

# Attorney-General's Annual Report

## On the Infringements System

### 2011–12

Infringement Management and Enforcement Services



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# INTRODUCTION

This report provides detailed information about infringements activity across Victoria's over 120 enforcement agencies and enforcement activity undertaken by the Infringements Court and the Sheriff of Victoria in the 2011–12 financial year. The report also contains information about new initiatives across the Victorian infringements system, as well as information about infringements policy.

Infringement notices play a vital role in the administration of justice in Victoria. They are an efficient means of addressing criminal offences in a way that provides an alternative to traditional court hearings and sentences. Because the infringements system provides for many offences to be dealt with outside the courtroom, it enables effective punishment and deterrence of high volume offences.

In 2011–12, **4.79** million infringement notices were issued, and as in past years, road safety offences were the largest category of offences.

Road safety is a key area of focus for government, and enforcing offences such as speeding and running red lights, including those detected by road safety cameras, plays an important role in minimising the road toll. To increase transparency and oversight of road safety cameras, the Victorian Government appointed Victoria's first Road Safety Camera Commissioner, Hon. Gordon Lewis, who commenced work in February 2012. You can find further information about this initiative in the report.

Road safety and traffic offences account for the majority of infringements issued in Victoria, but infringements are used in a range of other areas including public transport, industry regulation, and environmental protection, as well as some public order offences. Activity in relation to these infringements, as well as information about review processes and payment arrangements is included in the report.

While most people who receive infringement notices either pay or take other action to address their fines on time, the infringements system has a range of measures to address non-compliance for the minority who do not deal with their fines. The Sheriff of Victoria plays a significant role in enforcing unpaid fines and the report includes information about the various sanctions used by the Sheriff and a report on enforcement activity.

## KEY INITIATIVES AND HIGHLIGHTS

### New Anti-Hoon Laws

Speeding is one of the biggest killers on Victorian roads. To reinforce that excessive speed and other hoon behaviour will not be tolerated, in July 2011 the Victorian Government introduced tougher penalties, increasing the impoundment period for a first offence from 48 hours to 30 days. Tough fines apply to these sorts of offences, ranging from around \$700 for an infringement notice, to in excess of \$28,000 for court-imposed fines. This is in addition to towing and impoundment costs of up to \$2,000.

### Drinking and Driving Do Not Mix

The Government amended legislation in December 2011 to close a loophole in relation to alcohol and driving. Reinforcing the message that drinking and driving do not mix, it is now an offence to drink alcohol while driving a motor vehicle, whether or not you are under the limit. Victoria Police enforces these offences by infringement notices that carry a penalty of around \$280 or taking the offender to court where they risk a fine of up to \$1,405.

### New Sheriff's Officers

Following an extensive recruitment campaign, ten new Sheriff's Officers commenced in the South Eastern Region. During a comprehensive six-week training program the new recruits studied legislative and operational information relevant to their new roles, such as how to execute criminal warrants, apply sanctions, communicate effectively and manage workplace risks and challenges.

All the new recruits also completed field placements, where they worked on-the-job with experienced Sheriff's Officers. These job placements enabled the recruits to implement their new knowledge in a practical, operational context. Having completed their training, the new recruits are now working in the field.

### Special Operations

Targeted enforcement activity including roadblocks and blitzes by Sheriff's Officers, in conjunction with enforcement agencies, such as Victoria Police, local councils and VicRoads resulted in \$3.6 million collected relating to 103,678 infringement warrants.

### Automatic Number Plate Recognition (ANPR) Technology

Automatic Number Plate Recognition (ANPR) technology was trialled by Sheriff's Officers during 2011–12. Read more in the Sanctions Activity section of this report.

### Road Safety Camera Commissioner

The *Road Safety Camera Commissioner Act 2011* established the office of Road Safety Camera Commissioner and provided for the appointment, functions and powers of the Road Safety Camera Commissioner. Former County Court Judge Gordon Lewis AM is Australia's first independent Road Safety Camera Commissioner. In addition to being a former member of the County Court, Mr Lewis has extensive experience working across government and brings a broad range of experience to his new role.

The focus of the Road Safety Camera Commissioner's office is to promote increased transparency and accountability of the road safety camera system. The office undertakes quality assurance and reporting, investigates systemic issues, and provides a complaints management service. The Commissioner's statutory role requires regular review of the road safety camera system and investigation of systemic issues concerning the system. The first Road Safety Camera Commissioner Annual Report was tabled 28 August 2012, covering the period from 06 February 2012 when the office came into operation, until 30 June 2012. For more information, go to:

[www.cameracommissioner.vic.gov.au](http://www.cameracommissioner.vic.gov.au)

# GOVERNANCE AND ADMINISTRATION

An **infringement notice** is an administrative method for dealing with a relatively minor criminal offence, where the person alleged to have committed the offence has the option of paying a fixed penalty rather than having the matter decided in court.

For the State, the infringements system streamlines the resolution of minor offences, provides a direct and efficient response to minor breaches of the law and frees court time for more serious criminal matters. For the offender, enforcement by infringement notice provides an opportunity to ‘expiate’ the offence by paying the penalty, without incurring a conviction for the offence.

## The legislation

The *Infringements Act 2006* provides the legislative framework for the administration of infringements in Victoria. It is supported by the Infringements (General) Regulations 2006 and the Infringements (Reporting and Prescribed Details and Forms) Regulations 2006. There are currently over 50 legislative instruments in Victoria containing infringement offences.

## The Minister

The Attorney-General is the Minister responsible for oversight of the infringements system.

## The Attorney-General’s Guidelines

The Guidelines explain the fundamental principles underpinning the *Infringements Act 2006* and the manner in which responsibilities under that Act are to be exercised. The Guidelines are available on the Department of Justice website.

## The Department

The Department of Justice provides support to the Attorney-General and the Government on the administration of the *Infringements Act 2006*.

## The Infringements System Oversight Unit

The Infringements System Oversight Unit (ISOU) is a unit within the Department of Justice. It is responsible for:

- monitoring the operation of the infringements system and new infringements policy initiatives
- providing advice to the Attorney-General and the Government on infringements policy
- promoting the objectives of the Act through providing information to stakeholders, including enforcement agencies and members of the community, and
- assessing the appropriateness of offences for enforcement by infringement notice and advising on infringement penalty levels.

## The Infringements Standing Advisory Committee

The Infringements Standing Advisory Committee (ISAC) which is convened by the Department of Justice:

- provides an opportunity to canvass views from a wide spectrum of stakeholders
- comprises representatives from Victoria Police, State Government agencies, local government, community sector organisations, the Infringements Court and the Magistrates' Court, and
- meets on a quarterly basis to consider developments in infringements policy and practice.

## The Infringements Court

The Infringements Court is a venue of the Magistrates' Court that deals with the processing and enforcement of unpaid infringement notices. The Infringements Court:

- issues enforcement orders and infringement warrants to enforce unpaid fines, and
- decides on applications for revocation (applications to have an enforcement order cancelled) and payment orders (orders setting out the terms of a payment plan on an enforcement order or infringement warrant).

The Infringements Court is unlike other court venues, in that it does not conduct hearings to make decisions. Decisions are made by infringements registrars, generally based on written submissions.

## Government agencies

State Government agencies administer the primary legislation that creates infringement offences. For example, VicRoads administers the *Road Safety Act 1986* and its regulations, which create a range of offences, including speeding offences and parking offences.

## Enforcement agencies

There are over 120 enforcement agencies based throughout Victoria, comprising State Government (such as Victoria Police and the Department of Transport), local government and some non-government agencies (such as hospitals and universities). Enforcement agencies must be authorised by or under the *Infringements Act 2006*.

Enforcement agencies issue infringement notices for a wide variety of offences and under numerous legislative instruments, including road safety offences, such as speeding fines or parking fines, or failure to register a domestic animal, such as a cat or a dog. Enforcement agencies conduct many other activities in addition to issuing infringement notices. Infringements management and reporting is one component in a varied workload for enforcement agencies.

## Community sector organisations and industry organisations

While not directly involved in the governance and administration of the infringements system, community sector organisations and industry organisations are an important part of the infringements system. Community sector organisations undertake advocacy and support work. Peak industry bodies represent those with an interest in the infringements system and include, for example, the Municipal Association of Victoria (MAV) and Local Government Professionals (LGPro) as well as the Public Interest Law Clearing House (PILCH), the Federation of Community Legal Centres, Youth Law and the Financial and Consumer Rights Council. Many of these organisations are represented on the ISAC to provide a community sector or industry organisation perspective.

