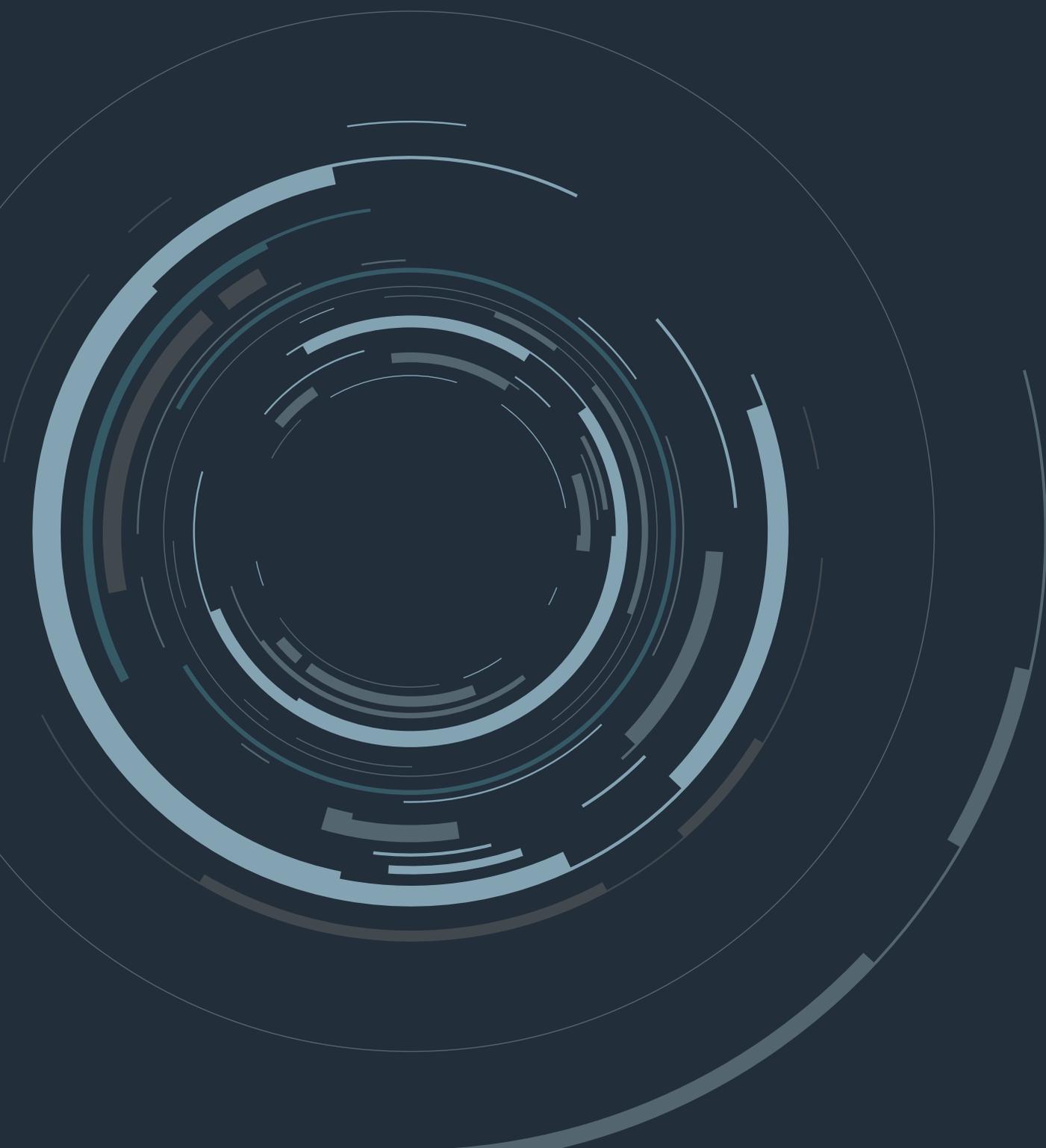


ROAD SAFETY
CAMERA
COMMISSIONER



Annual Report
2011–12





CONTENTS

	THE COMMISSIONER'S MESSAGE	04
	RECOMMENDATIONS	06
A	YEAR IN REVIEW	08
	The Road Safety Camera Commissioner	09
	The Annual Report	09
	Functions of the Road Safety Camera Commissioner	09
	Key achievements for the financial year 2011–2012	10
	/ Establishment of the Office of the Road Safety Camera Commissioner	10
	/ Relationship development	10
	/ Establishment of the Reference Group	10
	/ Correspondence and complaints	11
	/ Investigations	12
	/ Monitoring the road safety camera system	12
	/ Following on from the recommendations made in the Victorian Auditor-General's Report	13
	/ Future directions	13
B	ABOUT THE OFFICE	14
	The Commissioner	15
	Governance and organisational structure	15
	The staff	15
	Financial reporting obligations	15
C	REPORT ON OPERATIONS	16
	Summary of investigations	16
	/ The courier van and the double Doppler effect	18
	/ The EastLink deactivation	19
	/ Investigation regarding the operation of the road safety camera at the intersection of St Kilda Road and Kings Way, Melbourne	20
	/ Speed measurement and the relevance of section 10 of the <i>National Measurement Act 1960</i> (Cth)	21
	/ Road safety cameras and motorcycles	22
	/ Publication of the reasons for selecting mobile safety camera sites in Victoria	24
	/ Electronic speed advisory signs	25
	APPENDIX	26
	Implementation of the recommendations made by the Victorian Auditor-General regarding the Road Safety Camera Program	

To: The Honourable the President of the Legislative Council
And: The Honourable the Speaker of the Legislative Assembly

I am pleased to present the first annual report of the Road Safety Camera Commissioner for the year ending 30 June 2012 for presentation to Parliament, in accordance with section 21 of the *Road Safety Camera Commissioner Act 2011*.

Please note that this report pertains only to the period between 6 February 2012 and 30 June 2012, the period during which this office has been in operation.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Gordon Lewis', is positioned above the printed name of the Commissioner.

HIS HONOUR GORDON LEWIS AM
Road Safety Camera Commissioner

THE COMMISSIONER'S MESSAGE /



I am pleased to provide this report for the 2011–2012 financial year effective from 6 February 2012.

The *Road Safety Camera Commissioner Act 2011* is pioneering legislation, the first of its kind in the world. I am proud to have been appointed as the inaugural Road Safety Camera Commissioner and to be given both the opportunity and the challenge to establish an office designed to promote increased transparency of the road safety camera system, as well as enhanced accountability for that system.

My office is responsible for the following essential functions:

1 Quality Assurance and Reporting

