

**ATTORNEY-GENERAL'S ANNUAL REPORT ON
THE INFRINGEMENTS SYSTEM**

2010–11



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INTRODUCTION

The infringements system regulates community and industry behaviour to make Victoria safer. Infringement offences seek to change behaviour and to act as a deterrent. Ultimately, applying and enforcing the law achieves better community outcomes and improved community safety.

Infringement notices provide an important tool for government to enforce against common types of offences without recourse to a court hearing. Like all penalties for breaking the law, infringement penalties send a clear message to the community that unlawful behaviour is unacceptable, without adding to Court waiting lists.

One way to enhance understanding and community confidence in law enforcement is to provide greater access to information about it. This report includes more detailed information than any previous annual report on the infringements system.

The report provides data about the numbers of infringement notices issued, the types of offences for which they are issued and information about the enforcement agencies that use infringement notices.

The report includes information about the activities undertaken to enforce unpaid infringement notices and to ensure that individuals are held to account for their unpaid fines. The report also outlines how those in our community who require special consideration of their circumstances are managed, to ensure our infringements system remains fair. There is also information about various activities undertaken by the Infringements Court and Sheriff's officers during 2010–11.

The Government recognises the importance of the role local government has in the provision of services to Victorian communities. This report provides detailed information about infringement activity undertaken by local government in the 2010–11 financial year.

Reflecting the fact that road safety related infringements make up a significant proportion of infringement activity in Victoria each year, this report highlights the link between enforcement via infringement and the promotion of safer motorist behaviour on our roads. As noted in the report, the link between enforcement of speed and red light offences by infringement was independently affirmed by the Auditor-General in a review conducted during the 2010-2011 financial year.

KEY INITIATIVES AND HIGHLIGHTS

Road Safety Camera Commissioner

As part of the Government's promise to increase transparency and accountability for Victoria's speed and red light camera system, legislation was introduced into Parliament during 2010–11 for the appointment of Australia's first independent Road Safety Camera Commissioner. The *Road Safety Camera Commissioner Act 2011* was introduced to Parliament in May 2011.

The Road Safety Camera Commissioner, to be appointed by the Governor-in-Council, will oversee the road safety camera system including through the investigation of matters related to the accuracy and efficiency of the system and providing a central contact for complaints resolution.

Roadside Safety Signs

During 2010–11, high visibility roadside signs were introduced in high-risk non-metropolitan areas to remind drivers to travel at appropriate speeds and to be aware of particular road conditions. The Department of Justice, in conjunction with VicRoads, Victoria Police and the Transport Accident Commission, has been progressively rolling out fixed and mobile roadside signs with messages promoting road safety. This initiative works in conjunction with enforcement measures, to remind motorists to slow down and take care, especially on high-risk roads across Victoria.

Cameras Save Lives

The launch of the new Cameras Save Lives website early in 2011 has provided a valuable road safety resource for motorists. The website has information about how the road safety camera network operates, the technology used and statistics on the number and types of fines from specific cameras.

Cameras Save Lives delivers on the Government's promise to provide greater transparency around speed and red-light cameras. It provides user-friendly access to a range of information on infringements. This website can be found at: www.camerassavelives.vic.gov.au

Infringements Trial

Following a three-year pilot project, common offences, including indecent behaviour and offensive language, were made infringeable on an ongoing basis. The trial period for two other offences (shop theft of goods under \$600 and wilful damage of up to \$500) was extended for 12 months to allow further evaluation of these more complex offences.

GOVERNANCE AND ADMINISTRATION

An **infringement notice** is an administrative method for dealing with minor criminal offences, 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 upon which the *Infringements Act 2006* is based 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
- undertaking key system improvement projects
- promoting the objectives of the Act through providing information to stakeholders aimed at improving communication with infringements system stakeholders
- assessing the appropriateness of offences for enforcement by infringement notice and advising on infringement penalty levels
- providing advice, as requested, to infringements system stakeholders on their rights and responsibilities.

The Infringements Standing Advisory Committee

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

- provides an opportunity to canvass views from a wide spectrum of stakeholders
- comprises representatives from Victoria Police, State government agencies, community sector organisations, the Infringements Court and the Magistrates' Court
- 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
- 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.

The *Subordinate Legislation Act 1994* requires that government agencies seeking to enforce an offence by infringement notice consult with the Department of Justice as to the suitability of that offence to be an infringeable offence. ISOU is the relevant unit within the Department of Justice.

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). Local government agencies may be larger metropolitan-based local councils, metro-fringe councils, or larger or smaller regional-based councils. 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 (some examples include 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 represents one component in an extensive and 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 including seeking to effect policy and legislative change. 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 / industry organisation perspective.

INFRINGEMENTS POLICY

In Victoria, a number of principles inform infringements policy, including:

- public awareness of rights and responsibilities
- appropriate infringement offences
- fairness and due process
- responsibilities on participating enforcement agencies

Public awareness of rights and responsibilities is one of the key principles underpinning an infringements system: deterrence is dependent on people being aware that they are likely to be detected offending and then penalised swiftly.

It is important to note that not all offences are suitable for infringement. Infringement offences are traditionally strict liability offences where the commission of the offence is clear-cut. Unlike more complex offences, strict liability offences do not require the prosecution to establish intent or interpret the person's actions to determine whether or not an offence was committed. The offending behaviour is clearly defined and any breach is readily detected.

As the infringements system is part of the criminal justice system, fairness and due process are crucial. Fairness includes taking account of individual circumstances and recognition of genuine special circumstances that affect someone's ability to understand or control the conduct that constitutes the offence. In Victoria, there are a number of opportunities during the infringement's lifecycle where a person may choose to have the matter dealt with in open court rather than through the infringement system.

In addition, there are responsibilities on participating enforcement agencies to observe the policies and principles of the system. The Attorney-General's Guidelines provide guidance to enforcement agencies, including information relevant to legislating agencies seeking to create or amend infringeable offences.

During 2010–11, the Infringements System Oversight Unit (ISOU) assessed a number of offences to determine their suitability as appropriate infringement offences. Some examples of the sorts of offences the ISOU assessed during 2010–11 include consultations on:

- laws relating to safe handling of food in businesses
- road safety offences
- public transport-related offences
- national schemes for developing frameworks to regulate heavy vehicles and providers of early childhood education
- orders under bail and sentencing laws
- electricity safety
- liquor control
- livestock handling
- offences seeking to protect the amenity of our state parks and forests.

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

Under the above provisions, each enforcement agency provides a report setting out its infringements activity during the six-month reporting period. That report contains information about infringements issued, infringements withdrawn, official warnings issued, official warnings withdrawn, internal review decisions and payment plan activity.

The exact figures will vary from agency to agency both in terms of volume but also in terms of categories of infringements issued. There are

over 120 enforcement agencies in Victoria, issuing infringements under a wide range of legislation and associated regulations. The infringements reporting requirements are the same for each enforcement agency and break offences into categories (see Figure 3).

The data and graphs in this report are based on the enforcement agencies' infringement reporting for 2010–11 and previous financial years, as well as other data on infringements.

INFRINGEMENTS ACTIVITY

Infringements Issued by Agency Type

During 2010–11, there were **4.97** million infringement notices issued in Victoria. This compares to 4.65 million in 2009–10 and 4.66 million infringement notices in 2008–09.

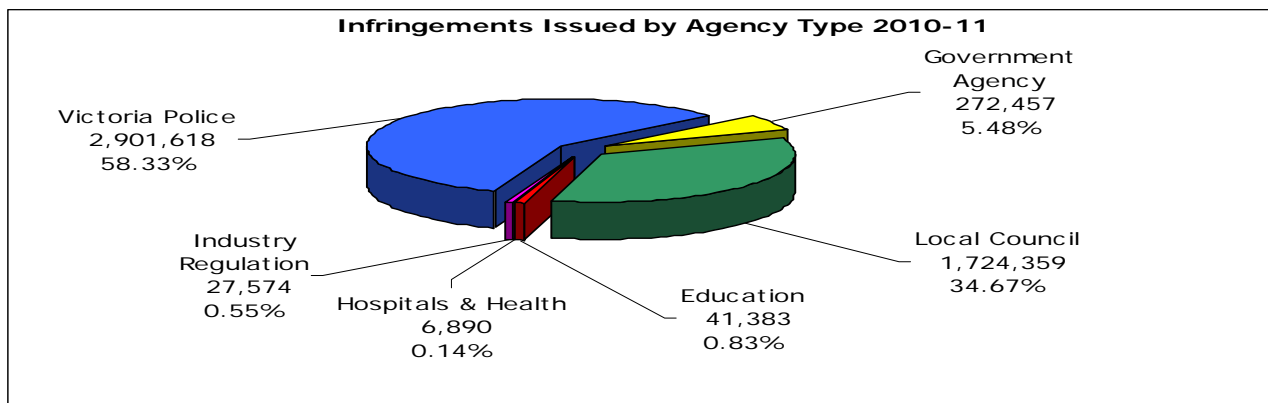
Figure 1 shows the number of infringements issued by agency type. Victoria Police has the power to issue infringement notices under a wider range of legislation than other enforcement agencies. It has consistently issued the largest proportion of infringements in Victoria in recent years. Victoria Police was responsible for over half of the infringements issued during the 2010–11 financial year (58.33 per cent).

Local councils also issue a substantial proportion of infringements in Victoria (34.67 per cent in

2010–11) and have consistently issued around 35 per cent of the total infringement notices issued in Victoria for each financial year since 2006–07. Like Victoria Police, local councils issue infringements under a wide range of legislation.

By contrast, most state government agencies issue infringements for offences under a narrower range of legislative provisions. This means that those enforcement agencies are issuing infringements under specific legislation, rather than numerous legislative instruments, and so as a result issue less infringement notices. This also applies to enforcement agencies such as hospitals and health agencies, educational institutions and industry regulation bodies.

Figure 1: Infringements Issued by Agency Type



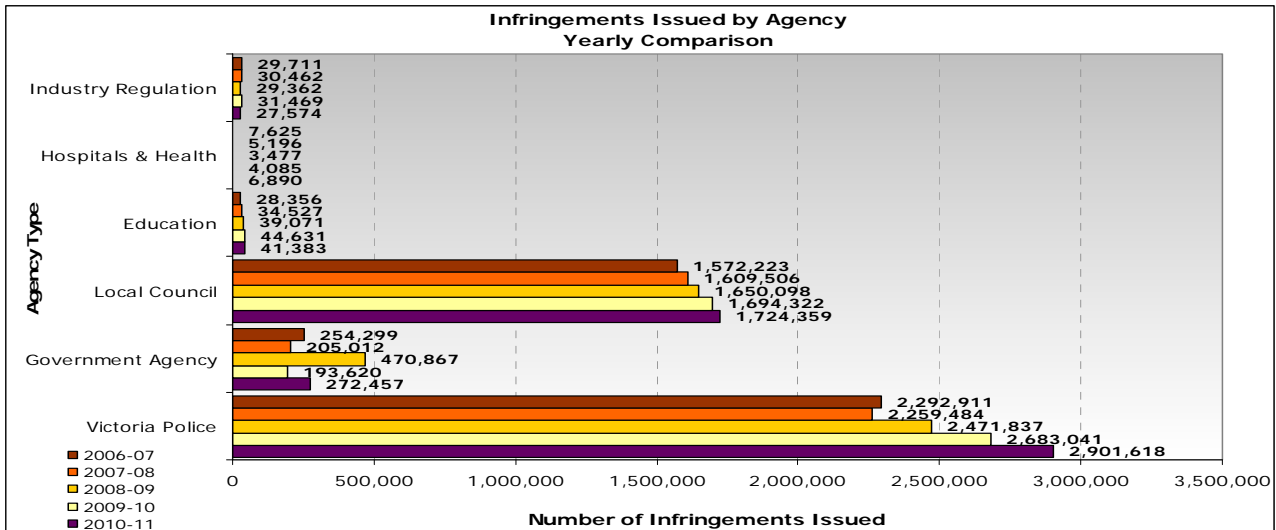
The type of enforcement agency, as well as geographical location, community demographics and events, relevant legislation (including changes to legislation and the introduction of new infringeable offences), and numerous other factors influence the number of infringement notices an enforcement agency issues in a particular year.