# INFRINGEMENTS POLICY

Infringements policy in Victoria is built on three key principles:

- **Expediency** – the system is a means of dealing with high volume offences without requiring the offender to appear in Court
- **Legitimacy** – the system preserves procedural fairness, and provides for strong enforcement, and
- **Efficiency** – the system effectively manages high volume offences.

The infringements system in Victoria is largely automated and this means not all offences are suitable to be enforced by infringement. Traditionally, infringement offences are strict liability offences, where commission of the offending conduct is evidence of the offence having occurred. There is no requirement to prove intent or state of mind. It is important therefore, that careful consideration is given to the suitability of a particular offence to be enforced using the infringements system. It is also important the infringements system operates in accordance with principles of fairness and due process, members of the public have an awareness of their rights and responsibilities, and the system is able to take account of individual circumstances.

The Infringements Standing Advisory Committee (ISAC) provides an opportunity to incorporate diverse perspectives into infringements policy. During 2011–12, the membership of ISAC was reviewed, and expanded to include additional views; some to strengthen existing representation from key stakeholder areas, others to bring new contributions to the policy discussion.

Victoria Police representation on ISAC now includes the Traffic Camera Office, which is responsible for issuing the vast majority of infringement notices in Victoria. In addition to Magistrate and Registrar representatives, the Magistrates' Court now has representation at an executive level. Adding to the existing representation from the MAV, there are now two additional seats on ISAC representing local council interests. Victoria Legal Aid (VLA) deals with a significant number of infringement matters and takes an active role in law reform initiatives. To strengthen representation about Indigenous issues, in addition to the Department of Justice's Koori Justice Unit having a seat on ISAC, the Victorian Aboriginal Legal Service (VALS) is now an ISAC member. These new ISAC representatives, in conjunction with existing ISAC members provide a valuable contribution of stakeholder perspectives to infringements policy in Victoria.

The ISOU provides advice to legislating agencies on the suitability of certain offences for enforcement by infringement. This involves consultations with government agencies about new policy initiatives, appropriate penalty levels and, where applicable, operational issues. The variety of offences enforced by infringement is extensive, and during 2011–12, consultations have included offences concerning:

- water by-laws
- plant bio-security
- second hand dealers and residential tenancies
- marine safety
- road safety
- conservation, forests and lands.

# INFRINGEMENTS REPORTING

## Infringements Reporting

Under the *Infringements Act 2006* and regulations, an enforcement agency must provide prescribed information to the Attorney-General every six months in relation to each category of infringement offence:

- (a) the number of official warnings
- (b) the number of official warnings withdrawn
- (c) the number of infringement notices issued
- (d) the number of infringement notices withdrawn
- (e) the number of persons served with an infringement notice who elect to have the matter heard and determined in Court or, in the case of a child, in the Children's Court
- (f) the number of applications for internal review and the number of applications for internal review decided
- (g) the number of applications for payment plans received by the enforcement agency and, as far as practicable—
  - the total number of payment plans offered
  - the total number of payment plans commenced
  - in relation to commenced payment plans, the number defaulted

## Infringements Reporting

For the purposes of ensuring effective administration of the infringements system, enforcement agencies are required to report to the Attorney-General about infringements activity.

Each enforcement agency must submit a report every six months containing data about its infringements activity during that six-month period.

The data provided by enforcement agencies is checked, analysed and used to compile this report.

# INFRINGEMENTS ACTIVITY

## Infringements Issued by Agency Type

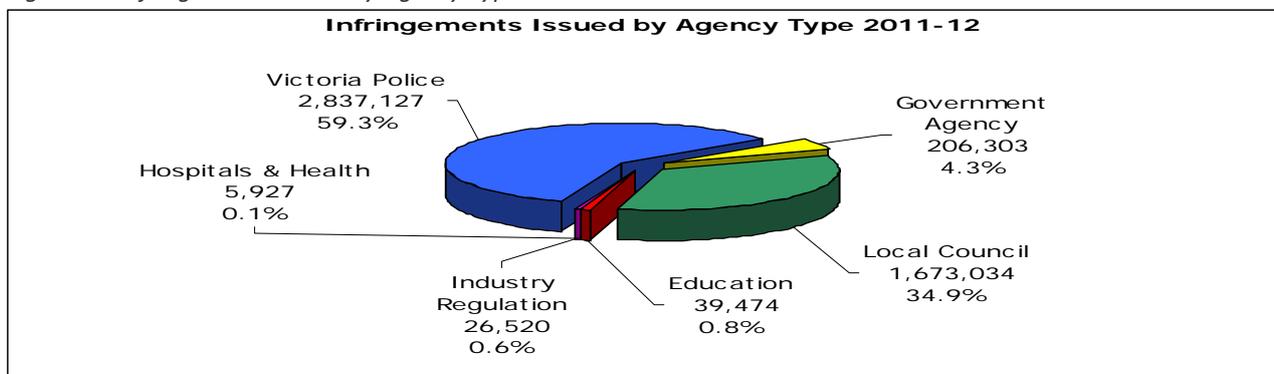
During the 2011–12 financial year, enforcement agencies in Victoria issued **4.79** million infringement notices for a wide range of offences. In the previous financial year, 4.97 million infringement notices were issued in Victoria, which compares to 4.65 million in 2009–10 and 4.66 million infringement notices in 2008–09.

As in previous financial years, Victoria Police issued the largest proportion of infringement notices, accounting for almost 60 per cent of infringements. This reflects the fact that Victoria Police can issue notices under the widest range of legislation. Local councils also issue infringement notices under a wide range of legislation and continue to issue around 35 per cent of all infringement notices in Victoria.

By contrast, most State Government agencies issue infringement notices solely under legislation that they administer, meaning a more specific focus and a narrower range of infringement offences, leading to a smaller overall volume of infringement notices.

Enforcement agencies dealing with industry regulation, education and healthcare tend to issue infringement notices for offences relevant to their industries (for example, compliance with licensing regimes, safety within an industry or industry standards) as well as, for a number of those agencies, parking infringement offences.

Figure 1: Infringements Issued by Agency Type



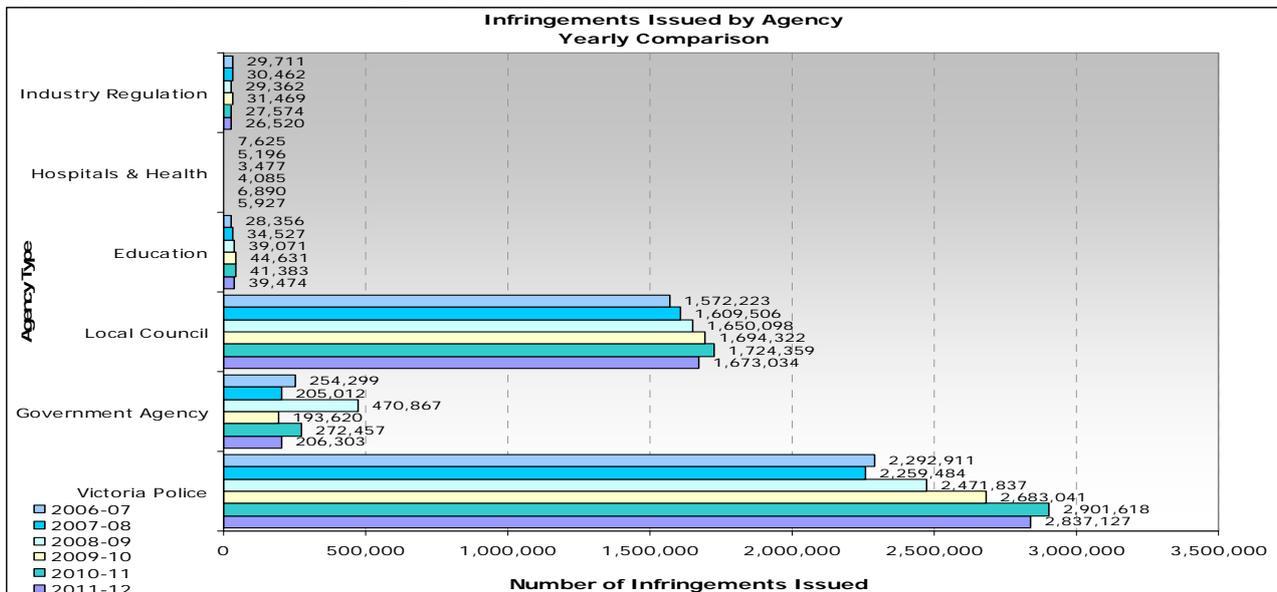
Most State Government agencies had broadly consistent figures for infringements activity during 2011–12 when compared with the previous financial year, the notable differences being the Victoria Police Toll Enforcement Office, the Victorian Electoral Commission (VEC) and the Department of Transport. The Victorian Police Toll Enforcement Offices saw a reduction in the overall number of infringement notices issued for tolling offences on the CityLink and EastLink toll roads. In 2010–11, there were just over one million infringement notices issued for tolling offences. During 2011–12, there were around 898,000 tolling infringement notices. One factor that influenced the overall tolling infringement figures was EastLink taking a more proactive approach to its customer service and its collection process. By resolving more matters earlier, fewer motorists were issued with infringement notices for tolling offences.