Part of my statutory role involves independently monitoring and reviewing current camera operations. I am required to review and assess the operation of the road safety camera system at least annually, and this also involves the regular review of the information made available about the camera system by the Department of Justice.

2 Investigation and Review

Pursuant to section 10(e) of the *Road Safety Camera Commissioner Act 2011*, I am able to review any part of the system if agreed to or requested by the Minister to do so. I am also empowered to publish my findings and recommendations in my annual report.

3 Complaints Management

Any motorist who has a complaint concerning any aspect of the road safety camera system can lodge it with me, although it is not my role to intervene in individual cases.

My task is to investigate complaints about the road safety camera system itself. This means that I may investigate an issue where one or more individual complaints point to a systemic problem requiring attention.

4 Appointment of a Reference Group

The *Road Safety Camera Commissioner Act 2011* requires the establishment of a group of external advisors known as the Reference Group to assist me in my role.

All of this is intended to add up to a permanent and independent office to assist with complaints from motorists and to provide quality assurance in respect to the State's road safety camera program. The scope of my role as Road Safety Camera Commissioner includes all facets of the automated road safety camera network, including intersection cameras, fixed freeway cameras and mobile cameras. It does not extend to hand-held devices used by Victoria Police.

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.

In recent years, fixed and mobile road safety cameras have been used to detect speeding offences and the enactment of the *Road Safety Camera Commissioner Act 2011* acknowledges the public's distrust of both the accuracy and fairness of the placement of these instruments. Surveys have indicated that there is an ongoing public perception that the road safety cameras are part of a program of revenue raising, that they are inaccurate and not primarily directed towards improving road safety. It is my role to examine whether there is a basis for the public's concern.

It was always foreseeable that my role would be misconstrued as a road safety camera ombudsman, another avenue of appeal if a motorist has exhausted his or her rights to have a speeding infringement reconsidered. Unfortunately, despite all attempts to clarify this distinction between my role and that of an ombudsman, the statistics which form part of this report confirm some confusion on the part of the motoring public. The *Road Safety Commissioner Act 2011* clearly sets out my functions. I do not have the power to review the decision of Victoria Police to issue individual infringement notices.

