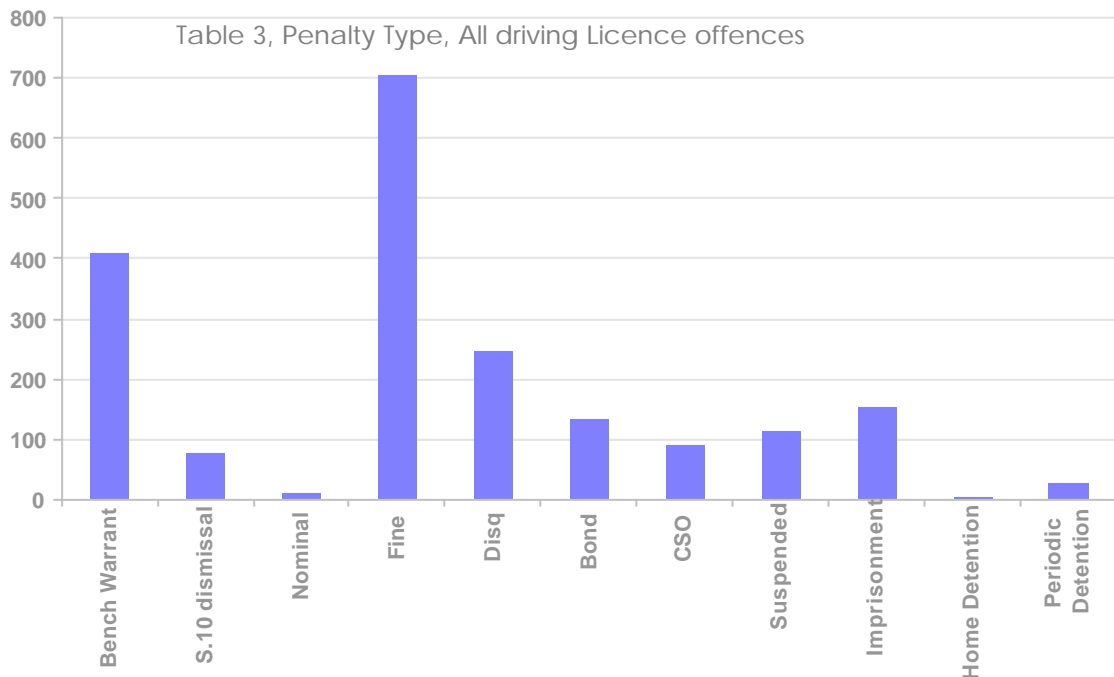
Of the categories of offences that were examined some proved to be more significant problems than others. Significantly more than a third of all convictions were for the offence of *driving while disqualified* and a quarter for the offence of *driving without a licence*, just over 12% were for the offences of *Never licenced person drive vehicle* and *Drive when licence refused*. 10% of convictions were for *Drive while suspended*.