The VEC experiences considerable fluctuations in its infringements activity, influenced by State and Local Government elections. In this financial year, VEC issued just over 4,000 infringement notices, down from just over 125,000 the previous financial year. This is because the 2010–11 figures included infringement notices issued following failures to vote in the State election (held on Saturday, 27 November 2010).

Similarly, the VEC figures for 2008–09 included infringements issued for failures to vote in the 2008 local council elections.

The Department of Transport issued almost 60,000 more infringement notices in 2011–12 than 2010–11. The increase can be attributed in part to the increased enforcement against fare evaders following the progressive introduction of the myki system on public transport in Victoria. Infringement offences on public transport include fare evasion, smoking in a carriage or on a train platform, having feet on seats and disorderly behaviour. Figure 2 provides a yearly comparison of infringements issued by agency type.

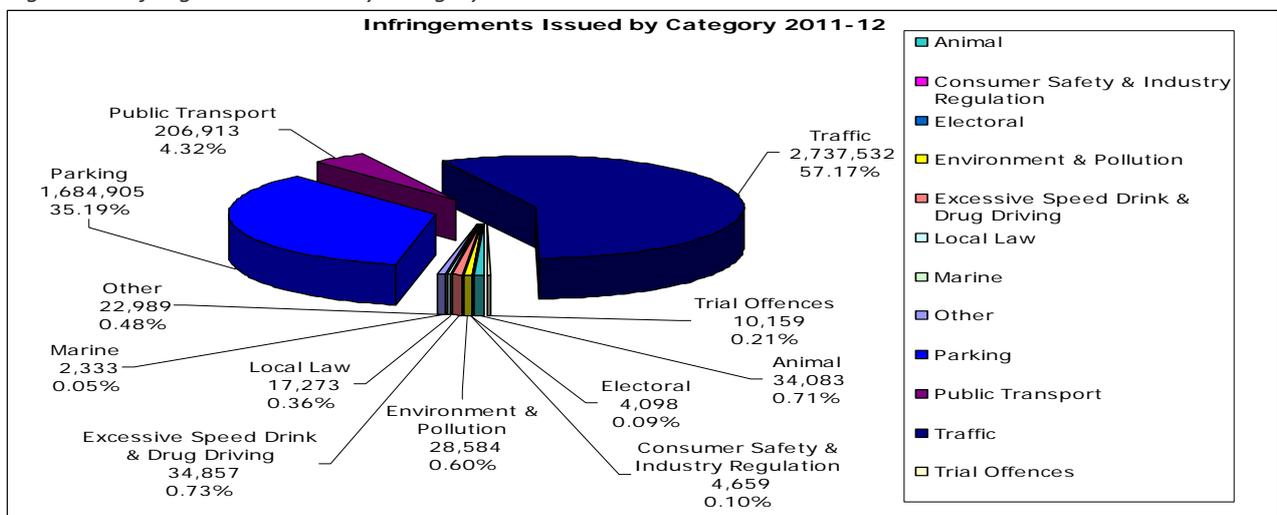
Figure 2: Infringements Issued by Agency – Yearly Comparison



### Infringements Issued by Type of Offence

Figure 3 shows the breakdown of infringements issued by category during the 2011–12 financial year. As in previous years, traffic, tolling and parking-related infringement offences were the reason for most infringement notices, with over 90 per cent of all infringement notices issued for this group of offences. Traffic-related offences include speeding and red light offences as well as using a mobile phone while driving. This category includes offences detected by road safety cameras, as well as tolling offences. Parking infringements can be issued by local councils, VicRoads and by Victoria Police.

Figure 3: Infringements Issued by Category



# INFRINGEMENTS AND ROAD SAFETY

**“It is self-evident to observe that excessive speed kills and that one way or another drivers must be deterred from driving at excessive speeds. This in turn involves the imposition of speed restrictions, their enforcement, a fair and accurate method of measuring the speed of vehicles and an appropriate system of sanctions.”**

GORDON LEWIS AM, Road Safety Camera Commissioner, Page 5 ANNUAL REPORT 2011–12 Road Safety Camera Commissioner

Reducing road trauma and driving down the road toll is a key focus for the Government. While most road users drive within the speed limit, Victoria’s network of road safety cameras enforce speed limits and traffic signal compliance and provide ongoing deterrence to those road users who place the safety of others at risk by offending. In addition, roadside safety signs remind drivers to travel at appropriate speeds and to take care in high-risk areas.

Road safety cameras, which are located throughout Victoria at carefully chosen locations, form an integral part of the Government’s road safety strategy. Factors considered when choosing camera locations, include speed-related crash history, traffic speeds and volume in that area, as well as input from community members and local councils, and expert opinion from Victoria Police about the inherent risks at that site. The road safety camera network consists of cameras based at 216 fixed locations as well as mobile cameras that can be moved to specifically target a range of high-risk or speed-prone areas.

Thirty-one new road safety cameras located at intersections across Victoria were progressively switched on during 2011–12. The Government authorised the activation of the cameras following the findings of the Auditor-General that road safety cameras saved lives and focussed on road safety. The 31 speed and red-light cameras had been installed by the previous Government but were not switched on until the Auditor-General had validated Victoria’s road safety camera program.

The Auditor-General found that:

- a strong body of research shows road safety cameras improve the behaviour of road users, and reduce speeding and road crashes
- camera locations are based on road safety outcomes and not on maximising revenue
- infringements are issued only where there is clear evidence of speeding or red-light running
- processes and controls in place provide a particularly high level of confidence in the reliability and integrity of the road safety camera system
- revenue from infringements is allocated to the Better Roads Victoria Trust Account, which funds projects to improve roads.

To further reinforce the road safety benefits, the report recommended better communication around the importance of road safety cameras to address the public’s misconceptions about the program.

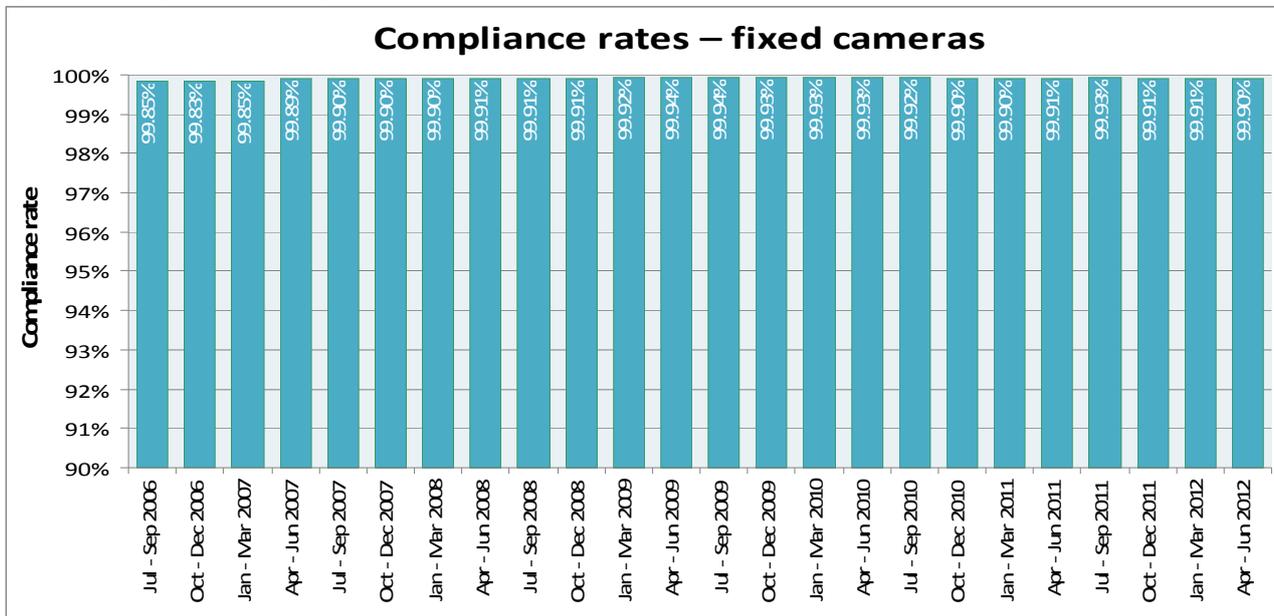
A copy of the Auditor-General’s report on the Road Safety Camera Program is available from:  
[www.audit.vic.gov.au](http://www.audit.vic.gov.au)