However, nothing has changed since my initial press conference on 6 February 2012. After considering the legislation as a whole, I see myself as the representative of road users, with the task of ensuring within my powers, that road safety cameras are accurate and used fairly.

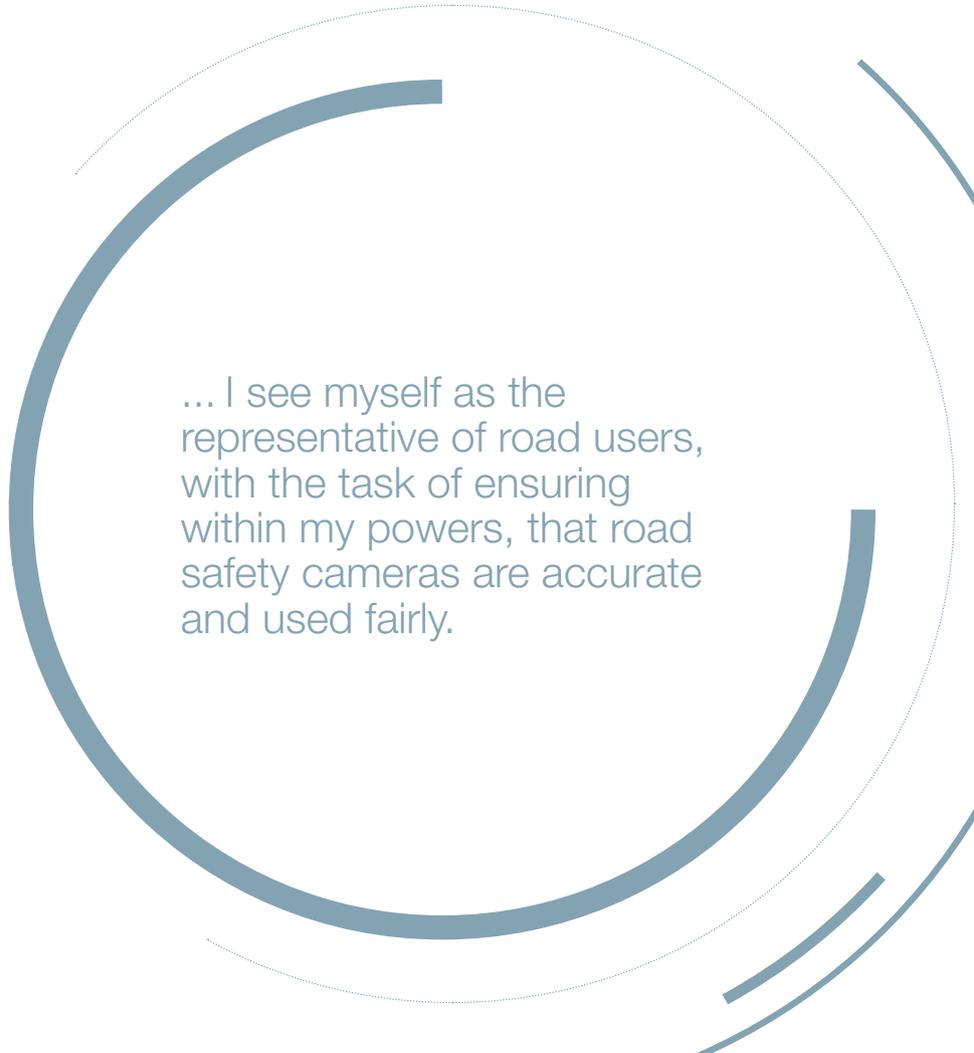
In this regard it is important for the Commissioner to be and remain independent, impartial and objective. The last five months have involved a steep learning curve and apart from day-to-day correspondence, a number of specific matters are described in detail in this report. It is my task to ensure the ongoing integrity of the road safety camera system and it will be for the motoring public to judge what sort of a fist I make of it.

It is personally reassuring to be able to observe at the end of five months that I have so far not seen any evidence of road safety camera malfunction and that the State's road safety cameras are well maintained and rigorously tested. My period as Commissioner has satisfied me that the Victorian road safety camera system is excellent. While human error can never be excluded, the checks and balances implemented in respect of road safety cameras should reassure the motoring public about their fairness and accuracy.