Infringements activity data has now been collected for five years, giving a clearer sense of trends in the number of infringements issued in Victoria. Figure 2 shows the yearly comparison figures for infringements issued by agency type. Most enforcement agency types have issued fairly consistent numbers of infringements for each financial year since 2006–07, notwithstanding small fluctuations. Infringements data provided by local councils indicates a slight increase each financial year. Victoria Police, with the exception of a slight decrease in the 2007–08 financial year, shows a steady increase in the number of infringements issued. The difference between 2009–10 and 2010–11 for Victoria Police is largely

attributable to tolling fines on EastLink; with more motorists using the new toll road, the number of infringements issued has increased from just under 219,000 in 2009–10 to just over 406,000 in 2010–11.

The Government Agency figures for the 2008–09 financial year include a large number of fines issued by the Victorian Electoral Commission for failure to vote in the 2008 local council elections. This accounts for the sizeable difference between 2008–09 and the other financial years for infringements issued by Government Agencies.

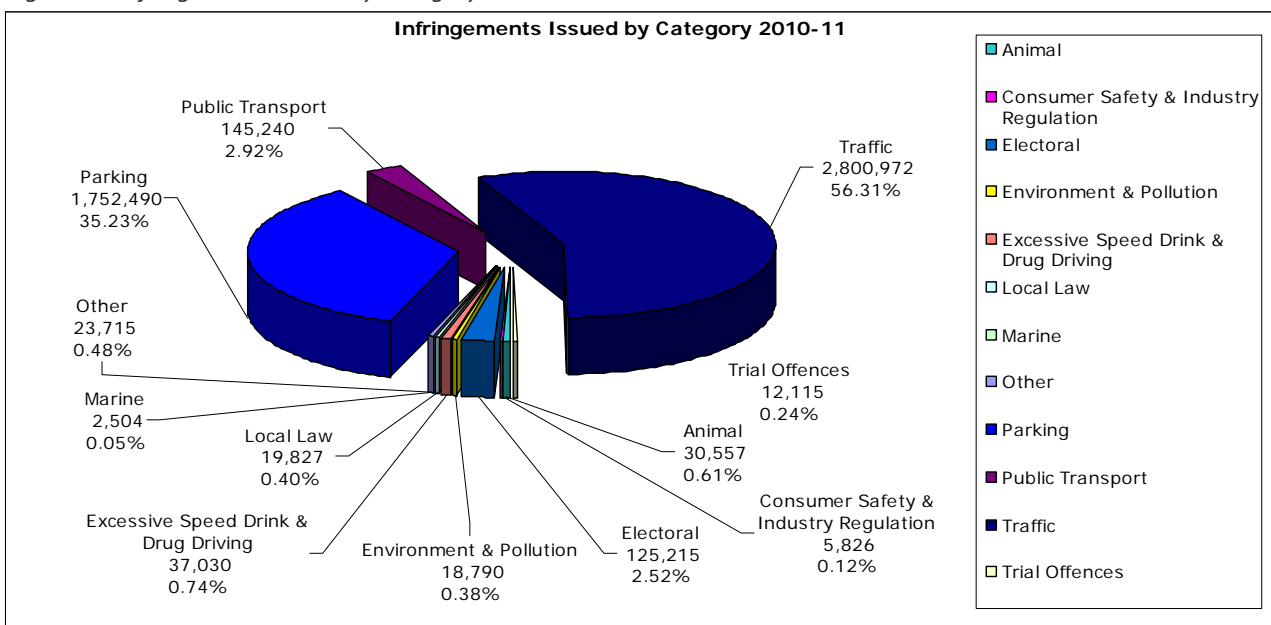
Figure 2: Infringements Issued by Agency – Yearly Comparison



Infringements Issued by Type of Offence

Figure 3 shows the total number of infringements issued in Victoria divided into categories representing the different types of offences. Traffic-related offences (including speeding, red light offences and using a mobile phone while driving) and parking offences have consistently represented the largest proportion of infringements issued in Victoria. In 2010–11, over 90 per cent of infringement notices were issued for these offences. This is consistent with previous financial years. Infringements for traffic-related offences are issued by the Traffic Camera Office and Toll Enforcement Office at Victoria Police following detection by a road safety camera, as well as on-the-spot, by Victoria Police. Parking fines are issued by authorised officers from local councils and VicRoads, and by Victoria Police.

Figure 3: Infringements Issued by Category



INFRINGEMENTS AND ROAD SAFETY

“Road safety cameras improve road safety and reduce road trauma, and their ongoing use as an enforcement tool remains appropriate. The supporting technology used and the way the camera system operates provide a high degree of confidence that infringements are issued only where there is clear evidence of speeding or red-light running.”

Page viii Road Safety Camera Program Victorian Auditor-General’s Report August 2011

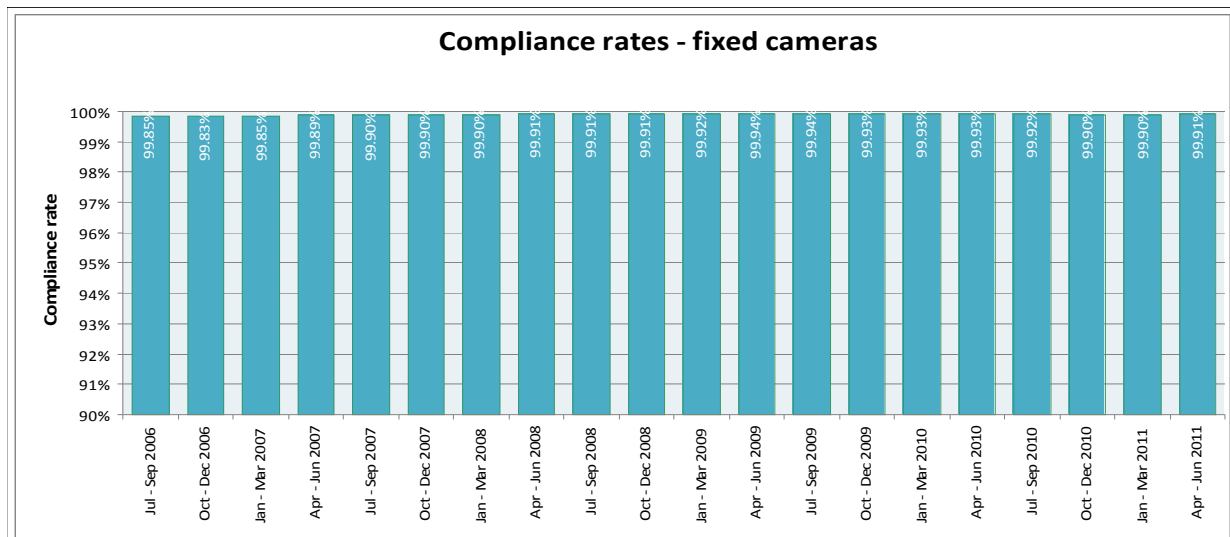
Infringement notices and road safety cameras are part of Victoria’s broad road safety strategy. Speed is one of the biggest killers on Victorian roads. Victoria’s road-safety camera program is based on the well-documented relationship between speeding and road trauma. Research has consistently shown that enforcement of speed zones reduces crash rates and improves safety for all road users. Ultimately, the aim is to reduce the emotional, physical and financial impact of road trauma on individuals, families and communities. In Victoria, exceeding the limit is the primary cause in around one third of road casualties. Even if speed is not the primary cause of a crash, it is usually a factor: a crash in a vehicle moving at a lower speed will be less severe. Under the Coalition Government, road safety programs will continue to focus on speed enforcement, alcohol and drug testing, and road infrastructure upgrades.

For more information about Victoria’s road-safety camera program, go to: www.camerassavelives.vic.gov.au.

Compliance Rates – Road Safety Cameras

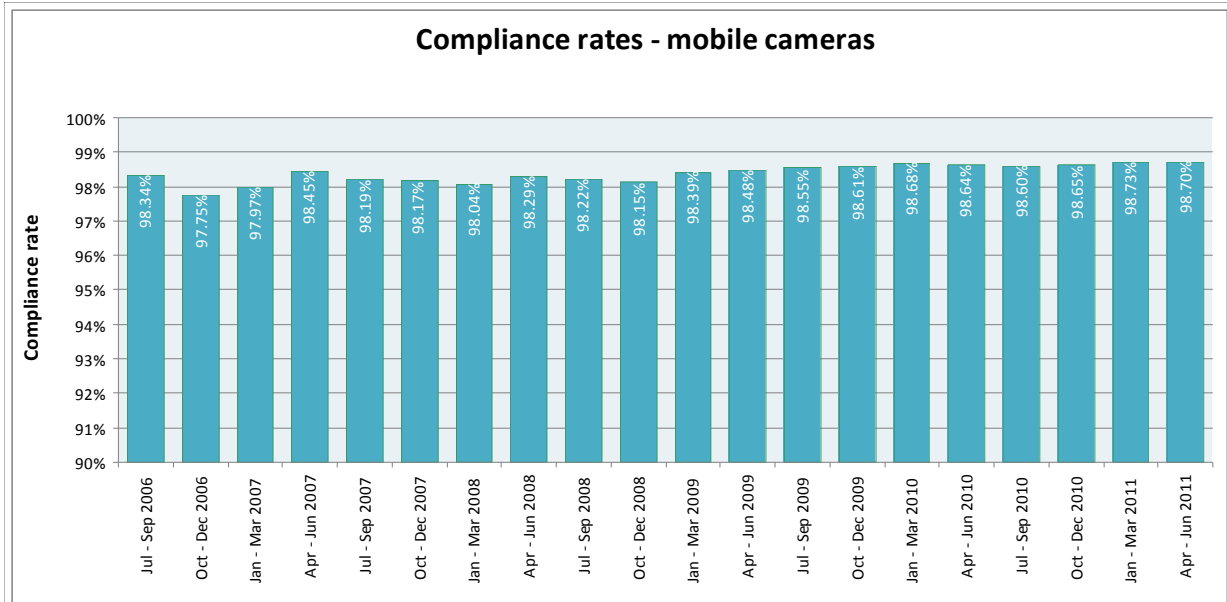
The majority of motorists that pass road safety cameras do not incur an infringement. Figure 4 below shows that over 99 per cent of vehicles passing a fixed camera do not receive an infringement. The graph reflects compliance rates by comparing the number of vehicles that pass fixed cameras with the number of infringements associated with that camera. Not all fixed cameras record the number of vehicles assessed. This data only includes infringements from those that do.

Figure 4: Compliance rates – fixed cameras



In addition to fixed cameras, mobile cameras are utilised in Victoria as part of the road safety camera program. The location of fixed and mobile cameras is based on road safety outcomes. The mobile speed cameras target locations throughout Victoria in an effort to improve driver behaviour on our roads. All mobile cameras record the number of vehicles assessed and, as Figure 5 shows, over 98 per cent of vehicles passing mobile cameras do not receive an infringement.