For an in-depth discussion of Auditor-General’s recommendations and the progress made to 30 June 2012, please refer to the 2011–12 Road Safety Camera Commissioner Annual Report available from:  
[www.cameracommissioner.vic.gov.au](http://www.cameracommissioner.vic.gov.au)

## Compliance Rates – Road Safety Cameras

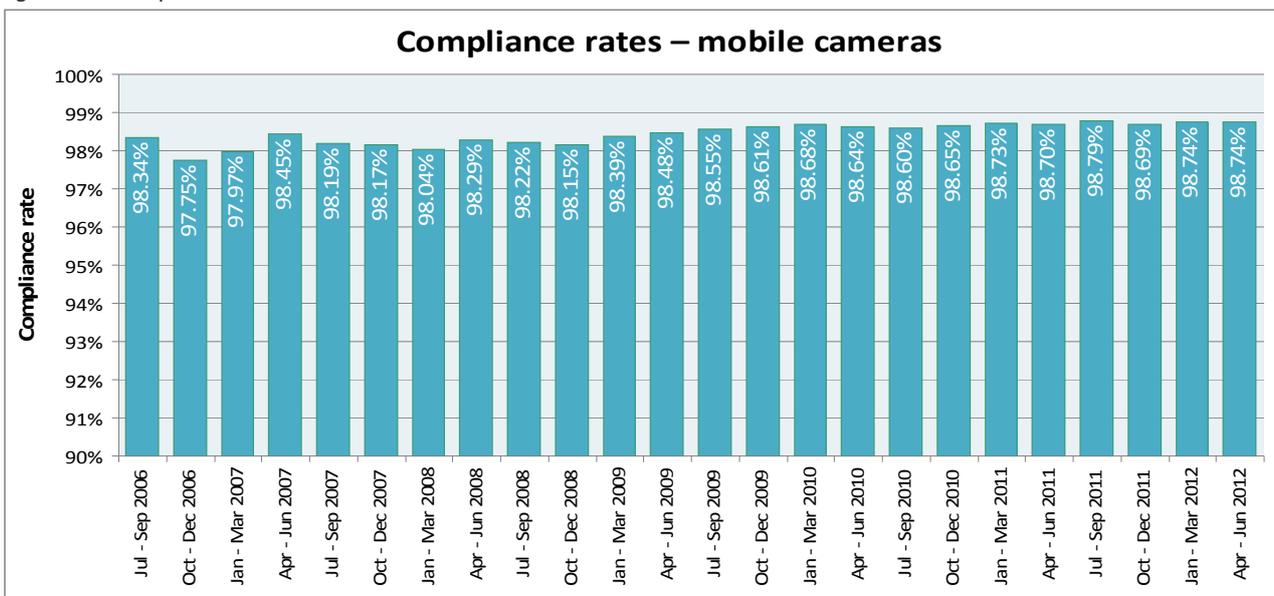
Compliance by most motorists remains pleasingly high: over 99 per cent of vehicles passing a fixed road safety camera comply with the speed limit and do not incur an infringement (see Figure 4). The percentage is calculated by comparing the number of vehicles that pass fixed cameras with the number of infringements associated with that camera.

Figure 4: Compliance rates – fixed cameras



As shown in Figure 5 below, compliance rates for mobile road safety cameras are slightly lower than the compliance rate for fixed cameras, but at 98 per cent or higher average compliance, it is clear that most motorists are obeying the speed limit.

Figure 5: Compliance rates – mobile cameras



## Road Safety – Trends in Fines

The Government’s ‘Cameras Save Lives’ website contains information on trends in fines, showing that, over time, drivers change their behaviour to comply with the speed limit. For details on trends in fines and other information on road safety, visit [www.camerassavelives.vic.gov.au](http://www.camerassavelives.vic.gov.au).

# INFRINGEMENTS AND LOCAL COUNCILS

## Local councils

Local councils provide services to communities throughout Victoria and issue a substantial proportion of infringement notices in Victoria each year. There are 79 local councils in Victoria and they enforce a range of state and local laws.

As is to be expected, the majority of the infringement notices issued by local councils are in metropolitan areas (see Figure 6 below). The volume of people in these areas, and need to share amenities such as parking spaces means many infringement notices in and around Melbourne relate to parking offences.

Local councils also issue infringements for a range of offences in addition to parking, including animal-related offences and community safety offences under local laws. Figure 7 shows local council infringements issued in 2011–12, broken down by category.

Figure 6: Infringements Issued by Agency Type for Local Councils

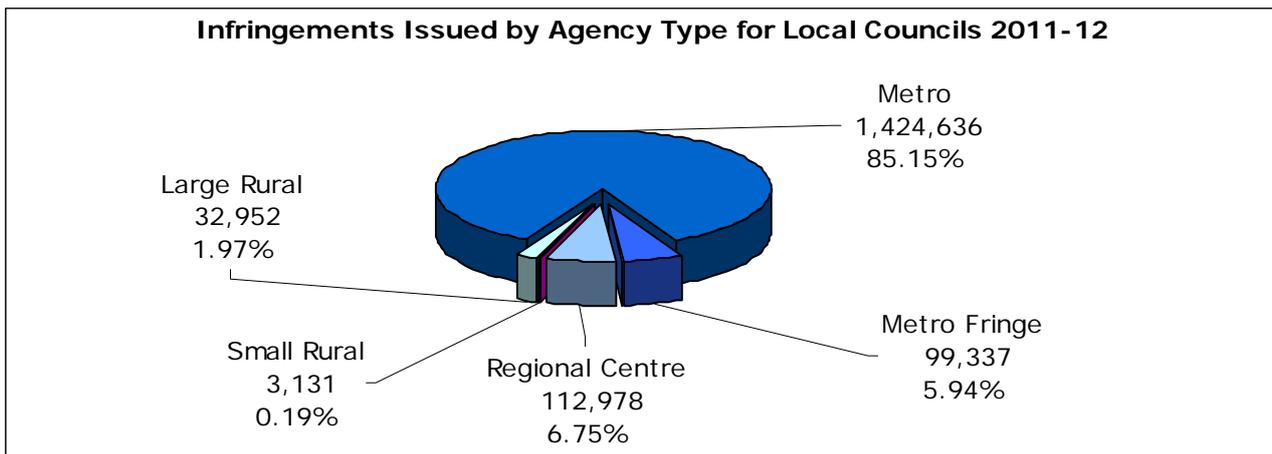
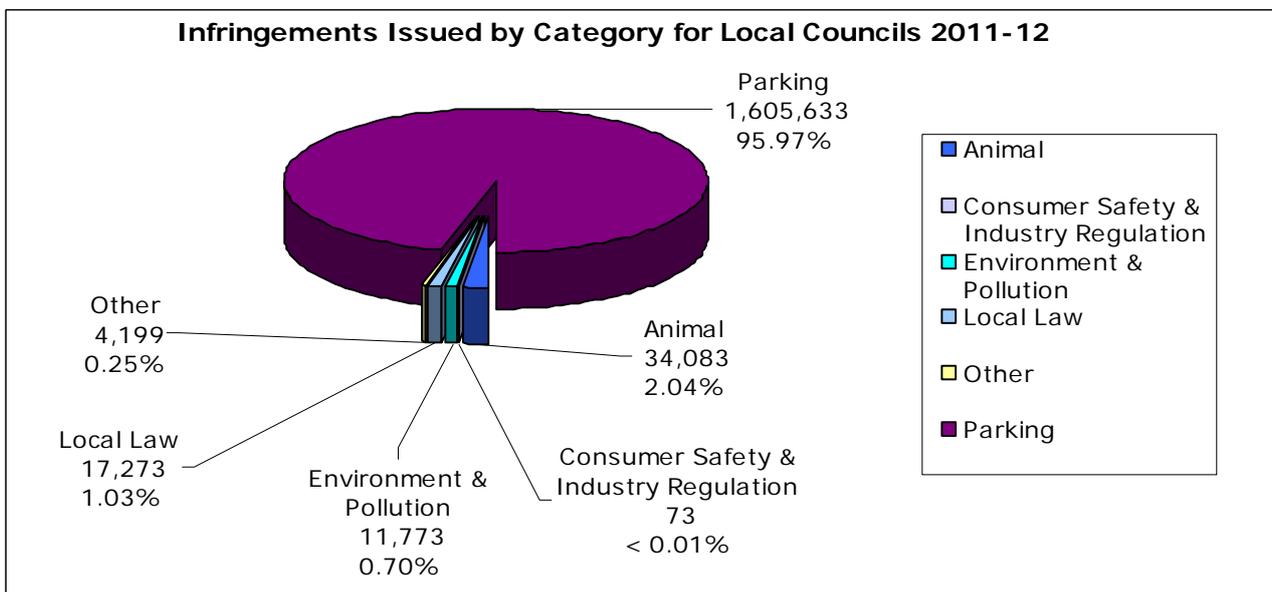