Table 2, Major driving licence offences, Aboriginal people 2001

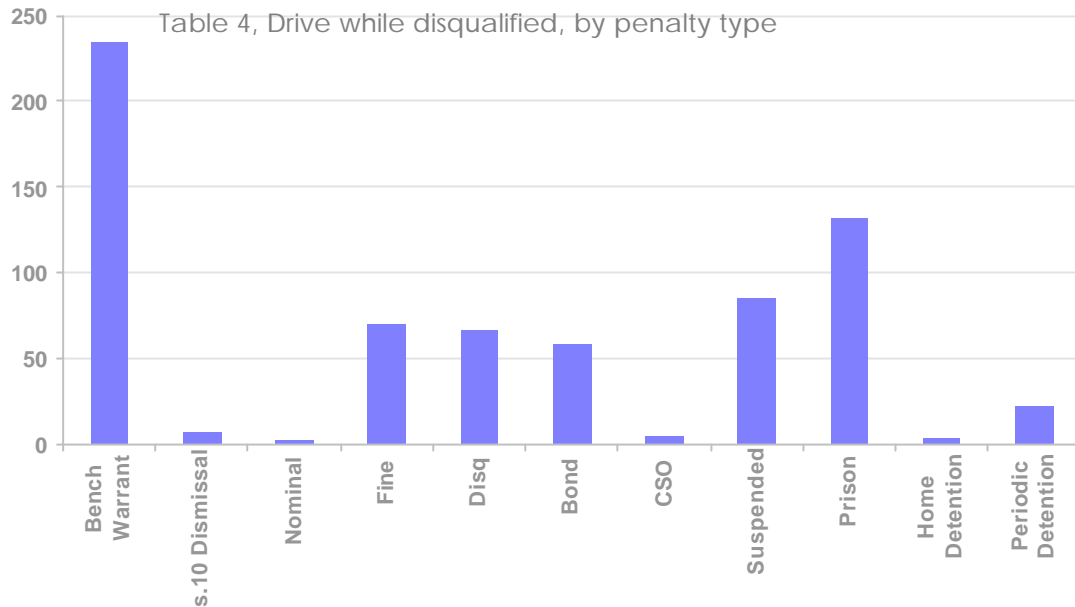


## Penalties

A range of penalties were imposed on Aboriginal people for driving licence offences. The table below provides an overview of type of penalty imposed for all driving licence offences. Of the penalties imposed 20% were by issue of bench warrant, 3.9% were dismissed without conviction, 36% received a fine, 12.5% had their licence disqualified, 6.7% received a bond, 4.5% received a community service order, 5.8% received a suspended sentence, 7.8% were imprisoned, 1.3% received home detention.



For the category of driving while disqualified the penalty types were slightly different than others. The table below shows the range of penalties imposed on Aboriginal defendants in 2001 who were convicted of driving while disqualified.



For the offence of drive while disqualified, apart from those dealt with by bench warrants, a sentence of imprisonment was the most common penalty type imposed on Aboriginal defendants. In fact the offence of Drive while disqualified accounted for 86% of all those Aboriginal people who were sentenced to imprisonment for driving licence offences during 2001.

### Age and Gender

An examination of those convicted for driving licence offences during 2001 provides an overview of the characteristics of the people convicted for those offences. Of those convicted 78.7% were men and 22.3% women. That is almost one quarter of Aboriginal defendants convicted for driving licence offences were women. An examination of the ages of those convicted also provides a clearer picture of the defendants.

Of those convicted 32% were aged between 30 and 39 years. 22% were between 20 and 24 years and 21% between 25 and 29 years and 10.3% aged between 40 and 49 years. The largest age category for defendants then was for those aged in their 30s. The age differences for men and women did not differ significantly.

Table 5 Age and Gender of Aboriginal Defendants

Male	Age	Number
	Under 18	17
	18	69
	19	66
	20-24	343
	25-29	320
	30-39	485
	40-49	151
	50-59	33
	60-65	3
	Unknown	1
Total	1488	

Female	Age	Number
	Under 18	4
	18	15
	19	13
	20-24	89
	25-29	96
	30-39	135
	40-49	44
	50-59	7
	60-65	1
	Total	404

These figures indicate that possibly a higher proportion of female defendants are involved in driving licence matters than would be expected compared with other offence categories and that the average age of Aboriginal defendants for driving license offences may be older than for other offence categories.

## Reoffending

The reoffending of those people convicted of driving licence offences in 2001 was examined for the period between 1995 and 2001. For those convicted in 2001 approximately 44% had no prior driving licence conviction 27% had one prior driving licence conviction 15.1% had 2 prior convictions, 7.7% had 3 prior convictions, 3% had 4 prior convictions and 2.4% had 5 or more prior convictions.

The proportion of offenders with prior driving licence convictions did differ among offence types. For those people convicted of unlicensed driving the vast majority 82% had no prior driving licence convictions.

For those convicted of driving while disqualified 14.5% had no previous convictions, 32% had one conviction., 26.4% had 2 prior convictions, 14.9% had 3 prior driving licence convictions, 6% had 4 previous driving licence convictions and 6% had 5 or more previous convictions.