Finally, I thank the Victorian Government for the opportunity to serve as the inaugural Road Safety Camera Commissioner. I am grateful to the Department of Justice, and specifically Mr Brendan Facey, Director, Infringement Management and Enforcement Services, and Victoria Police for the ongoing support and assistance they have provided to me and my staff in setting up this office and enabling me to perform this role.



HIS HONOUR GORDON LEWIS AM
Road Safety Camera Commissioner



... I see myself as the representative of road users, with the task of ensuring within my powers, that road safety cameras are accurate and used fairly.

RECOMMENDATIONS



The guidelines contained in criteria 5 and 6 of the *Victoria Police Traffic Camera Office Mobile Digital Speed Camera Policy and Operations Manual* should be redrafted to provide more specific and clearer guidance in respect to avoiding factors which could affect the accuracy of a mobile road safety camera reading.



Any communication between the Department of Justice and the Contractor in relation to the activation and/or deactivation of any road safety camera should refer to the road safety camera in question by the Location Code as well as the Lane Description. In effect, both parties should speak the same language.

The Department of Justice and the Contractor should review their activation and deactivation processes to reduce the possibility of this type of human error being repeated. The outcome of this review could result in the implementation of either a manual or automated solution which reduces the likelihood of an incorrect deactivation of a lane. I recommend that the Department of Justice engage an independent third-party consultant to:

- ✓ review the complete end-to-end road safety camera activation and deactivation process
- ✓ recommend further improvements to the process to eliminate the risk of human error in the future.



A copy of the full advice of PG Nash QC should be provided to any Government Department where the method of measurement by a scientific instrument is being challenged on the basis that it does not comply with the *National Measurement Act 1960* (Cth).



The responses of the Department of Justice and the Contractor to these recommendations, and any report produced as a result of these recommendations, should be communicated to the Road Safety Camera Commissioner.

6

Motorcycles and motor scooters should be required to be equipped with the means to identify the registration number of a motorcycle or scooter from a front perspective, thus bringing motorcycles and motor scooters into line with all other registered motor vehicles.

There are six gantries erected on main highways in Victoria which are designed to provide motorists with speed measurements to check the accuracy of their speedometers. As the speed advisory signs are a useful deterrent against speeding, subject to funding constraints, all reasonable steps should be taken by VicRoads to ensure that all six speed advisory signs are both functional and accurate at any given time.

7

Ill-informed criticism of the road safety camera system should not be allowed to pass unchallenged and an appropriate spokesperson should be given the responsibility to respond to such criticism.

8

9

To rebut continued assertions of 'revenue raising', the reason for the selection of particular mobile road safety camera sites should be promulgated on an appropriate website. This recommendation could be implemented over the next 12-month period.

10

The Fixed Analogue Road Safety Cameras have been operating for almost 30 years in Victoria. The figures provided to me by the Department of Justice show a low detection rate. I recommend that these cameras be replaced with new technology as soon as possible.

A / YEAR IN REVIEW



To increase the public's confidence in the accuracy and integrity of the Victorian road safety camera system.

The Commissioner is committed to the four following values to guide and inform his work:

INTEGRITY

The Commissioner will carry out his functions with honesty, accuracy and consistency.

TRANSPARENCY

The Commissioner will provide credible expert advice about road safety camera operations to Parliament and the community.

ACCOUNTABILITY

The Commissioner will monitor and review the accuracy, integrity and efficiency of the Victorian road safety camera system.

INDEPENDENCE

The Commissioner will act impartially and objectively in the fulfilment of his functions under the Act.



To provide Victorian motorists with ongoing support in regard to the State's road safety camera system and to provide an alternative avenue for complaints, quality assurance and investigations.

THE ROAD SAFETY CAMERA COMMISSIONER

The Road Safety Camera Commissioner was established by section 4 of the *Road Safety Camera Commissioner Act 2011* (the Act). The Commissioner was appointed on 22 December 2011 and the Office of the Road Safety Camera Commissioner commenced operation on 6 February 2012.

His Honour Gordon Lewis AM was appointed the inaugural Road Safety Camera Commissioner by the Governor in Council on a part-time basis, for a fixed period of two years.

THE ANNUAL REPORT

This is the first annual report of the Road Safety Camera Commissioner. Section 21 of the Act requires that this report relate to the performance of the functions of the Road Safety Camera Commissioner under the Act during the financial year ending 30 June 2012.