Figure 7: Infringements Issued by Category for Local Councils



# INFRINGEMENTS AND OPTIONS FOR REVIEW

## Fairness and options for review

The infringements system is largely automated and has legislative timeframes that trigger enforcement actions if an infringement remains unpaid. In this context, it is important for the recipient of an infringement notice to be able to contest the infringement notice and seek to have the enforcement agency reconsider the decision to issue the infringement notice if the person believes it was issued unjustly or unfairly. Accordingly, the infringements system includes options for review and opportunities for a recipient of an infringement notice to elect to go to Court.

## Electing to go to Court

Only a small proportion of people who receive infringement notices elect to go to court. People take this option, for example, where there is disagreement about the facts, or where the person may prefer to raise issues or evidence before a magistrate or judicial registrar.

During 2011–12, just under 38,000 people elected to have their matter heard in court. This was 0.79 per cent of the total number of infringement notices issued and was similar to previous years.

## Internal Reviews

A person who receives an infringement notice has the right to request that the issuing enforcement agency review its decision to issue the notice.

Internal review applications must be made in writing and must include an address for the enforcement agency to send the outcome of the internal review decision. Under the *Infringements Act 2006*, applicants can seek internal review where: there has been a mistake of identity, where they believe the infringement notice has been issued contrary to law, where there are special circumstances (as defined in the legislation) or where there are other exceptional circumstances that the applicant believes justify excusing the conduct that resulted in the infringement notice being issued.

### Right to Internal Review

A person or someone acting on their behalf is entitled to apply for review of an infringement notice on any of the following grounds:

- (a) The infringement was issued contrary to law, or there was a mistake of identity in the infringement notice
- (b) The person had special circumstances. These are defined in the Act to mean:
  - a mental or intellectual disability, disorder, disease or illness resulting in the person being unable to understand or control the conduct that constitutes the offence;
  - a serious addiction to drugs, alcohol or a volatile substance (for example, chroming) resulting in the person being unable to understand or control the conduct that constitutes the offence; or
  - homelessness, where this results in the person being unable to control the conduct that constitutes the offence
- (c) There are other, 'exceptional' circumstances that justify withdrawing the infringement notice.

Applications for internal review on the grounds of contrary to law cover cases where the applicant says at law an infringement notice should not have been issued. For example, the issuing officer has made an error. It can include situations where the officer made the appropriate decision at time of issue, but there was information provided at the time of the internal review that provided other facts. For example, a parking permit was not visible to the officer when the infringement was issued.

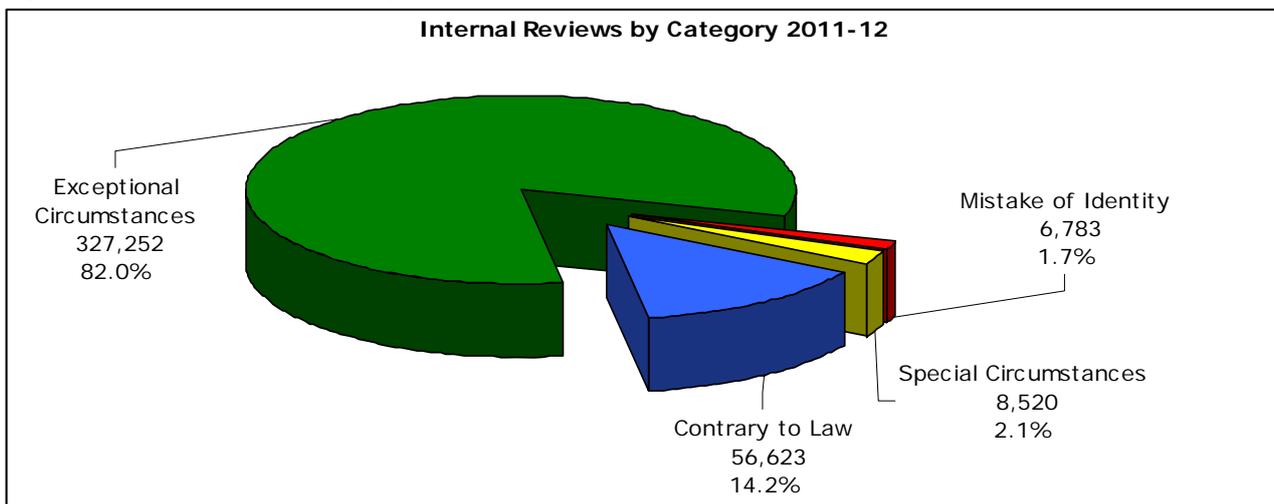
Exceptional circumstances include cases where the person has an excuse (such as medical emergency) that justifies the conduct. This category of internal review tends to capture

applications that do not fall within one of the other categories. For that reason, the largest proportion of internal review decisions relate to exceptional circumstances.

Someone independent to the original decision to issue the infringement notice must conduct the internal review, and all enforcement action must be put on hold while the review is underway.

The grounds (or “categories”) for internal review are reflected in Figure 8 below, showing that the category of exceptional circumstances is the most common category of internal review applications.

Figure 8: Internal Reviews by Category



Following internal review, an enforcement agency may decide to confirm the decision to issue the notice or to withdraw the infringement notice (with or without also issuing an official warning), or refer the matter to court. If an enforcement agency decides to confirm an infringement following an internal review on the grounds of special circumstances, the matter must be referred to court. As a percentage of infringements issued, internal review applications have been around eight per cent each financial year since 2007–08.

**Options available on an internal review:**

- **Confirm** – confirm the decision to issue the infringement notice
- **Special Circumstances/Referral to Court** – confirms the decision to issue the notice and refers the matter to Court
- **Withdraw** – withdraw the infringement notice and take no further action
- **Official warning** – withdraw the infringement notice and serve an official warning in its place

Figure 9 shows the internal review decisions during 2011–12. As in previous years, the data shows that enforcement agencies continue to use the internal review process as it was intended, in some cases confirming the decision and withdrawing in others, based on the circumstances.

Just over half of all internal review applications result in the infringement notice being confirmed. Where the enforcement agency decides to confirm the infringement notice, the person is required to pay the fine by the relevant due date or enforcement action will resume.

After considering the application and the evidence provided, the enforcement agency may decide that it is appropriate to withdraw the infringement notice. Just under half of all internal review applications in 2011–12 resulted in the infringement notice being withdrawn, with approximately half of those resulting in an official warning being issued in its place.

Figure 10 compares the pattern of decision outcomes following internal review and shows that broadly similar patterns of decision outcomes occur each financial year.