Table 6, Number of prior convictions for driving licence offences

lawpart	Section		ATSI					
			0	1	2	3	4	5+
35015	25(1)(a)	Unlicensed for Class, Class C/R/LR/MR - 1st offence	263	63	28	9	0	0
35017	25(2)	Never licensed person drive vehicle on road	157	59	25	7	5	1
35018	25A(1)(a)	Drive while disqualified	119	262	216	122	49	50
35021	25A(2)(a)	Drive on road while suspended	194	37	7	3	4	0
35024	25A(3)(a)	Drive on road when licence refused	5	4	3	1	0	0
35027	25A(3)(a)	Drive on road when licence canceled	125	119	41	19	6	1
35233	25(1)(a)	Unlicensed for Class, Class C/R/LR/MR - 2nd+ offence	55	35	11	8	1	2
35238	25(1)(a)	Licence expired less than 2 years before-1st offence	13	6	2	0	0	0
35239	25(1)(a)	Licence expired less than 2 years before-2nd+ offence	5	2	1	1	0	0
35240	25(1)(a)	Licence expired 2 years or more before-1st offence	9	2	1	0	0	0
35241	25(1)(a)	Licence expired 2 years or more before - 2nd+ offence	3	3	0	2	0	0
35242	25(1)(a)	Unlicensed driver/rider (never licenced) - 1st offence	56	9	2	1	0	0
<b>TOTAL</b>			1004	601	337	173	65	54

When examining offender's prior convictions for all road traffic and motor vehicle offences, a higher proportion had prior convictions. Of those convicted in 2001 for driving licence offence, 35.5% had no prior road traffic or motor vehicle offences, 27.6% had one prior conviction, 8.6% had 2 prior convictions, 9.5% had 3 prior convictions, 4.8% had 4 prior convictions and 4% had 5 prior road traffic or motor vehicle offences. So 64.5% had prior road traffic or motor vehicle convictions.

Again when offence type was examined differences appeared. For those convicted of driving while disqualified 5.5% had no previous road traffic or motor vehicle convictions, 25.9% had one prior conviction, 31.8% had 2 prior convictions, 17.7% had 3 prior convictions, 9.4% had 4 prior convictions and 9.7% had 5 prior road traffic or motor vehicle convictions. Aboriginal people convicted for driving while disqualified were more likely to have previous road traffic or motor vehicle convictions than those convicted for other driving licence offences.

Table 7 Number of prior convictions for Road Traffic and Motor Vehicle Offences

lawpart	Section		ATSI					
			0	1	2	3	4	5
35015	25(1)(a)	Unlicensed for Class, Class C/R/LR/MR - 1st offence	235	79	35	9	4	1
35017	25(2)	Never licensed person drive vehicle on road	144	67	24	11	6	2

35018	25A(1)(a)	Drive while disqualified	45	212	260	145	77	79
35021	25A(2)(a)	Drive on road while suspended	160	61	10	6	8	0
35024	25A(3)(a)	Drive on road when licence refused	5	3	4	0	1	0
35027	25A(3)(a)	Drive on road when licence cancelled	75	132	64	27	10	3
35233	25(1)(a)	Unlicensed for Class, Class C/R/LR/MR - 2nd+ offence	49	38	11	9	2	3
35238	25(1)(a)	Licence expired less than 2 years before-1st offence	10	7	2	2	0	0
35239	25(1)(a)	Licence expired less than 2 years before-2nd+ offence	4	3	1	1	0	0
35240	25(1)(a)	Licence expired 2 years or more before-1st offence	9	2	1	0	0	0
35241	25(1)(a)	Licence expired 2 years or more before - 2nd+ offence	3	3	0	2	0	0
35242	25(1)(a)	Unlicensed driver/rider (never licenced) - 1st offence	55	9	3	1	0	0
<b>Total</b>			794	616	415	213	108	88

There is a significant difference when examining **all** prior convictions for those Aboriginal people convicted of driving licence offences in 2001. For those convicted of driving licence offences in 2001 only 10.2% had no prior convictions for any other offence 12% had one prior conviction, 13% had 2 prior convictions, 12.3% had 3 prior convictions, 10.4% had 4 prior convictions and significantly 42% had 5 or more prior convictions. Therefore at least half of those Aboriginal people convicted of driving licence offences in 2001 had 4 or more prior convictions in the last 5 years for any other offences.