Section 21(2) provides that the annual report must include:

- (a) a report on the activities of the Reference Group during the financial year
- (b) the findings of investigations conducted by the Commissioner during the financial year and the recommendations made
- (c) any other information or recommendation that the Commissioner considers appropriate
- (d) any information requested by the Minister for Police and Emergency Services (the Minister).

FUNCTIONS OF THE ROAD SAFETY CAMERA COMMISSIONER

The Office of the Road Safety Camera Commissioner was established to promote increased transparency of the road safety camera system and enhanced accountability for that system.

Section 10 of the Act provides for the Road Safety Camera Commissioner to perform various functions. These functions are:

- ✓ to undertake, at least annually, reviews and assessments of the accuracy of the road safety camera system in order to monitor compliance of the system with the requirements of the *Road Safety Act 1986* and regulations made under that Act
- ✓ to undertake, at least annually, reviews and assessments of the information about the road safety camera system that is made available to the public by the Department of Justice
- ✓ to undertake investigations requested or agreed to by the Minister into the integrity, accuracy or efficiency of the road safety camera system
- ✓ to receive complaints concerning any aspect of the road safety camera system and—
 - ✓ if appropriate, to refer a complaint to an appropriate person or body for further action; or
 - ✓ to provide information on the available avenues for resolution of a complaint
- ✓ to investigate complaints received by the Commissioner that appear to indicate a problem with the road safety camera system and to make recommendations to the Minister to address any systemic issues identified
- ✓ to investigate any matter in relation to the road safety camera system that the Minister refers to the Commissioner
- ✓ to provide advice to the Minister on any matter in relation to the road safety camera system
- ✓ to refer appropriate matters to the Reference Group for research and advice
- ✓ to keep records of investigations undertaken and complaints received by the Commissioner and the action taken in response, if any
- ✓ to make available to the Minister, on request, the records of investigations undertaken and complaints received
- ✓ any other function conferred on the Commissioner by or under this or any other Act.

KEY ACHIEVEMENTS FOR THE FINANCIAL YEAR 2011–2012

01 Establishment of the Office of the Road Safety Camera Commissioner

Prior to the appointment of the Road Safety Camera Commissioner, the Department of Justice organised the premises and managed the initial set-up of the office for the Commissioner and his staff.

The office of the Commissioner was formally opened on 6 February 2012. At the date I took up my appointment, the office had no permanent staff but was staffed by three employees seconded from the Infringement Management and Enforcement Services (IMES) Unit in the Department of Justice.

Three full-time staff have subsequently been appointed. The organisational structure of the office is set out in Part B of this report.

02 Relationship development

I have been in regular contact with the Department of Justice generally and with IMES in particular. Meetings with IMES have been fruitful, both in respect of identification of any potential systemic issues in relation to the road safety camera system, and in sharing any technological information relating to how best to deal with any potential issues.

I have taken the opportunity to visit Serco Traffic Camera Services (Vic) Pty Ltd (Serco), both at its Tullamarine premises and its city location, where I was able to observe the set-up and operation of a mobile road safety camera first hand.

I have also visited ConnectEast, the owner and operator of EastLink, and SGS (Australia) Pty Ltd (SGS) where I subsequently witnessed the quarterly testing of a fixed digital road safety camera system. Both VicRoads and the Transport Accident Commission (TAC) have been quick to respond to any query that I have had or any request for cooperation.

A visit to VicRoads gave me a much greater understanding of not only how traffic control signals were designed to operate, but also the problems associated with trying to accommodate all road users.

For the Road Safety Camera Commissioner's office to fulfil the public's expectations of it, it is essential that it receives full cooperation from the Department of Justice and IMES, Victoria Police and the Traffic Camera Office (TCO), VicRoads, Serco, SGS, EastLink and the TAC. At the date of this report, I could not have received greater cooperation from these bodies.

03 Establishment of the Reference Group

The Road Safety Camera Commissioner is empowered under the Act to establish a group of advisors to be known as the Reference Group.

The Reference Group consists of the Commissioner and not less than three and not more than seven other members, appointed by the Minister on the recommendation of the Commissioner. The members of the Reference Group were appointed by the Minister for Police and Emergency Services in June 2012.

The function of the Reference Group is to provide advice and information to the Commissioner in order to assist the Commissioner in the performance of his functions under the Act.