Figure 9: Internal Reviews Decided

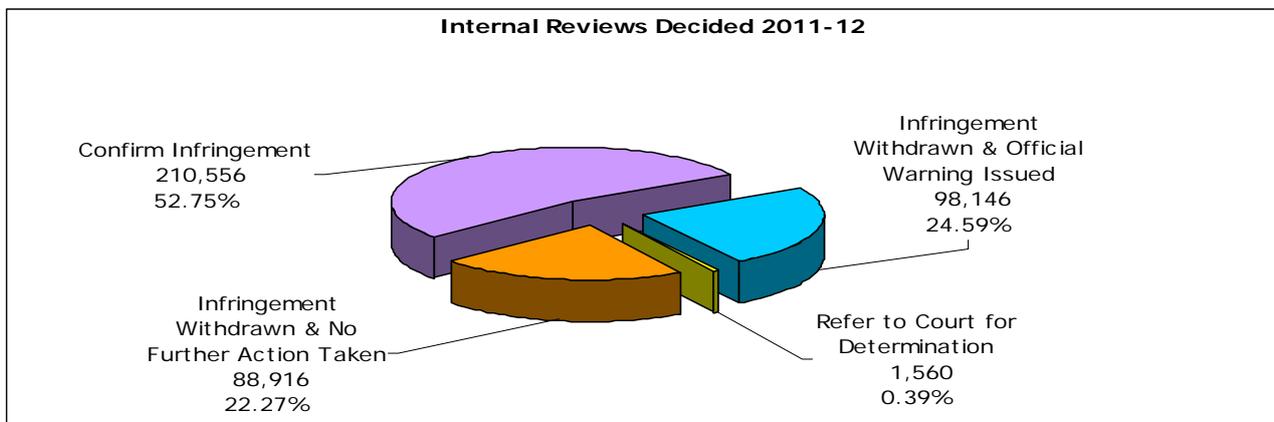
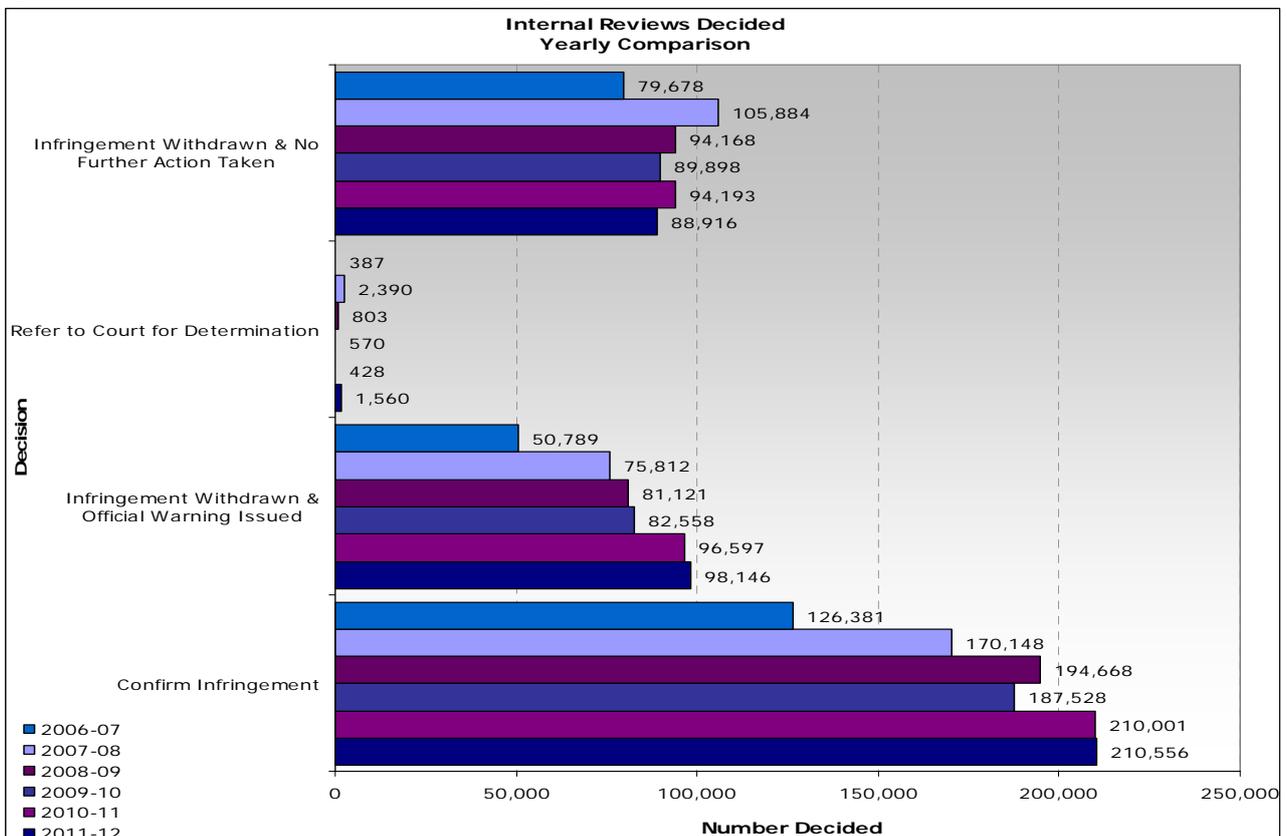


Figure 10: Internal Reviews Decided – Yearly Comparison



## Special Circumstances

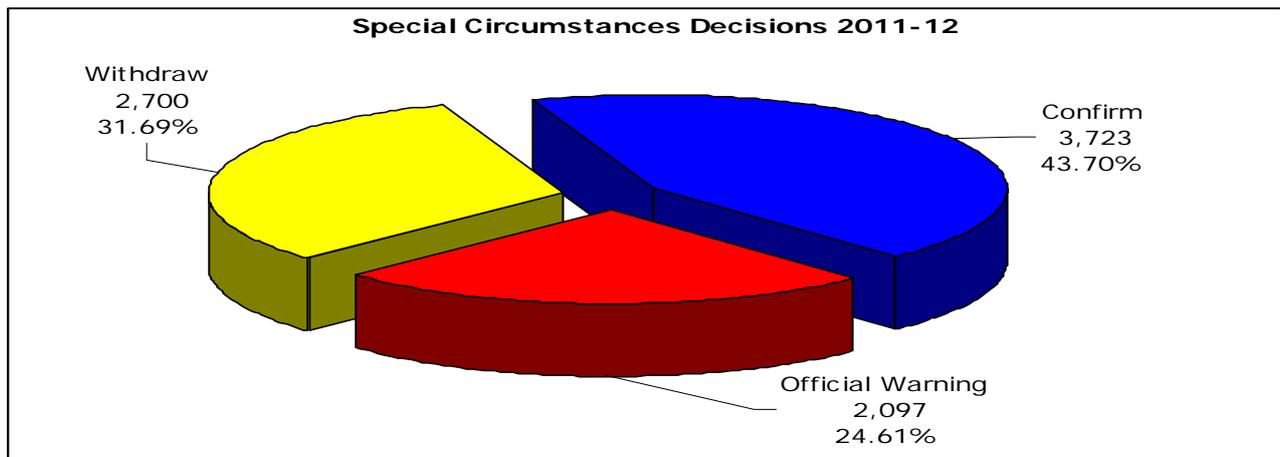
One of the particular features of the internal review process is that it enables individual circumstances to be taken into consideration when reviewing the original decision to issue an infringement notice. Special circumstances is a category of internal review application where, if the person’s application substantiates the existence of certain circumstances, it may be appropriate to withdraw the infringement notice.

Because the infringements system is largely automated, the category of special circumstances provides an important opportunity to divert people out of the infringements system where they have a condition that means they are unable to understand and comply with the law, or unable to control their conduct and comply with the law.

A person or advocate, making an internal review application on the grounds of special circumstances, must provide appropriate evidence that substantiates the relevant condition and links that condition to the conduct that resulted in an infringement notice.

In 2011–12, there were approximately 8,500 internal review applications made on the grounds of special circumstances. This represents around two per cent of all internal review applications made during the 2011–12 financial year, and is consistent with most other financial years since 2006–07. While applications on the grounds of special circumstances are a very small proportion of internal review applications, it remains an important option within an infringements system seeking to balance enforcement with protection of vulnerable people.

Figure 11: Special Circumstances Decisions: Internal Reviews



The outcome of a review on the basis of special circumstances may be that the infringement notice is withdrawn with no further action taken, the infringement notice is withdrawn and an official warning issued in its place, or the infringement notice is confirmed.

Unlike other internal reviews, if the enforcement agency confirms the infringement notice (that is, rejects the excuse or reason provided in the application for internal review), the agency must refer the matter to open court for determination. This allows individual assessment of the person’s often complex needs by a Magistrate.

# ENFORCEMENT ORDER ACTIVITY

## Enforcement Orders and Infringement Warrants

If an infringement notice remains unpaid, the relevant enforcement agency can lodge the infringement notice with the Infringements Court. The Infringements Court can then make an enforcement order requiring the person who received the infringement notice to pay to the Court the outstanding amount of the infringement penalty, as well as additional costs associated with the making of the order. If the enforcement order remains unpaid, the Infringements Court may issue an infringement warrant, authorising the Sheriff to use enforcement sanctions to recover the outstanding amount.

### Enforcement orders

Enforcement orders are made when an infringement notice is unpaid and an enforcement agency lodges it with the Infringements Court for enforcement.