This number did differ significantly between offence types, for example of those convicted of driving while disqualified 57% had 5 or more previous convictions, however for those convicted of driving while licence is suspended, 20% had 5 or more previous conviction's. Even given these variations the number of people convicted who had previous convictions for any other offence is significant.

**Table 8, Number of prior convictions of any type**

Lawpart	Section		ATSI					
			0	1	2	3	4	5+
35015	25(1)(a)	Unlicensed for Class, Class C/R/LR/MR - 1st offence	73	52	54	39	33	112
35017	25(2)	Never licensed person drive vehicle on road	37	31	32	24	19	111
35018	25A(1)(a)	Drive while disqualified	9	57	91	100	95	466
35021	25A(2)(a)	Drive on road while suspended	58	56	31	28	22	50
35024	25A(3)(a)	Drive on road when licence refused	1	2	3	1	1	5
35027	25A(3)(a)	Drive on road when licence cancelled	25	40	55	49	34	108
35233	25(1)(a)	Unlicensed for Class, Class C/R/LR/MR - 2nd+ offence	9	14	9	16	19	45
35238	25(1)(a)	Licence expired less than 2 years before-1st offence	2	4	2	3	1	9
35239	25(1)(a)	Licence expired less than 2 years before-2nd+ offence	1	2	1	2	1	2
35240	25(1)(a)	Licence expired 2 years or more before-1st offence	3	3	1	2	1	2
35241	25(1)(a)	Licence expired 2 years or more before - 2nd+ offence	0	0	0	1	3	4
35242	25(1)(a)	Unlicensed driver/rider (never licenced) - 1st offence	10	8	12	10	4	24
<b>TOTAL</b>			228	269	291	275	233	938

## **Location**

The project also examined the geographical areas of NSW where these offence types appear most prevalent. Initially in examining offending by statistical division. The five statistical divisions which recorded the highest numbers of convictions for driving licence offences are: North Western, Mid North Coast, Northern, Richmond Tweed, Hunter. A map is attached at appendix A which shows the prevalence of offences by statistical division. Significantly this indicates that there are areas of the state where there are higher rates of convictions than others.

In examining those statistical divisions there are local government areas that stand out more than others. The top five local government areas for driving licence convictions were, Walgett, Moree Plains, Lismore, Kempsey and Dubbo. A Local Government area map is attached at Appendix B. This indicates that the areas in the north west and on the mid north and north coasts provide an opportunity to specifically target resources to reduce the rate of offending.

## **Conclusion**

The analysis of driving licence offences provides a range of specific and significant information that will greatly assist in targeting responses to this particular offence category.

We already know that driving licence offences are a particularly problem for Aboriginal communities. We have been able to narrow the problem specifically to the offences of driving while disqualified, driving while suspended, driving without a licence, driving while licence is refused and those that have never been licenced.

In examining the penalties imposed by courts there are specific categories of offence that pose particular problems. This analysis has shown that the imprisonment of Aboriginal people for driving licence offences lies predominantly with those convicted of driving while disqualified. The assessment of penalties imposed may also suggest a low usage of alternatives to incarceration for that offence in particular.

The data provided also sheds light on the parts of the Aboriginal population most affected by these offences. It shows that a significant proportion of defendants are aged in their 30's or older, suggesting that any action to reduce this offending will need to target those age groups.

It also shows a significant proportion of women being convicted again meaning that any initiatives developed should target Aboriginal women.

One of the more significant findings is the rate of re offending surrounding driving offences. There is a particular problem in re offending on driving licence offences among those convicted for driving whilst disqualified but a general problem of reoffending in driving and traffic offences generally.

Further, when looking at prior offences generally the data highlights a significant problem of re offending among those convicted for driving licence offences, predominantly again for those convicted for driving while disqualified, but not only among those people. It shows that those convicted for driving licence offences have a broader ongoing contact with the criminal justice system of which licence offences are only a part.