Figure 5: Compliance rates – mobile cameras



Road Safety – Trends in Fines

Trends in fines for each of the five highway camera systems within the State of Victoria indicate that over time speeding offences have reduced. This suggests that more drivers have been changing their behaviour to comply with the speed limit.

The data on trends in fines for the highway camera systems include infringements issued for speeding and unregistered vehicle offences, but excludes tolling offences (on CityLink and EastLink).

The point-to-point cameras on the Hume Freeway have been deactivated since October 2010 and this influenced the data for this camera network. Roadworks may also influence the number of infringements issued.

An infringement notice is issued when a road safety camera system captures clear evidence of a speed, red-light or unregistered vehicle offence.

Most people who receive an infringement notice for speeding offences exceed the speed limit by less than 10km/h. This is consistent for both fixed digital and mobile road safety cameras.

All net revenue collected from speeding and red-light camera infringements is directed back into road safety infrastructure.

For more information about road safety and infringements, including graphs on trends in fines, go to: www.camerassavelives.vic.gov.au.

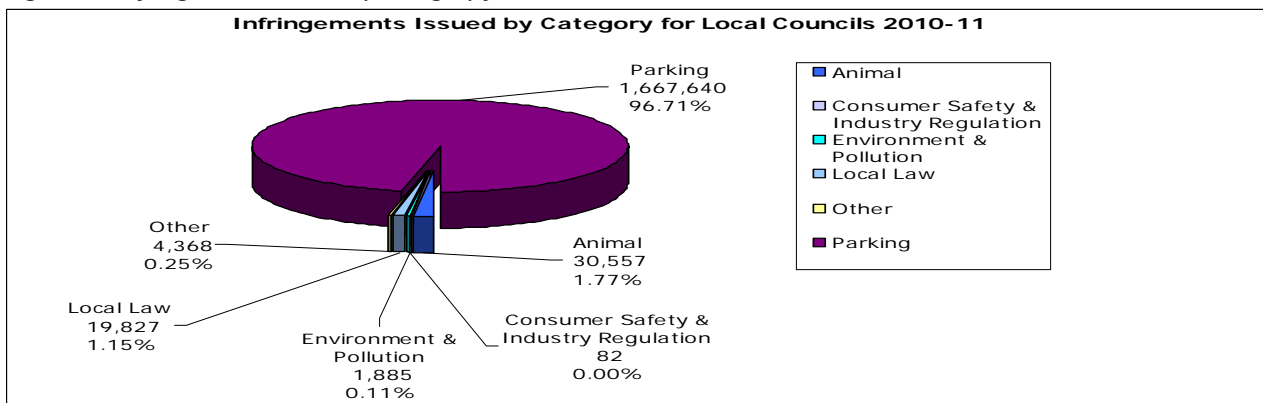
INFRINGEMENTS AND LOCAL COUNCILS

Local councils

There are 79 local councils in Victoria, which maintain significant infrastructure, provide a range of services and enforce various laws for their communities. Enforcement officers also provide information to community members and visitors to the municipality, making them a useful resource in and around the local council areas.

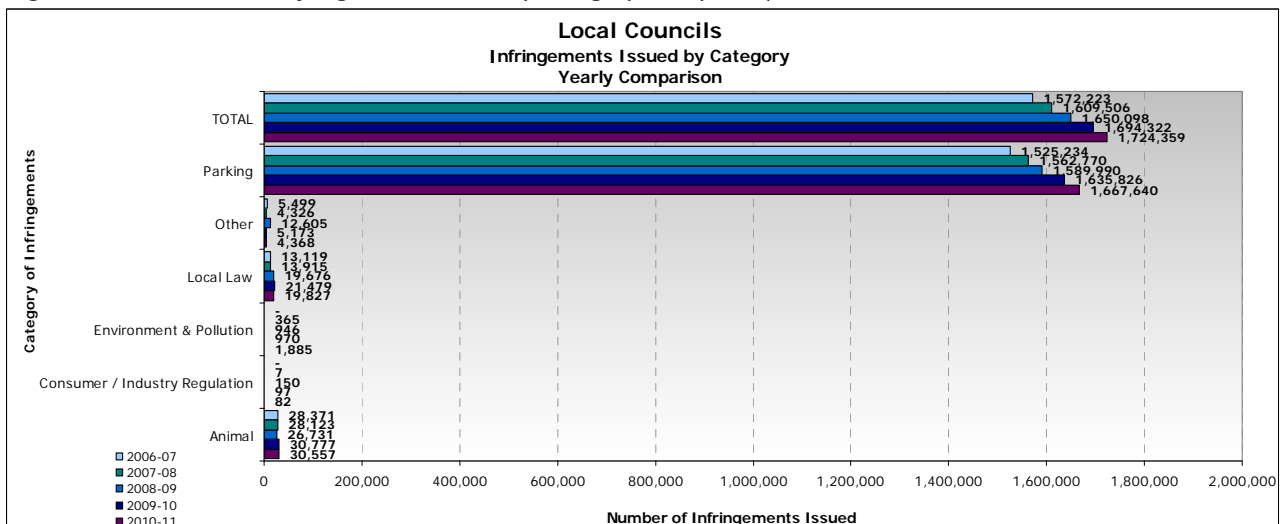
Local councils issue a substantial proportion of the overall number of infringements issued in Victoria each year. In 2010–11, as in previous years, parking represented the highest number of infringements issued by local councils. Local council authorised officers undertake enforcement activities that affect the community's ability to access shared resources.

Figure 6: Infringements Issued by Category for Local Councils 2010–11



Other than parking, local councils typically issue more animal-related infringement notices and local law infringement notices than other categories of infringements (such as environment and pollution, and consumer safety and industry regulation). Community education is also an important tool for local councils in encouraging compliance and explaining the reasons why certain behaviours are infringeable.

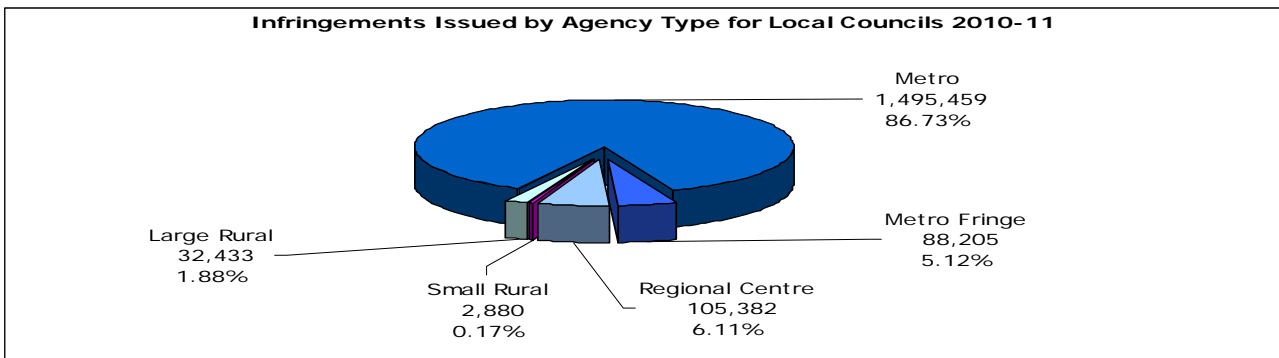
Figure 7: Local Councils Infringements Issued by Category Yearly Comparison



Local councils have various responsibilities and powers under both State and Federal laws. Where appropriate, councils may make local laws (under the *Local Government Act 1989*) to exercise these powers. Local laws only apply to the local municipality. However, there tends to be a degree of commonality as to what matters are covered under local laws in various municipalities. Local laws cover diverse matters, such as animal management and control, street trading and advertising, and parking permit schemes.

For the purpose of infringements reporting, the Department of Justice categorises individual local councils into groups of similar sorts of local councils determined by geographical area and population size. The following section discusses local council infringement issuing patterns in more detail. As Figure 8 shows, during 2010–11, local councils in metropolitan Melbourne issued the majority of local council-infringement notices. This is to be expected given the larger populations in and around Melbourne.

Figure 8: Infringements Issued by Agency Type for Local Councils 2010–11

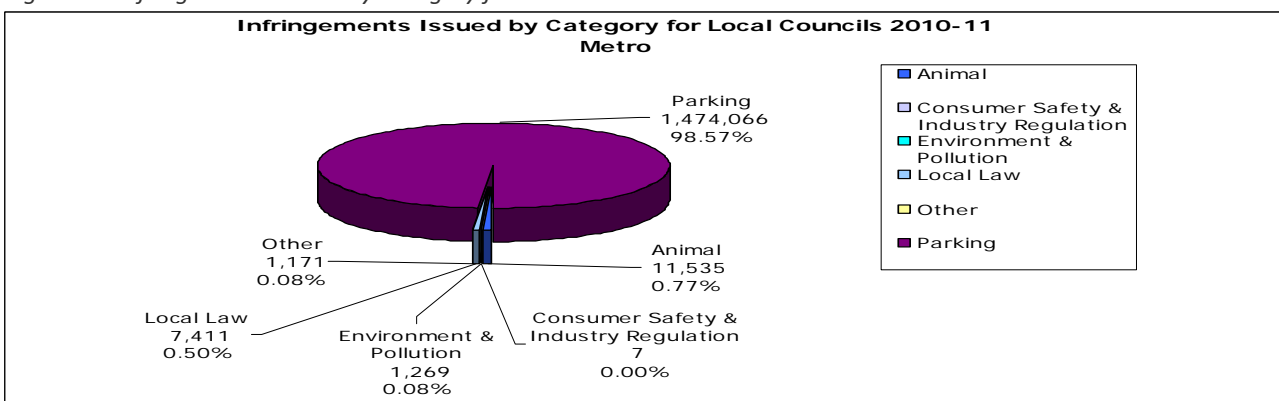


For infringements reporting, the Department of Justice classifies the following as Metro Local Councils:

Banyule City Council, Bayside City Council, Boroondara City Council, Brimbank City Council, City of Melbourne, Darebin City Council, Frankston City Council, Glen Eira City Council, Greater Dandenong City Council, Hobsons Bay City Council, Kingston City Council, Knox City Council, Manningham City Council, Maribyrnong City Council, Maroondah City Council, Monash City Council, Moonee Valley City Council, Moreland City Council, Port Phillip City Council, Stonnington City Council, Whitehorse City Council, Yarra City Council

During 2010–11, metro-based local councils issued around 1.5 million infringement notices, the largest proportion of which were for parking-related offences. In metropolitan Melbourne, parking space is at a premium and there is a much higher volume of vehicles than in most other areas in Victoria. Therefore, it is not surprising that parking-related offences happen more frequently in and around Melbourne CBD, resulting in a considerable number of infringement notices issued by metro local councils for parking offences (approximately 1.47 million this financial year).