In 2011–12, 81 per cent of enforcement orders issued were for Government agency infringements, with non-government agencies accounting for the other 19 per cent. This is the same as the previous financial year and in keeping with the percentage of overall infringement notices issued by Government agencies, with Victoria Police issuing the highest number of infringement notices in Victoria.

Figure 12: Enforcement Orders by Agency Type

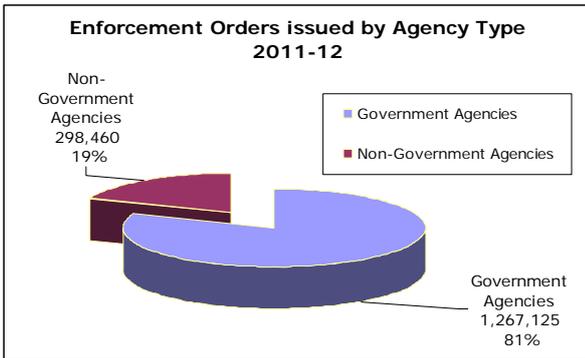
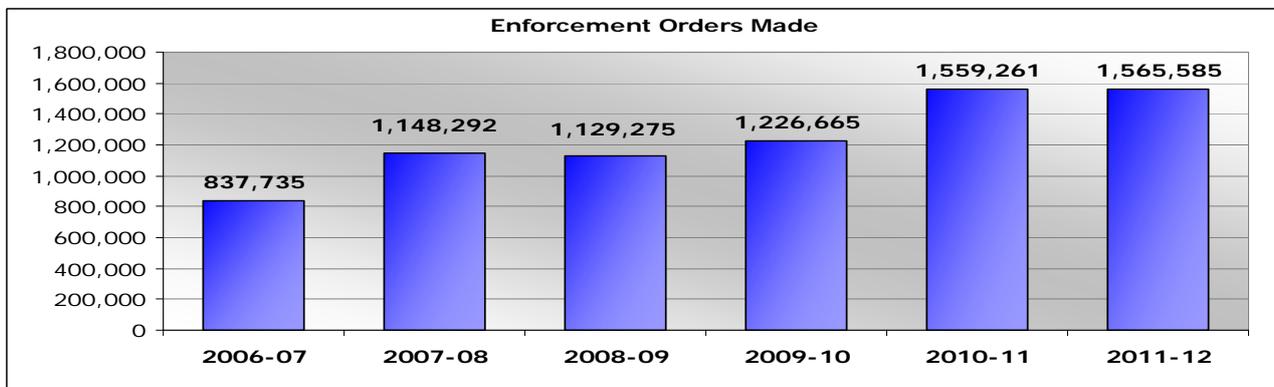


Figure 13 shows the number of enforcement orders made in 2011–12 has remained fairly constant, compared to 2010–11. The trend shows a gradual increase in enforcement orders overall since 2006–07, which is to be expected given the increase in infringement notices issued and enforcement agencies seeking to enforce unpaid infringement notices using the Infringements Court.

Figure 13: Enforcement Orders Made



# REVOCATIONS ACTIVITY

## Revocation of enforcement orders

A person against whom an enforcement order is made may apply to the Infringements Court for the order to be revoked. The person must state the grounds on which revocation is sought. If the infringements registrar is satisfied that there are sufficient grounds, the order will be revoked and parties notified of the decision. The infringement matter is then referred to open court for hearing, unless the enforcement agency elects not to prosecute. If the Infringements Court refuses the application and confirms the enforcement order, the applicant may, within the timeframes specified in the Act, request that the registrar refer the matter to open court.

## Revocation of enforcement orders

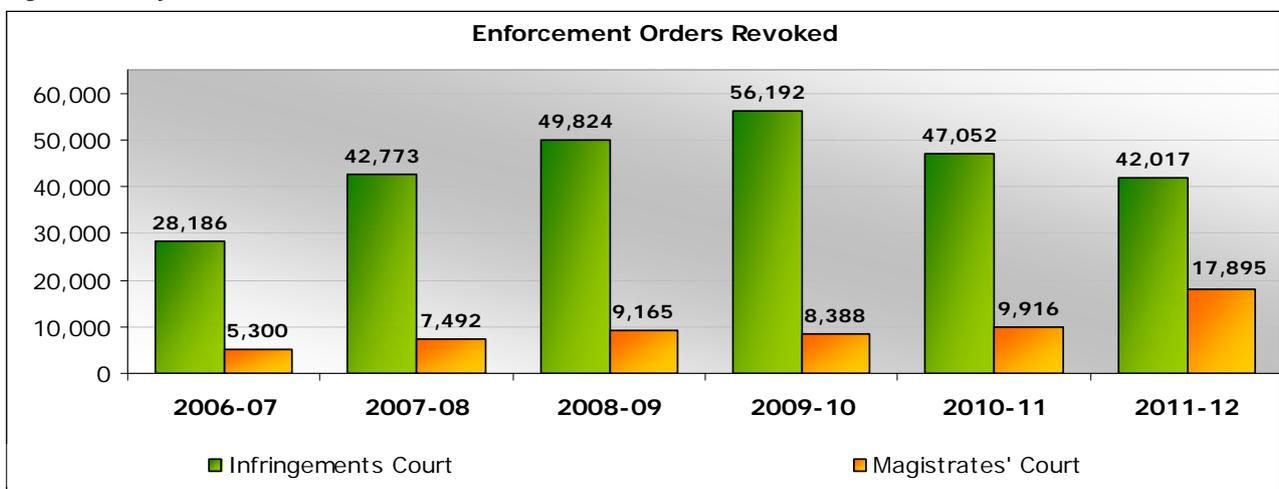
The revocation process enables someone whose unpaid infringement has progressed to enforcement stage to apply to the Infringements Court to have the enforcement order cancelled. Revocation of an enforcement order means that the enforcement order ceases to have effect and a copy of the decision will be sent to the applicant (or the applicant’s representative) and the issuing agency.

If the revocation is granted, the enforcement order is cancelled but the original infringement notice still stands and the matter is not yet finalised. The enforcement agency has the opportunity to consider the matter and to decide whether to withdraw the infringement notice or allow the matter to be referred to the Magistrates’ Court.

The enforcement agency has 21 days to decide whether to prosecute (and have the matter heard in the Magistrates’ Court). In these circumstances, the Magistrates’ Court will notify the person and the enforcement agency of a hearing date.

If, after receiving a copy of the Infringements Court’s decision to revoke the enforcement order, the issuing agency decides not to prosecute then the infringement will be withdrawn and the matter is finalised.

Figure 14: Enforcement Orders Revoked



If the Infringements Court refuses an application for revocation, a person may lodge an objection and seek to have the matter considered by the Magistrates’ Court. Strict time limits apply. For more information on objections, go to: [www.fines.vic.gov.au](http://www.fines.vic.gov.au)

While less applications met the criteria for revocation at Infringements Court stage this year, more objections were granted in the Magistrates’ Court. Figure 14 (on the previous page) reflects this difference. The difference is reflective of the different evidence available to the Infringements Court, which assesses applications on the paper, and the Magistrates’ Court, which can directly question the applicant. Despite this change, the graph shows the continued primary role of the Infringements Court in the revocations process, with approximately 70 per cent of revocations decided by the Infringements Court.

As a percentage of enforcement orders made, the number of revocations remains small, at just under four per cent.

### Revocation on the grounds of special circumstances

The *Infringements Act 2006* enables an application for revocation to be made on the grounds of special circumstances. The application may be made by the person who received the infringement notice, or by someone acting on behalf of a person with special circumstances. As Figure 15 shows, the number of enforcement orders revoked on the grounds of special circumstances remains a very small percentage, just under two per cent for the last two financial years.

Figure 15: Special Circumstances Decisions: Enforcement Orders Revoked



# INFRINGEMENTS AND FINANCIAL HARDSHIP

## Payment plans

A payment plan can be an instalment payment plan, an extension of time, or a payment arrangement that incorporates both an extension of time and instalments. Extension of time payment plans tend to be the most commonly used option.

## Payment orders

A person who has an enforcement order made against them may apply to the Infringements Court for a payment order. A payment order is an order of the court allowing additional time for payment or payment by instalments. A payment order can be made by the Infringements Court any time prior to the Sheriff seizing goods or arresting a person under a warrant.

## Community Work Permits

When the Sheriff arrests a fine defaulter under an infringement warrant, the Sheriff may sign that person up to a Community Work Permit if the person does not have any goods that can be seized to satisfy the outstanding fine/s. This arrangement is similar to a Community Correction Order in that it allows a person to undertake community work in lieu of payment of the fine at the rate of one hour per 0.2 penalty units owing.