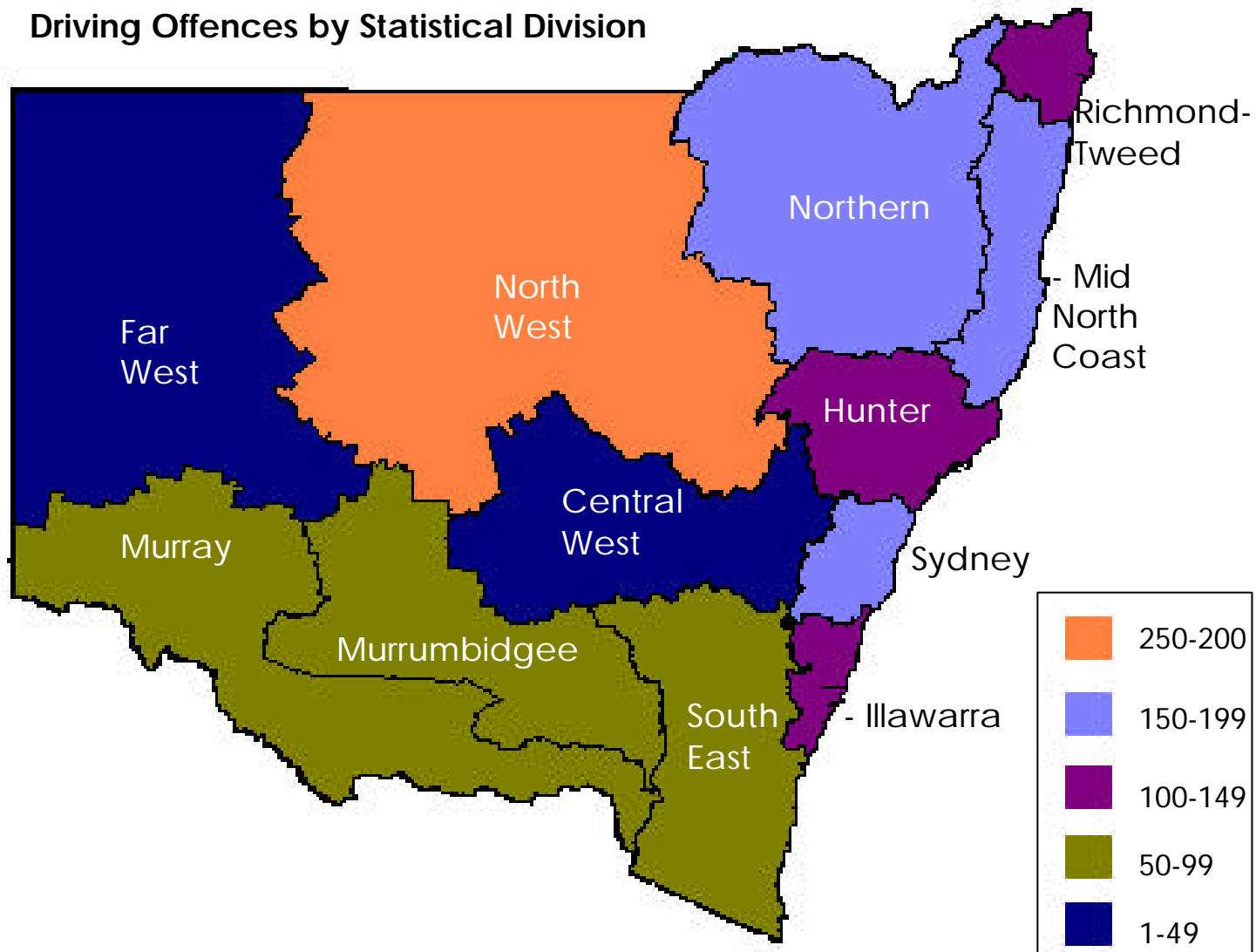
It may also indicate some connection between driving licence offences and more general offending and the role that driving licence convictions may play in the broader over representation of Aboriginal people in the criminal justice system.

Finally the geographic spread of offending provides a map through which to direct future actions and the future work of this offence targeting project. Specifically focusing on the north west, north and mid north coastal areas of New South Wales.