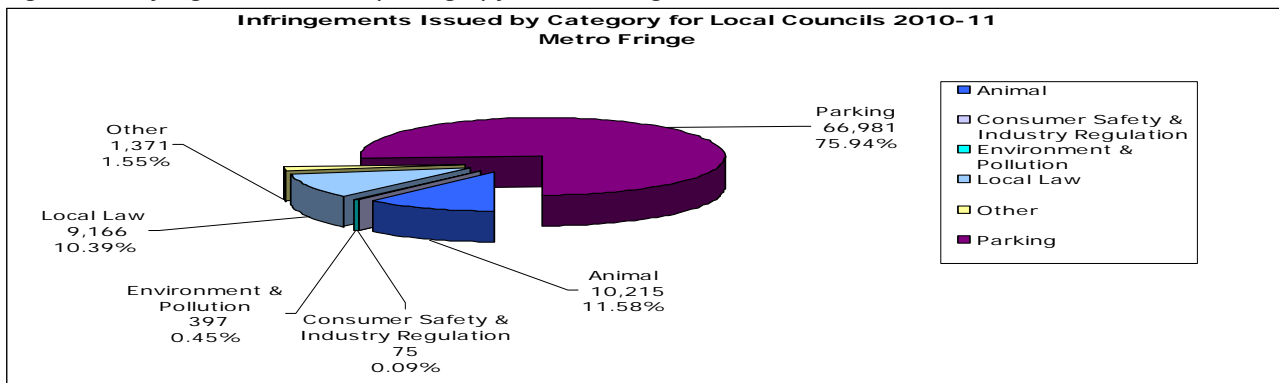
Figure 9: Infringements Issued by Category for Metro Local Councils 2010–11



For infringements reporting, the Department of Justice classifies the following as Metro Fringe Local Councils: Cardinia Shire Council, Casey City Council, City of Whittlesea, Hume City Council, Melton Shire Council, Mornington Peninsula Shire Council, Nillumbik Shire Council, Wyndham City Council, Yarra Ranges Shire Council

Local councils in metro fringe areas also issue a large number of parking-related infringement notices (almost 67,000 out of just over 88,000 infringement notices). However, as Figure 10 shows, the number of animal-related and local law infringement notices is proportionately much larger for metro fringe councils than for metro-based councils. For metro fringe councils, there were 10,215 animal-related infringement notices representing 11.58 per cent of infringement notices issued (compared with metro councils, which issued 11,535 animal-related infringement notices, which made up less than 1 per cent of infringement notices issued by metro-based local councils). Local law infringement notices follow the same pattern with metro fringe local councils issuing just over 9,000 infringement notices for local law offences, representing 10.39 per cent of total infringement notices issued by those local councils. In contrast, metro-based local councils issued just over 7,000 infringement notices for local law offences, representing less than 1 per cent of all infringement notices issued by metro-based local councils.

Figure 10: Infringements Issued by Category for Metro Fringe Local Councils 2010–11

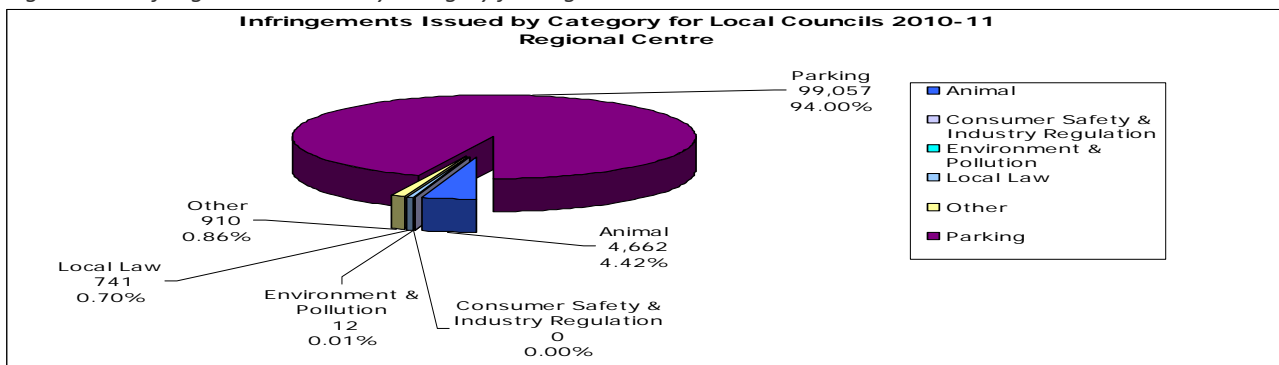


For infringements reporting, the Department of Justice classifies the following as Regional Centre Local Councils:

Ballarat City Council, City of Greater Bendigo, Greater Geelong City Council, Greater Shepparton City Council, Latrobe City Council, Mildura Rural City Council, Warrnambool City Council, Wodonga City Council

The pattern of proportion of infringements issued by category for regional centre local councils (refer Figure 11) is very similar to the pattern for metro-based local councils, perhaps reflecting the fact that both tend to be cities and / or regional hubs. One notable difference between the regional centre and metro figures is the proportion of animal-related infringement notices issued. Regional centres issued 4,662 infringement notices for animal offences, comprising almost 4.50 per cent of the 105,382 total infringement notices issued, and metro local councils issued 11,535 infringement notices, which was less than 1 per cent of all infringements issued by metro-based councils.

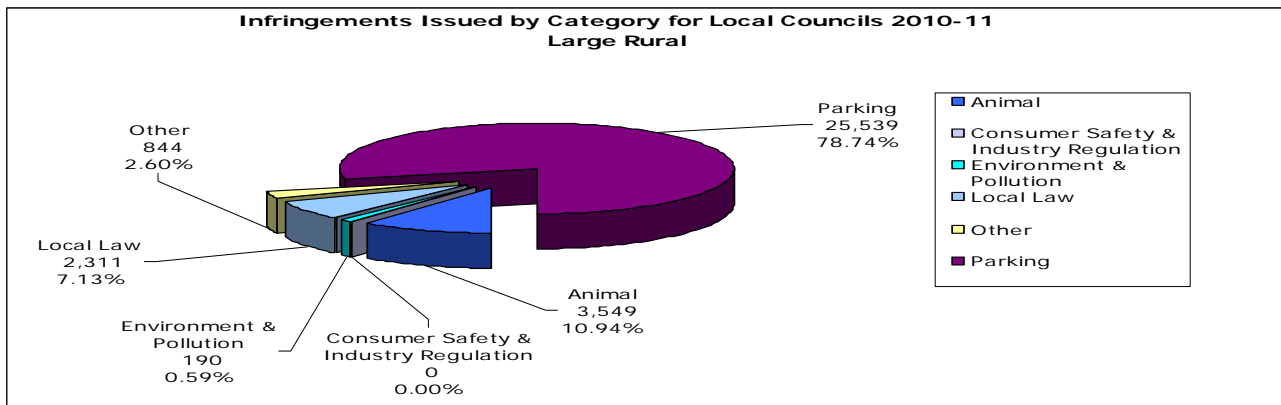
Figure 11: Infringements Issued by Category for Regional Centre Local Councils 2010–11



For infringements reporting, the Department of Justice classifies the following as Large Rural Local Councils:
 Bass Coast Shire Council, Baw Baw Shire Council, Campaspe Shire Council, Colac Otway Shire Council, Corangamite Shire Council, East Gippsland Shire Council, Glenelg Shire Council, Golden Plains Shire Council, Horsham Rural City Council, Macedon Ranges Shire Council, Mitchell Shire Council, Moira Shire Council, Moorabool Shire Council, Mount Alexander Shire Council, Moyne Shire Council, Wangaratta Rural City Council, South Gippsland Shire Council, Southern Grampians Shire Council, Surf Coast Shire Council, Swan Hill Rural City Council, Wellington Shire Council

As Figure 12 shows, in 2010–11, large rural local councils issued over 32,000 infringement notices. Most of these (almost 79 per cent) were for parking-related offences. Animal-related infringement notices, at just over 3,500 made up almost 11 per cent of the infringement notices issued by large rural local councils.

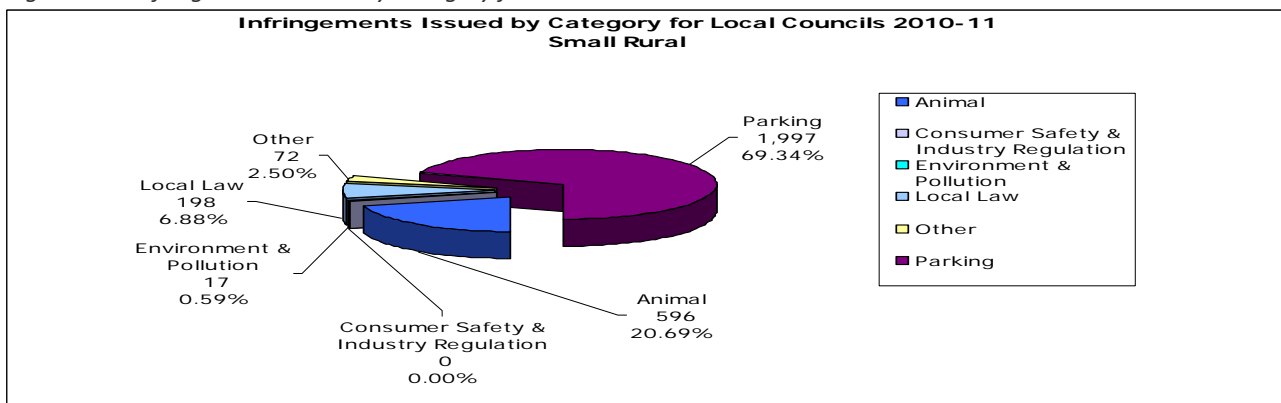
Figure 12: Infringements Issued by Category for Large Rural Local Councils 2010–11



For infringements reporting, the Department of Justice classifies the following as Small Rural Local Councils:
 Alpine Shire Council, Ararat Rural City Council, Benalla Rural City Council, Borough of Queenscliffe, Buloke Shire Council, Central Goldfields Shire Council, Gannawarra Shire Council, Hepburn Shire Council, Hindmarsh Shire Council, Indigo Shire Council, Loddon Shire Council, Mansfield Shire Council, Murrindindi Shire Council, Northern Grampians Shire Council, Pyrenees Shire Council, Strathbogie Shire Council, Towong Shire Council, West Wimmera Shire Council, Yarriambiack Shire Council

Small rural local councils issue considerably less infringement notices than most other local councils, consistent with the lower population numbers in these communities. Perhaps surprisingly, parking-related infringement notices make up the largest proportion of infringement notices issued by small rural local councils (refer Figure 13). In regional Victoria, in contrast to metropolitan-based councils, animal-related infringement notices include livestock-related offences as well as offences relating to domestic animals. In keeping with their geographical location, animal-related infringement notices represent a high proportion of overall infringement notices for small rural councils (in 2010–11 infringement notices for animal offences were almost 21 per cent of all infringement notices issued by small rural local councils).

Figure 13: Infringements Issued by Category for Small Rural Local Councils 2010–11



Local Councils – Trends in Fines

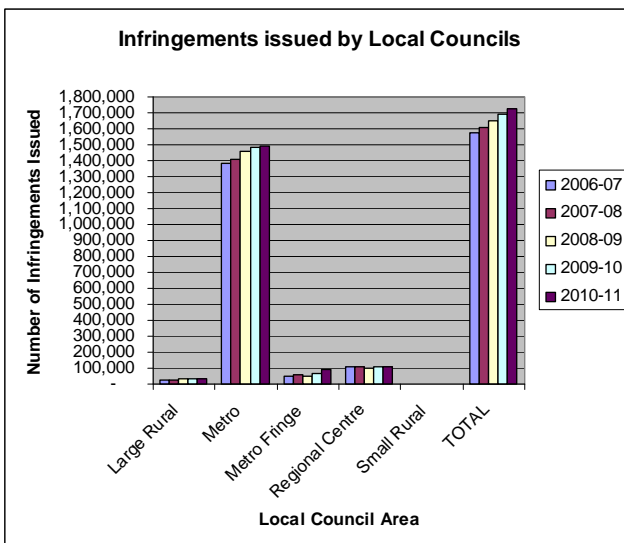
The following graphs reflect the trends in the number of infringements issued by local councils for each financial year since 2006–07.