## Payment plans

Payment plans enable those experiencing financial hardship to have the due date of payment extended. The *Infringements Act 2006* provides for payment plans by instalment, by extension of time or by a payment plan that includes a combination of instalment and extension of time. The type of payment plans that an enforcement agency offers may vary, with agencies able to choose the most appropriate type of payment arrangements for their organisations. Some agencies manage their own payment plans; others use the central payment plan scheme managed by the Department of Justice (under which a person may combine multiple matters from multiple agencies in the same payment plan). A person who has a Commonwealth Government (Centrelink) concession card, veterans' card or health care card (including non-means tested) is automatically entitled to be offered a payment plan upon request.

Most enforcement agencies have payment plan activity, though the volume is influenced by the number of infringements that agency issues. Victoria Police issues the highest volume of infringement notices in Victoria and so it has the most payment plans each year.

## Payment orders

A person with enforcement orders or warrants who is not able to pay the outstanding amount by the due date, may apply for a payment order. In 2011–12, just over 338,500 payment orders were granted by the Infringements Court. This is an increase from 319,000 in 2010-11\* and 221,600 in 2009-10.

## Community Work Permits (CWP)

A CWP enables someone to undertake community work to clear an outstanding infringement warrant. It is only available once it is determined that there is no property to be seized to pay off the infringement debt. It is an alternative to imprisonment. Around 1,400 people commenced a CWP during the 2011–12 financial year. This is slightly less than the around 1,500 people who commenced CWPs in 2010–11, and compares to 1,000-1,200 in previous years.

\* note: the 2010-11 figure has been adjusted based on updated information: it was inadvertently reported as just over 200,000 in the 2010-11 report

## SANCTIONS ACTIVITY

If an enforcement order is not paid by the due date, an infringement warrant will be issued. This authorises the Sheriff to use the sanctions available under the *Infringements Act 2006* to enforce the penalty. Sanctions that the Sheriff may apply to enforce an unpaid infringement warrant include registration non-renewal, suspension of driver licences and vehicle registrations, wheel-clamping and Community Work Permits.

### Suspension powers: Licence and registration sanctions

Under the *Infringements Act 2006*, the Sheriff may utilise a number of sanctions to prompt people with outstanding infringement warrants to finalise their matters. One sanction available is the power to direct VicRoads to suspend a person's driver licence or vehicle registration. Licence and registration suspensions can be made seven days after the Sheriff has personally served a Notice of Intention to Suspend (NOITS). In 2011–12, there were around 5,400 NOITS served relating to around 105,000 outstanding warrants (a person may have multiple infringement warrants). As in previous financial years, NOITS encouraged people to deal with their outstanding infringement matters, with around 80 per cent taking action without suspension needing to occur.

In around 20 per cent of cases, the Sheriff directed that suspension occur, and just under half of those people took action to clear their outstanding warrants within 14 days of suspension occurring. If someone's licence or vehicle registration has been suspended, that person is not permitted to drive until the suspension has been lifted. For this reason, NOITS continues to be an effective sanction to encourage people to finalise outstanding infringement warrants.

### Registration Non-Renewal

Registration Non-Renewal (RNR) is an automated sanction. The Sheriff may direct VicRoads not to renew the vehicle registration of a person with an outstanding infringement warrant. The vehicle may not be sold with its current registration. During 2011–12, the RNR sanction prompted around 82 per cent of people who had the sanction applied to them to take action to clear their outstanding infringement warrants, with over \$5.1 million worth of warrants cleared. This is similar to 2010–11, when around 85 per cent of people took action in response to the RNR sanction, clearing over \$5.3 million worth of warrants. In both of the last two financial years, around 70 per cent of the people who took action to clear their warrants, paid in full.

### Wheel Clamping

Wheel clamping provides an immediate incentive for a person to take action to address an outstanding infringement warrant. A person may pay in full or arrange a payment order to seek release of their vehicle. In 2011–12, 2,588 vehicles were immobilised by wheel clamps. This is less than the 3,592 vehicles wheel-clamped during the previous financial year. Fluctuations in activity occur from year-to-year. Sheriff's Officers actively choose the appropriate sanction to use in particular circumstances and wheel clamping continues to provide an immediate reason to contact the Sheriff and to resolve outstanding infringement matters. During 2011–12, around 89 per cent of people took action to address an outstanding infringement warrant after a wheel clamp had been applied to their vehicle. This rate continues to incrementally increase from around 80 per cent in 2007 when the sanction was introduced. In 2011–12, almost 47 per cent of vehicles were released following full payment by the vehicle's owner. This compares to 42 per cent of vehicles in 2010–11.

## Special Operations

Targeted enforcement activity, or special operations, such as roadblocks and blitzes occur regularly throughout Victoria. During 2011–12, Sheriff's Operations conducted over 400 special operations resulting in \$3.6 million collected relating to 103,678 infringement warrants. This is almost double the \$1.86 million collected from special operations during the previous financial year and represents the Sheriff continuing to work with enforcement agencies (such as Victoria Police, local councils and VicRoads) to successfully target people with outstanding infringement warrants.

## Tactical Investigations Unit

The Tactical Investigation Unit (TIU) was established in 2009 to focus on individuals and corporations with over \$5,000 in outstanding infringement warrants. During 2011–12, the TIU finalised 13,038 warrants to a value of around \$4.4 million.

## Automatic Number Plate Recognition (ANPR) Technology

Automatic Number Plate Recognition (ANPR) technology is a tool used by law enforcement bodies to significantly enhance operational productivity and accuracy in identifying vehicles with outstanding matters, for example stolen vehicles, vehicles registered to a driver with outstanding warrants or if a vehicle has stayed too long in a parking bay.

Trials by Sheriff's Operations with ANPR technology have shown marked efficiency improvements in identifying vehicles with linked outstanding warrants. ANPR cameras take images of number plates, and compare these against a list of vehicles with outstanding warrants. If there is a match, the software notifies the Sheriff's officer and records the time, date, location and number plate.

Training of Sheriff's officers in the use of ANPR cameras was completed in May and June 2012 with cameras coming on-line in July 2012.

Sheriff's officers conduct mobile operations at locations such as carparks, by mounting cameras to the exterior of their vehicles and reading number plates as they travel. The technology can also be set up in a fixed position and used at roadblock operations.

# RESOURCES

## ENFORCEMENT AGENCIES

### Information sessions

The Department of Justice conducts annual information sessions for enforcement agencies throughout Victoria. These information sessions deliver training to those working in infringements operations on specific aspects of the infringements system. In recent years, sessions have been held in Melbourne, Frankston, Dandenong, Geelong, Warrnambool, Ballarat, Horsham, Bendigo, Benalla and Morwell.

### Enforcement Agency Working Group

ISOU co-ordinates an Enforcement Agency Working Group. These meetings provide a forum for those working in infringements operations to get together to discuss issues of mutual interest or concern. The Enforcement Agency Working Group meetings also provide an opportunity for enforcement agency staff to meet with members of ISOU to discuss the infringements system and associated issues.

Meetings occur quarterly in Melbourne. Meetings are also held in regional Victoria from time to time to make this forum available to those working in infringement operations outside of the Melbourne metropolitan area. For example, meetings have been held in Benalla, Colac, Bendigo and Morwell.

### ISOU Newsletter

ISOU publishes a regular newsletter to communicate with enforcement agencies about relevant issues or items of interest. The newsletter is distributed every 2-3 months.

## MEMBERS OF THE COMMUNITY

### Your Infringement Notice

Your infringement notice will have the contact details of the issuing enforcement agency.

### The 'Fines' Website

[www.fines.vic.gov.au](http://www.fines.vic.gov.au)

### Civic Compliance Victoria

*In PERSON:*

Ground Floor, 277 William St  
Melbourne

*For infringement enquiries:*

Metro: (03) 9200 8111  
Regional: 1300 369 819

*For enforcement order or Sheriff's warrant enquiries:*

Metro: (03) 9200 8222  
Regional: 1800 150 410

*Mailing address:*

GPO Box 1916  
Melbourne VIC 3001

### The Department of Justice Website

[www.justice.vic.gov.au](http://www.justice.vic.gov.au)

### Victoria Legal Aid

[www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)

### Victoria Law Foundation

[www.victorialawfoundation.org.au](http://www.victorialawfoundation.org.au)

### The 'Cameras Save Lives' Website

[www.camerassavelives.vic.gov.au](http://www.camerassavelives.vic.gov.au)