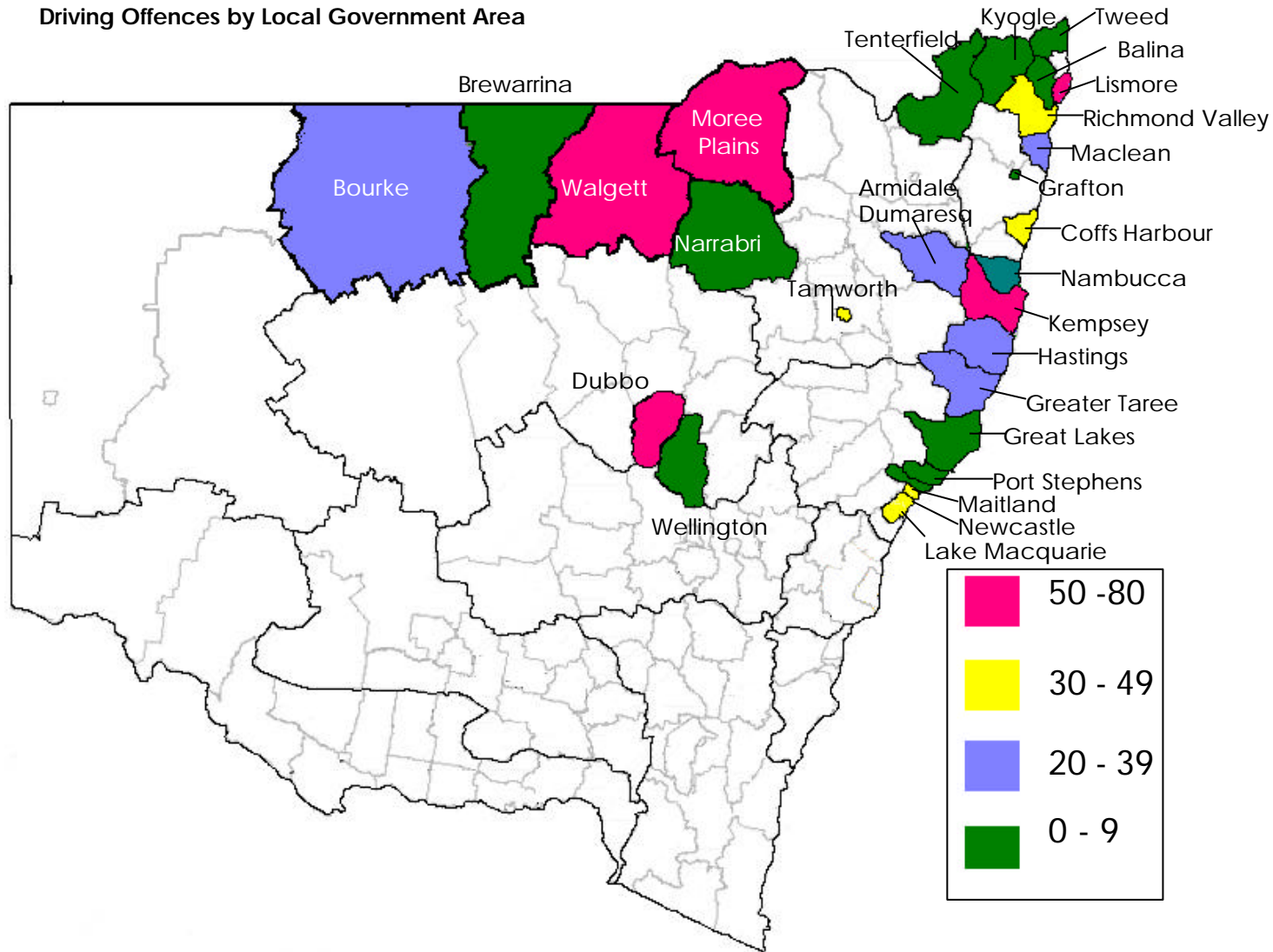
# Appendix 1

## Driving Offences by Statistical Division



# Appendix 2

Driving Offences by Local Government Area



Date Provided by the NSW Bureau of Crime Statistics & Research