Figure 14 shows the overall picture for all local councils, while Figure 15 and Figure 16 focus on Melbourne Metropolitan Areas and Regional Victoria respectively. Local councils in and around metropolitan Melbourne have continued to issue the largest proportion of infringement notices, compared to other local councils since the *Infringements Act 2006* came into operation.

Overall, the number of infringements issued by local councils seems to be trending upwards. This follows the pattern of activity for metropolitan-based local councils, which is to be expected given the higher volume of infringements activity in metropolitan areas. During 2006–10, local councils in metro fringe areas issued between just under 54,000 and just over 63,000 infringements each financial year, increasing to just over 88,000 infringement notices in 2010–11.

Regional centres show a degree of fluctuation from year to year but consistently issue more infringement notices than other local councils in regional Victoria. The increase in infringements issued by large rural councils appears to have reached a plateau in the last two financial years. Small rural local councils have issued similar numbers of infringements for each financial year since 2006–07.

Figure 14: Infringements Issued by Local Councils



A range of factors will influence infringements activity for local councils. For example, fluctuations in population, an individual council’s strategic approach to enforcement, community compliance and operational enforcement activity. The increased use of infringement offences by legislating agencies, which are then enforced at a local level, will also affect infringements activity for local councils. In most instances, a combination of all of these factors will influence the number of infringements issued.

Figure 15: Infringements Issued by Local Councils in Melbourne Metropolitan Areas

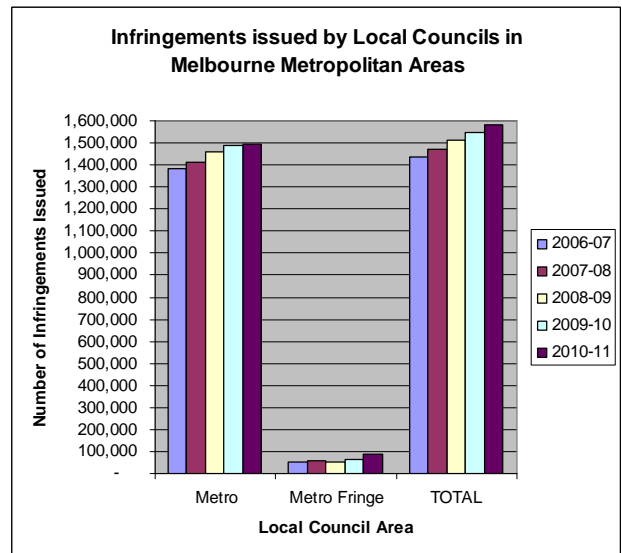
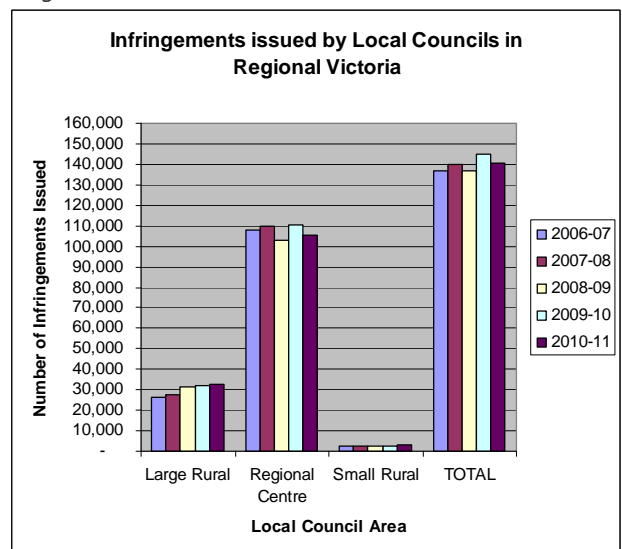


Figure 16: Infringements Issued by Local Councils in Regional Victoria



INFRINGEMENTS AND OPTIONS FOR REVIEW

Fairness and options for review

The infringements system is largely automated. It has legislative timeframes that trigger activity as an unpaid infringement notice proceeds through the system. If the recipient does not pay the original infringement notice by the due date (and has not made alternative arrangements, such as a payment plan) then the enforcement agency will issue a Penalty Reminder Notice (PRN). If the PRN is not paid by its due date then the enforcement agency may take further enforcement action, such as lodging the unpaid penalty with the Infringements Court.

An important element of the infringements system is the option for review where the recipient believes the infringement notice was issued unjustly or incorrectly. Opportunities for review include internal review by the enforcement agency as well as the option to have the matter determined in court. These options seek to ensure fairness and to enable individual circumstances to be taken into account.

Electing to go to court

The right to elect to go to court and to have the matter determined by a magistrate or judicial registrar is a significant feature of the infringements system. It enables evidence to be brought before the court and provides an opportunity for the recipient to raise matters before the magistrate or judicial registrar, rather than having the matter dealt with through the infringements system.

For example, someone may elect to go to court if there is a disagreement about the evidence, extenuating circumstances, or if the person

prefers the option to raise matters before a magistrate or judicial registrar.

In 2010–11, almost 38,000 people elected to go to court. This was 0.76 per cent of the total number of infringements issued and similar to recent financial years. Between 2006–07 and 2009–10, elections to go to court ranged from 0.5 per cent to 0.7 per cent of all infringements issued, suggesting the opportunity to have their matter determined in open court remains an important option used by a small proportion of people who receive infringement notices.

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.

Internal Reviews

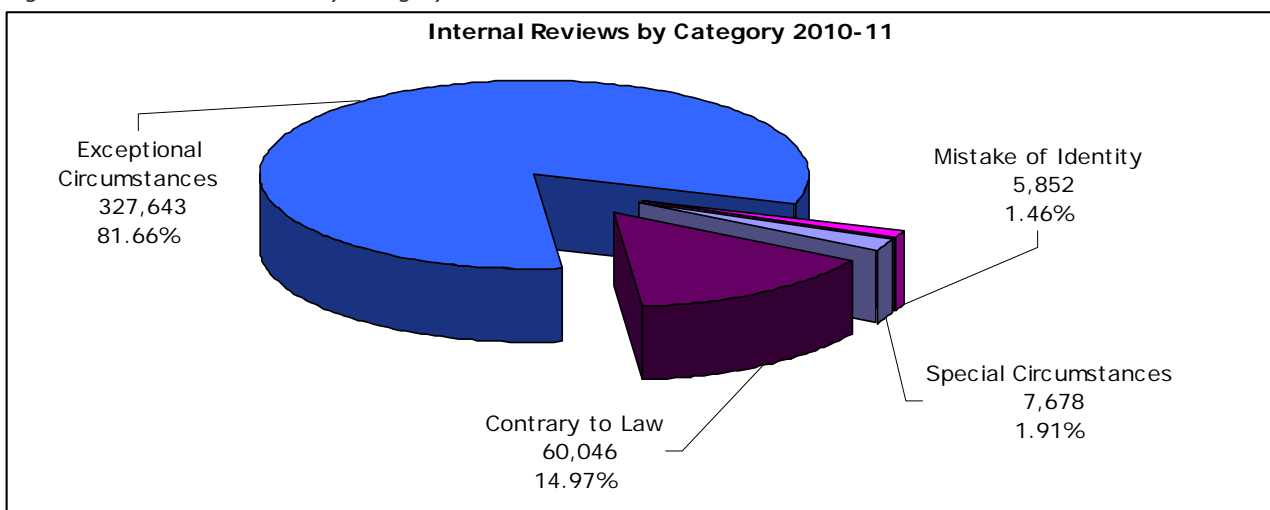
The *Infringements Act 2006* contains a statutory right to internal review of an infringement notice. This enables recipients of infringement notices who believe the infringement notice was issued unjustly or incorrectly to request the enforcement agency to review the decision to issue the infringement notice.

An internal review application must be in writing and can be made by the recipient of the infringement notice or someone acting on that person’s behalf. The review must be conducted

by an independent person and not the issuing officer. In addition, the enforcement agency must suspend all enforcement action for the duration of the review.

The grounds (or “categories”) for internal review include mistake of identity, contrary to law, special circumstances and exceptional circumstances. As shown in Figure 17, exceptional circumstances is the most common category.

Figure 17: Internal Reviews by Category



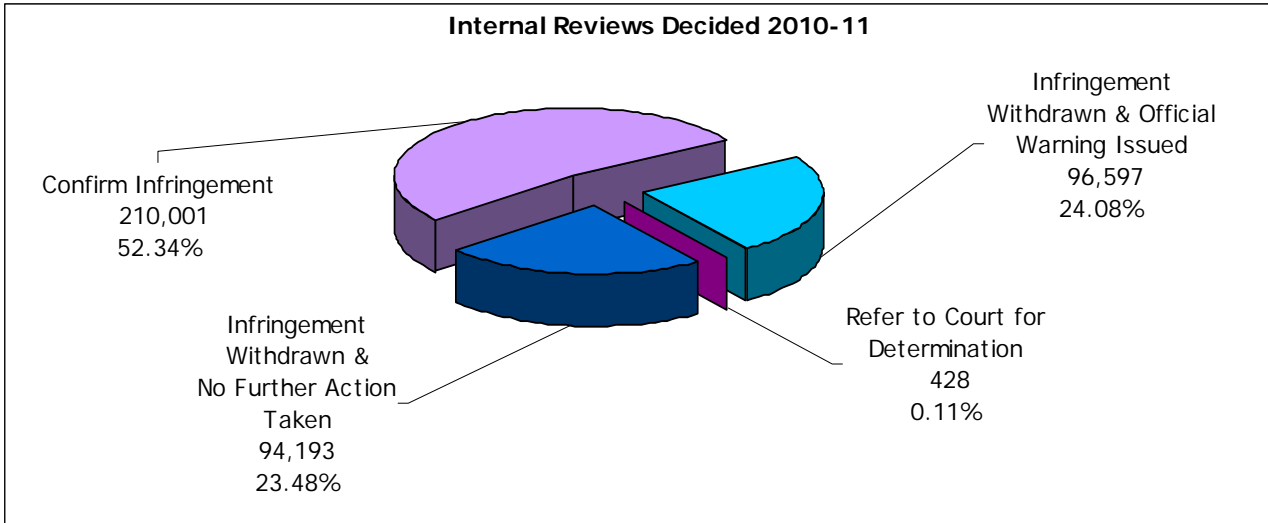
Options available on an internal review:

- **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

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.

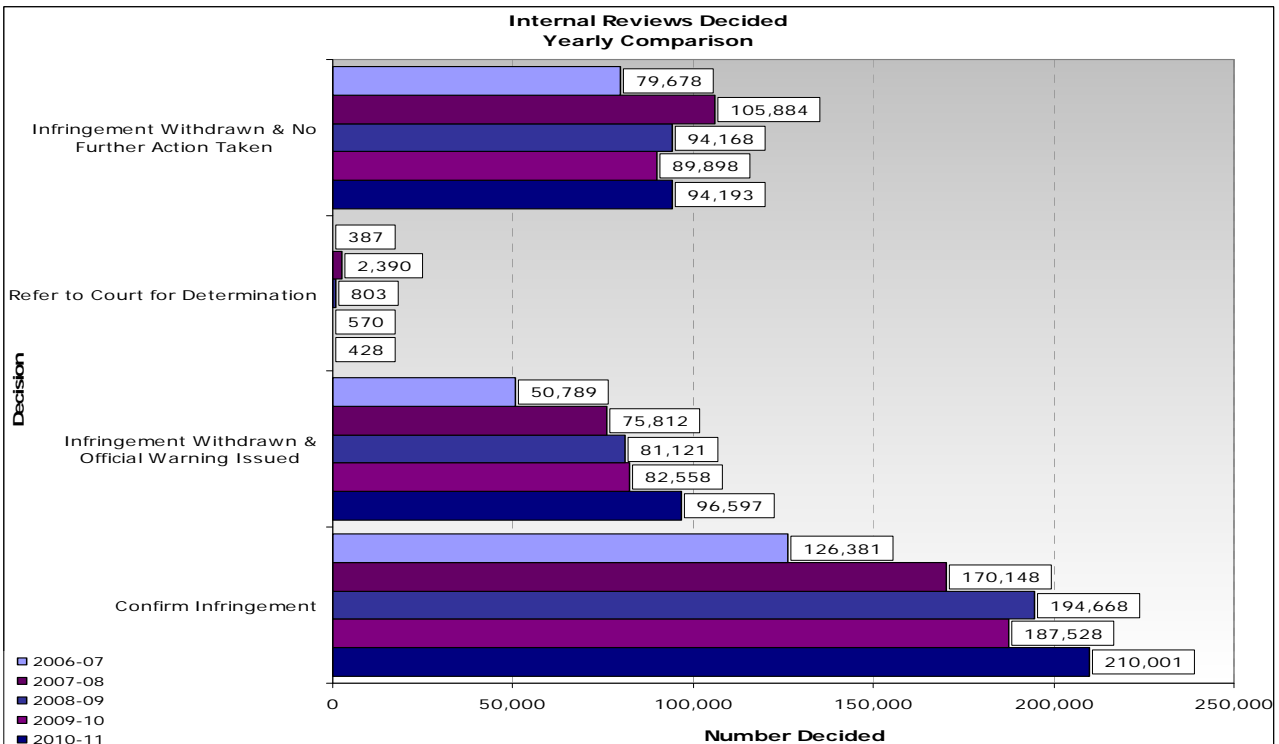
Figure 18 shows the different decisions that were made following internal review during 2010–11. Around half of all infringements reviewed resulted in the decision to issue the infringement being confirmed, with almost half withdrawn and a very small number (less than 1 per cent) referred to court for determination.

Figure 18: Internal Reviews Decided



Internal reviews have remained constant as a percentage of infringements issued. Since 2007–08, approximately 8 per cent of infringements have been the subject of internal review each financial year, and the number of internal review applications has increased in line with the number of infringements issued. Figure 19 shows that the pattern of internal review decisions in 2010–11 is consistent with previous financial years, although the number of applications received changes from year-to-year, the pattern of outcomes tend to be similar.

Figure 19: Internal Reviews Decided – Yearly Comparison



Special Circumstances

The *Infringements Act 2006* expressly provides for recognition of special circumstances. The Act defines special circumstances for the purposes of the infringements system as mental or intellectual disabilities, disorders, diseases or illnesses, or serious addictions that result in a person being unable to understand or control their offending behaviour, or homelessness that results in the person being unable to control the offending conduct.

People who are unable to control offending behaviour, due to circumstances that meet the definition of special circumstances, are usually vulnerable and disadvantaged. The Act recognises that those people should be diverted out of the infringements system and provides opportunities for a person’s individual circumstances to be taken into account.

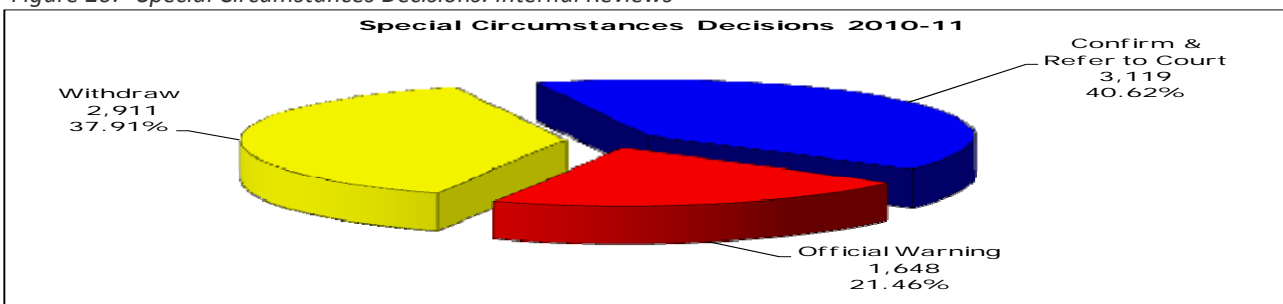
Special circumstances may be grounds for review of an infringement matter both at agency stage (internal review) and at Infringements Court stage (application for revocation). The applicant, or applicant’s caseworker, must provide appropriate evidence substantiating both the person’s condition and the connection between that condition and the person’s ability to understand and comply with the law and / or inability to control the behaviour that constitutes the offence.

Internal reviews with special circumstances

During 2010–11, enforcement agencies conducted approximately 7,680 internal reviews involving claims of special circumstances. This is around 0.15 per cent of infringements issued during the 2010–11 financial year. In 2010–11 special circumstances internal reviews made up just under 2 per cent of all internal review applications. This was broadly consistent with most financial years since 2006–07. Special circumstances remains a very small number of total matters within the infringements system, but recognition of individual circumstances for vulnerable and disadvantaged people is an important part of the system.

When an enforcement agency decides to confirm an infringement notice following internal review application with special circumstances, the matter must be referred to court. This provides additional protection to people whose individual circumstances are often complex. As shown in Figure 20, below, almost 60 per cent of internal review applications based on special circumstances were withdrawn (either with no further action required, or withdrawn and an official warning issued in its place). Just over 40 per cent of special circumstances decisions confirmed the infringement notice and referred the matter to court.

Figure 20: 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

Most people who receive infringement notices pay their fines by the due date (or make payment plan arrangements). For those who do not take action in a timely fashion, the unpaid infringement will progress through the system and incur additional costs.

2010–11, with 19 per cent of enforcement orders made relating to non-government agencies.

This is in keeping with the distribution of infringement notices issued, where government agencies (which include Victoria Police) issue the largest proportion of infringement notices.

Figure 21: Enforcement Orders by Agency Type

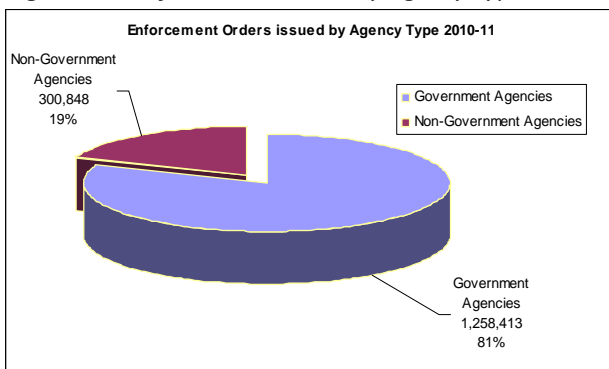
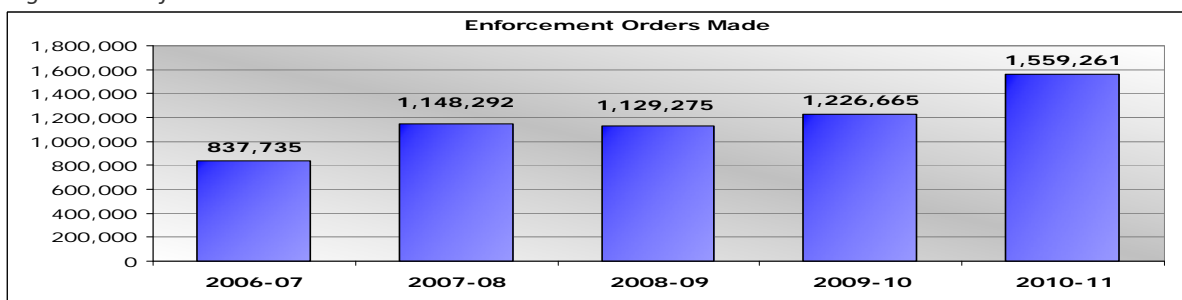


Figure 21 reflects the proportion of enforcement orders made for unpaid infringement notices by agency type. Government agencies represent 81 per cent of enforcement orders issued during

As shown in Figure 22, the number of enforcement orders made between 2006 and 2011 shows an overall increase, with a particular increase during this financial year, after an apparent plateau between 2007 and 2010.

The increase in 2010–11 reflects the general increase in infringements issued and enforcement agencies lodging more unpaid fines with the Infringements Court. In total, including both government and non-government agencies, approximately 1,559,000 enforcement orders were made in Victoria during the 2010–11 financial year.

Figure 22: 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

Revocation of an enforcement order may happen at Infringements Court, or following hearing at open court (Magistrates' Court). As Figure 23 shows, the majority of revocations occur at the Infringements Court, with a much smaller number being revoked by the Magistrates' Court (following referral from the Infringements Court). This reflects the primary role of the Infringements Court in the revocation process.

Figure 23: Enforcement Orders Revoked

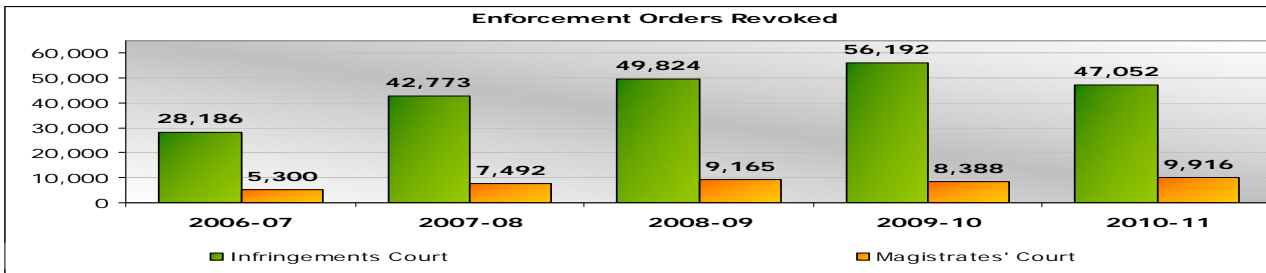
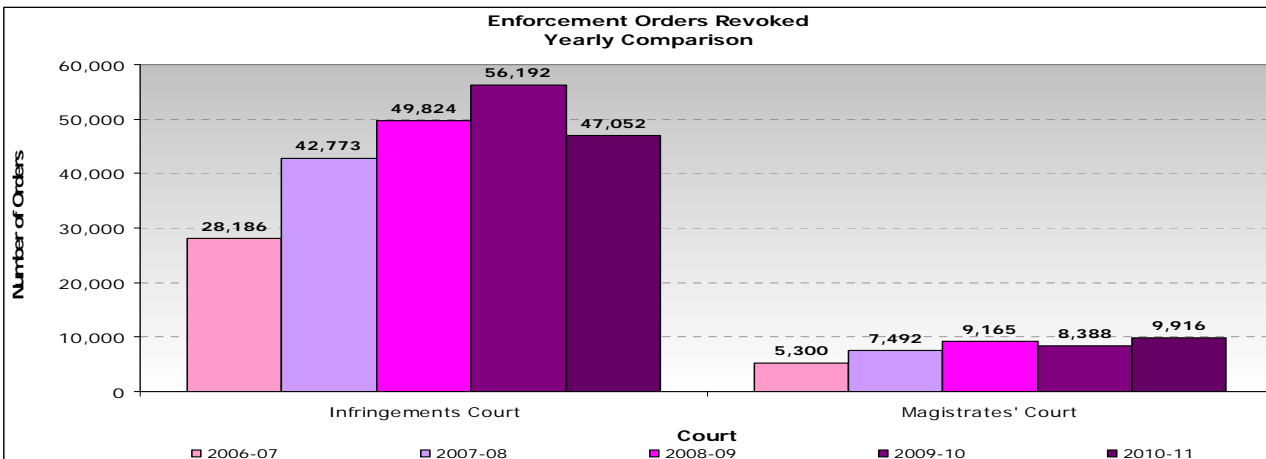


Figure 24 shows that while in recent years the number of revocations made by the Magistrates' Court has been consistent, the number of enforcement orders revoked by the Infringements Court has steadily increased, until this financial year, which shows a decrease (from 56,192 in 2009–10 to 47,052 in 2010–11). Applications for revocation are assessed against Infringements Court guidelines and an application must meet the criteria for a revocation to be granted. There will be variances from year-to-year as to the number of applications received, as well as the number of applications that meet the required criteria.

Figure 24: Enforcement Orders Revoked – Yearly Comparison



Revocation on the grounds of special circumstances

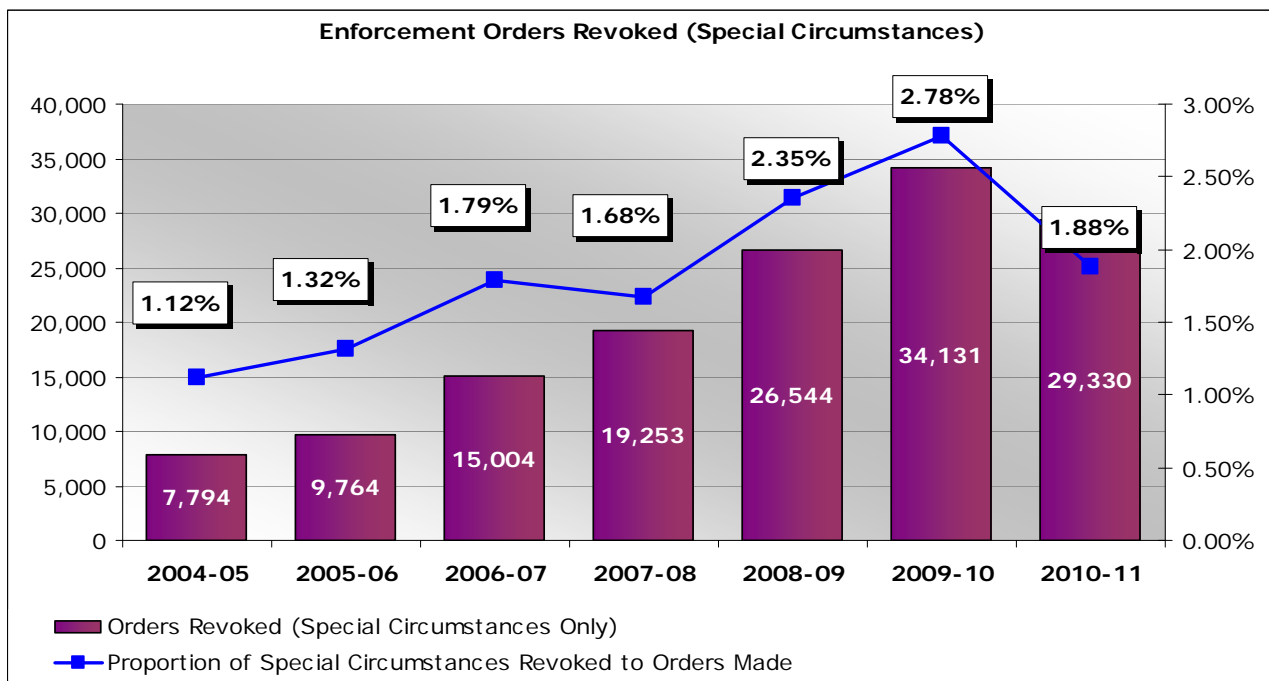
Where an application for revocation meets the required criteria, an infringements registrar may revoke an enforcement order if satisfied there are sufficient grounds for revocation. The *Infringements Act 2006* provides for revocation applications to be made by a person acting on behalf of a person with special circumstances.

Unlike internal review, there are no specific legislative requirements as to the grounds on which a revocation application can be made.

For the past two financial years special circumstances decisions have represented just over half of all revocations, and just under half for each of the three previous financial years.

Figure 25 shows that the number of enforcement orders revoked due to special circumstances represented a very small proportion (1.88 per cent) of enforcement orders made in 2010–11.

Figure 25: 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 Based 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 arrange an extension of time or an instalment payment plan, allowing additional time for payment of an infringement notice. Some enforcement agencies manage their own payment plan arrangements; others use a central facility. Payment plan activity has increased from 2006–07 through to the current financial year.

Victoria Police issue the largest volume of infringement notices and is the enforcement agency with the highest number of payment plans each financial year.

Payment orders

Payment order activity in 2010–11 reduced from around 221,600 in 2009–10 to 203,600 this financial year. The higher number in 2009–10 was the result of increased activity from that

year's fee waiver. The decrease in 2010–11 represents a return to more usual numbers. As in previous years, instalment payment orders comprise approximately 40 per cent of all payment orders made by the Infringements Court.

Community Work Permits

Community Work Permits (CWP) provide another means to resolve an infringement warrant, enabling the person to undertake community work to clear the infringement warrant. However, a CWP is only available once it is determined that the person has no property that can be seized. It is an alternative to imprisonment. The number of people commencing a CWP in 2010–11 was slightly higher than recent years (around 1,500 people, compared to 1,000–1,200 between 2007–10).

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

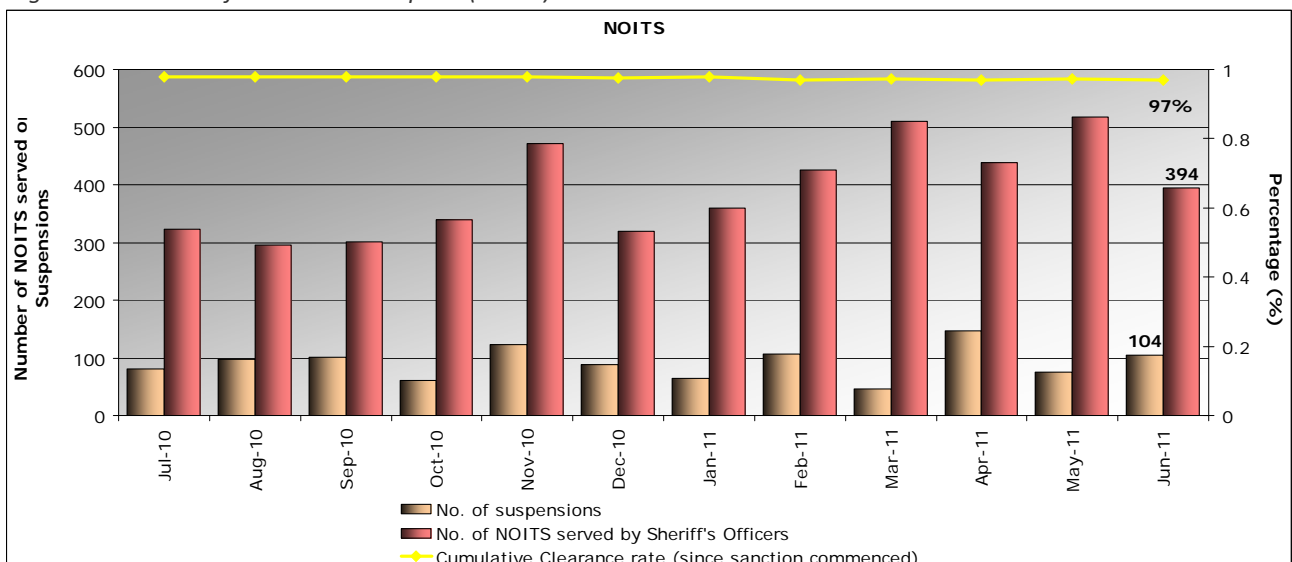
The Sheriff may direct VicRoads to suspend a person’s driver licence or vehicle registration if the person has an outstanding warrant. This process is called Notice of Intention to Suspend (or NOITS). Licence and vehicle registration suspensions can be made seven days after the Sheriff has personally served a Notice of Intention to Suspend on the person concerned.

As Figure 26 shows, in most cases, people take action to finalise their outstanding warrants without the actual suspension needing to occur. The number of people who received a Notice of Intention to Suspend their licence or vehicle registration reduced from 3,468 in 2009–10 to 1,092 in 2010–11. This reduction reflects the

Sheriff deciding to apply a different sanction, more appropriate to the circumstances. However, response rates were similar to previous years: in around 97 per cent of cases, the Notice of Intention to Suspend sanction process resulted in the person taking action to clear associated infringement warrants (either in response to the initial notice or following suspension of a driver licence or vehicle registration).

Because someone who has had their driver licence suspended cannot legally drive until the suspension is lifted, this sanction continues to be an effective means to encourage people to finalise their outstanding infringement warrants.

Figure 26: Notice of Intention to Suspend (NOITS)



Wheel Clamping

Wheel clamping immobilises a vehicle and provides an immediate incentive to encourage someone with an outstanding infringement warrant to contact the Sheriff’s Office and take action to address unpaid fines.

In 2010–11, 3,592 vehicles were immobilised by Sheriff’s officers using wheel clamps, relating to 82,646 outstanding infringement warrants to a value of \$22.8 million.

Around 88 per cent of people who had a wheel clamp applied to their vehicle took action to address their outstanding infringement warrants. This rate has increased from approximately 80 per cent when the sanction was introduced in 2007.

A person may take action to clear their outstanding warrants in a number of ways including arranging a payment order, or alternatively paying the outstanding balance in full. This financial year, 42 per cent of people paid their outstanding fines in full to achieve release of their vehicles.

Figure 27: Wheel Clamping

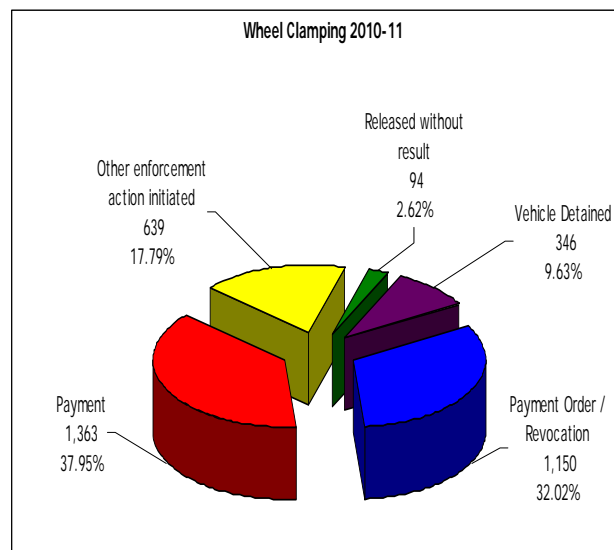
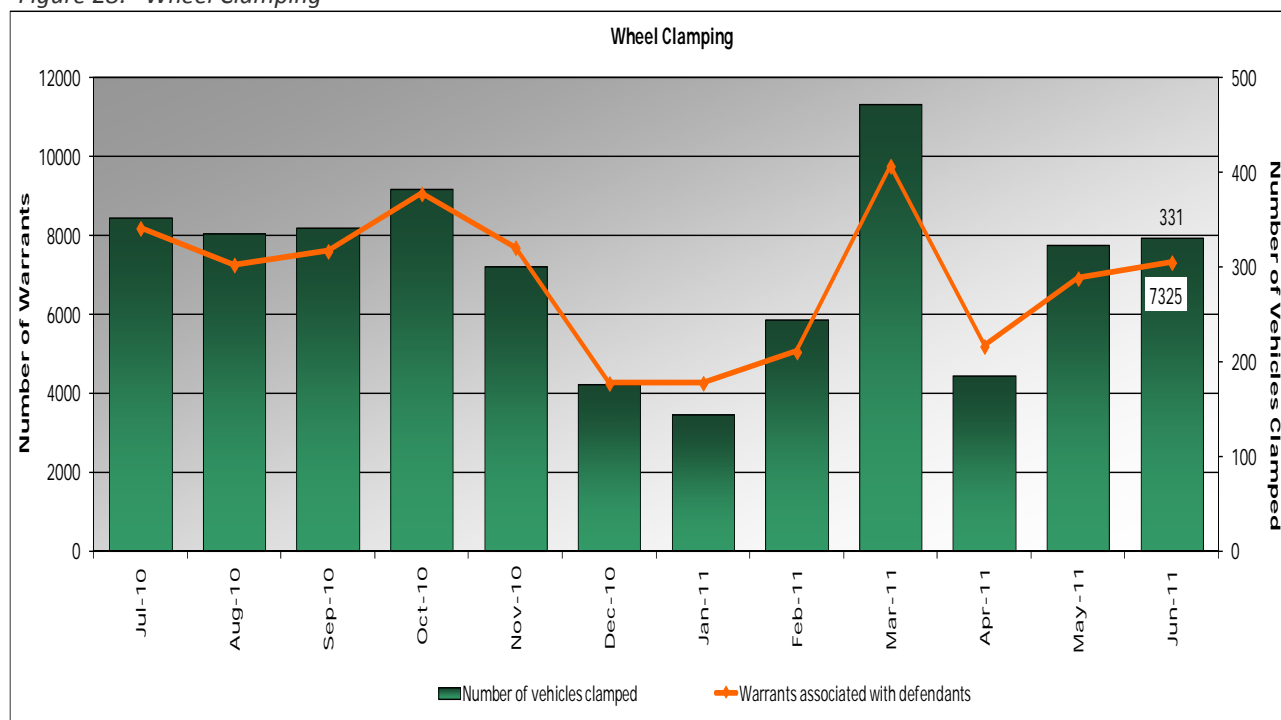


Figure 28: Wheel Clamping



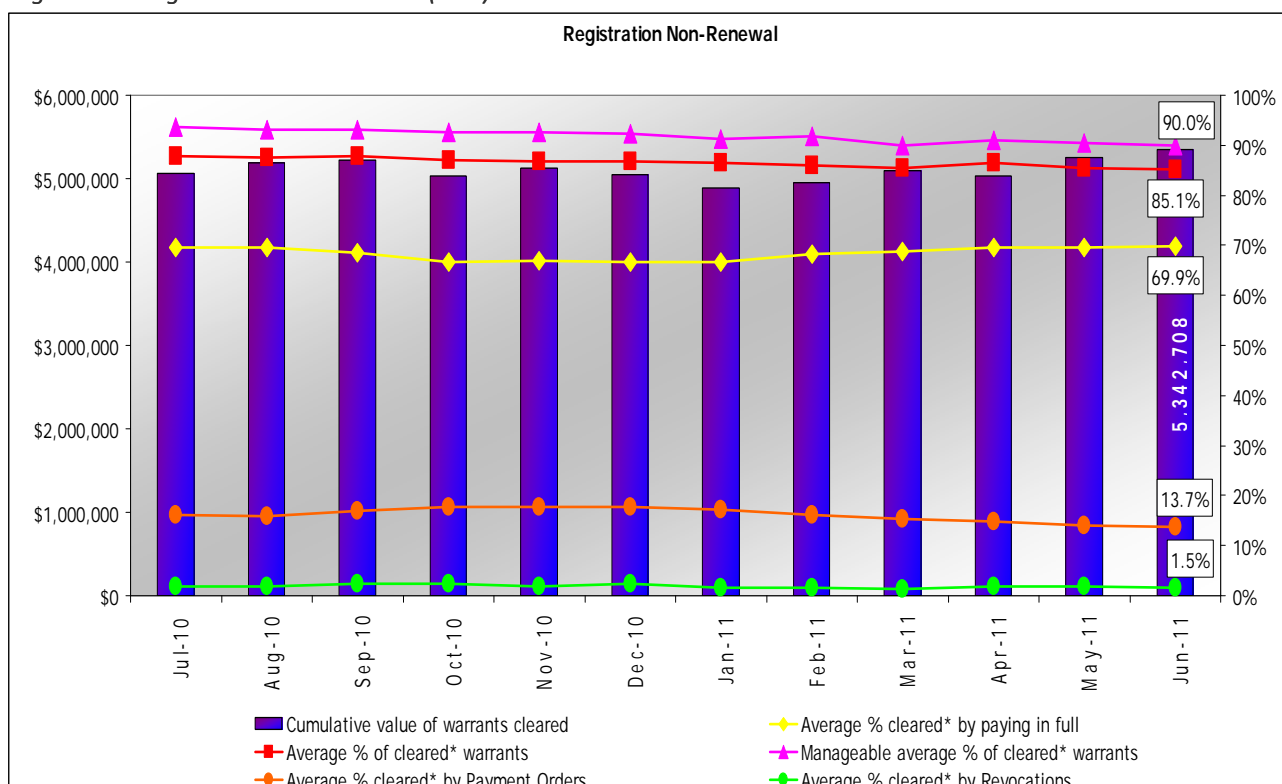
Registration Non-Renewal

If someone has an outstanding infringement warrant, the Sheriff may direct VicRoads not to renew that person’s vehicle registration. This also prevents the vehicle from being sold with its current registration.

Registration Non-Renewal is an automated sanction, which was brought into operation in July 2009, and is an effective sanction, encouraging people to take steps to clear their outstanding warrants.

During 2010–11, over \$5.3 million worth of warrants were cleared and around 85 per cent of people took action to clear their warrants (by paying the outstanding amount in full, entering into a payment plan or gaining revocation of an enforcement order). Of those people who took action to clear their warrants, around 70 per cent paid their outstanding warrants in full.

Figure 29: Registration Non-Renewal (RNR)

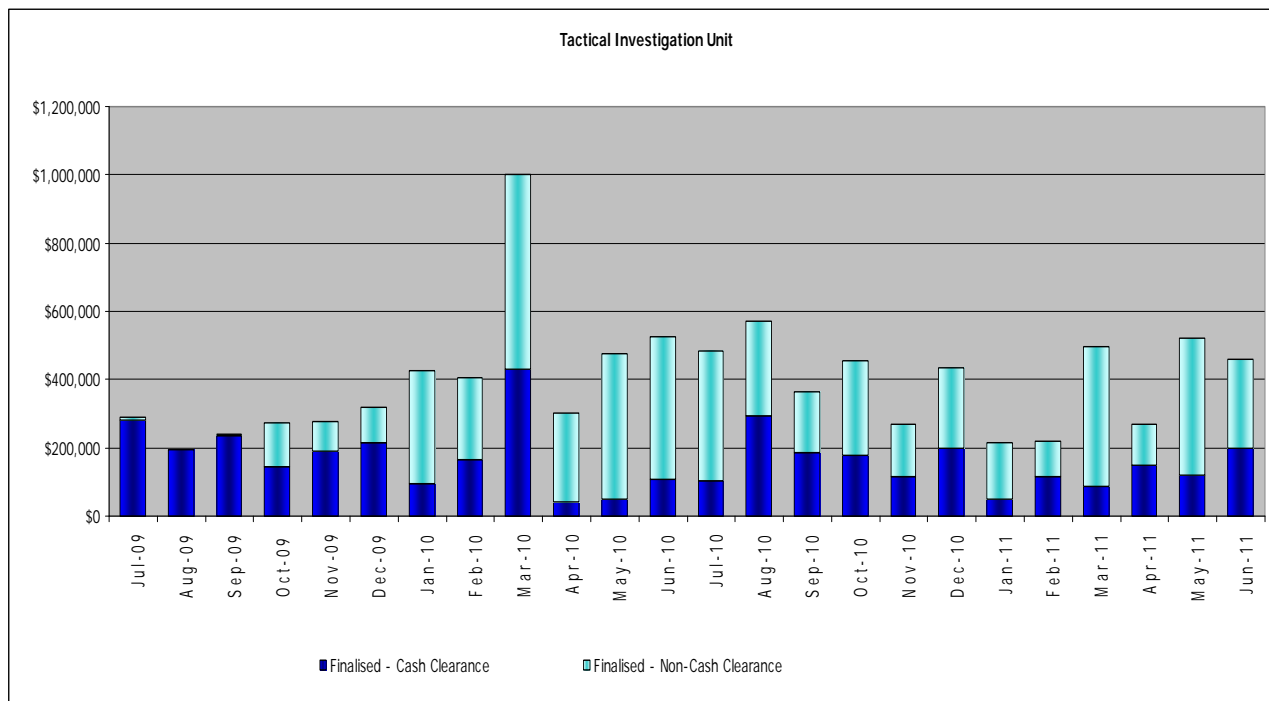


- Cumulative value of warrants cleared
- ◆ Average % cleared* by paying in full
- Average % of cleared* warrants
- ◆ Manageable average % of cleared* warrants
- ◆ Average % cleared* by Payment Orders
- ◆ Average % cleared* by Revocations

Tactical Investigations Unit

The Tactical Investigations Unit (TIU) is a dedicated unit of Sheriff's Officers set up in mid-2009 to pursue corporate and individual warrant holders with over \$5,000 in outstanding warrants. During 2010–11, the TIU finalised 13,915 warrants to a value of almost \$4.8 million. In each of the two years it has been in operation, TIU has finalised around \$2 million worth of outstanding warrants by payment in full (in 2010–11, 4,825 warrants with a value of \$1.8 million and 6,702 warrants in 2009–10 with a value of \$2.1 million), with the rest being finalised by other means, including CWP's, payment order and arrest. Figure 30 below reflects the monthly finalisation figures since TIU began in June 2009.

Figure 30: Tactical Investigation Unit (TIU)



The increased activity (both cash clearance and non-cash clearance) during March 2010 was influenced by the fee waiver, which occurred from 1 February to 19 March 2010. The fee waiver was a 7-week program conducted to encourage people with outstanding court orders and infringement warrants to take advantage of the waiver and clear outstanding matters. Following the fee waiver period, the Sheriff's Office launched a planned enforcement crackdown on fine defaulters, targeting people with outstanding warrants in a series of operations across the state. This may also have influenced the March 2010 figures.

Special Operations

The Sheriff's Office regularly undertakes targeted enforcement activity, such as special operations, roadblocks and blitzes. Sheriff's officers will often work in conjunction with enforcement agencies (such as Victoria Police, local councils and VicRoads) to get the best outcomes possible. These special operations provide another means for Sheriff's officers to make contact with fine defaulters and encourage people to take steps to clear their outstanding infringement warrants.

New technology makes these operations even more effective. Vehicles with specially fitted number-plate readers can patrol large groups of parked vehicles, such as Swap Meets and large shopping centre car parks and identify vehicles with outstanding infringement warrants.

In this financial year, the Sheriff's Office collected \$1.86 million from conducting special operations.

INFORMATION SERVICES FOR ENFORCEMENT AGENCIES

Information sessions

ISOU conducts annual information sessions for enforcement agencies throughout Victoria. These information sessions deliver training to those working in infringements operations, based throughout Victoria, 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 approximately every three months 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.

INFORMATION SERVICES FOR 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

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

Victoria Legal Aid

www.legalaid.vic.gov.au

Victoria Law Foundation

www.victorialawfoundation.org.au

The 'Cameras Save Lives' Website

www.camerassavelives.vic.gov.au