The members of the Reference Group will provide information and advice to the Commissioner from their unique backgrounds and areas of expertise. The Reference Group is made up of experts in the fields of road safety research, road safety engineering, road safety technology and public relations. The members of the Reference Group are:

**Professor Tom Drummond,
Department of Electrical and Computer
Systems Engineering, Monash University.**

Professor Drummond's research specialisation is in real-time processing of sensor information, in particular computer vision with application to robotics, augmented reality and assistive devices for the visually impaired. He has a BA in mathematics and an MA from the University of Cambridge, UK and a PhD in computer science from Curtin University, WA.

**Dr Richard Tay, Faculty of Business,
Economics and Law, La Trobe University.**

Dr Tay is the Chair in Road Safety Management and his work has led him to evaluate policies and programs as well as to develop, implement and evaluate multidisciplinary measures to improve road safety and reduce the social cost of road crashes.

**David Jones, Manager,
Roads and Traffic, RACV.**

Mr Jones is a strategic traffic and transport engineer and planner with several years' experience as a manager of research and consulting scientists and engineers in the transport industry.

**Jane Fenton AM,
Founder of Fenton Communications.**

Fenton Communication is a public relations and marketing consultancy which provides strategic communications advice to organisations in the legal, health, education, sustainability and social justice sectors. Ms Fenton is the Chair of the Victorian Health Promotion Foundation (VicHealth), a past President and Life Governor of Very Special Kids, and a Fellow of the Public Relations Institute of Australia.

The Reference Group has not met in this financial year.

04 Correspondence and complaints

Section 19 of the Act provides that a complaint may be made to the Commissioner only by a person or body (or a representative of that person or body) who is aggrieved by any aspect of the road safety camera system. That complaint must be made in writing.

Section 10(d) of the Act provides that once the Commissioner has received a complaint concerning any aspect of the road safety camera system, the Commissioner may refer the complaint to an appropriate person or body for further action, or may provide information on the available avenues for resolution of a complaint.

During the period from 6 February 2012 to 30 June 2012, the Commissioner received 170 written complaints. Of these complaints:

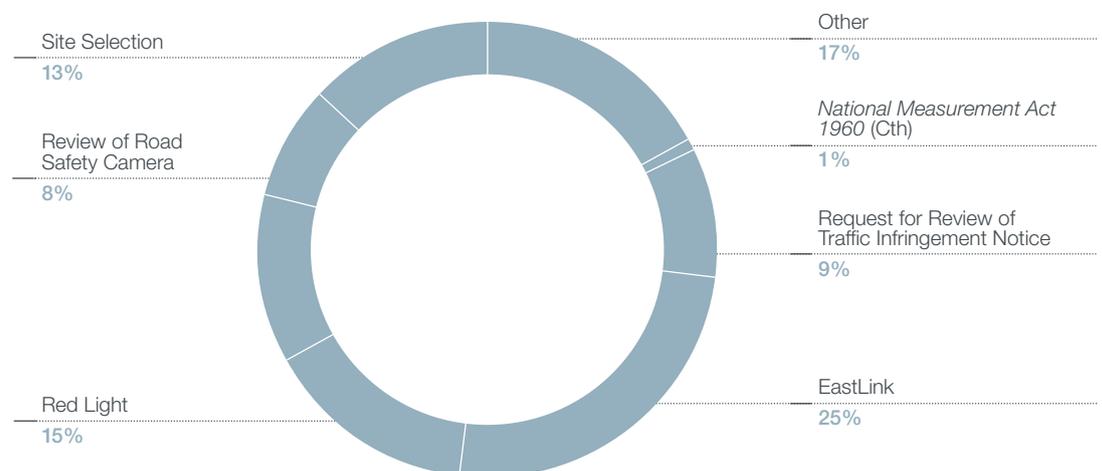
- ✓ 148 were received by post
- ✓ 5 were received by email
- ✓ 17 were received through the Road Safety Camera Commissioner's website.

The complaints received during the reporting period can be broken down into the following broad categories: *(Refer to Diagram A)*

Of these complaints:

- ✓ 48 complaints provided the basis for the Commissioner to conduct an investigation:
 - ✓ 40 complaints formed the basis for the Commissioner's investigation into the road safety camera system installed on the EastLink roadway. This investigation is ongoing.
 - ✓ 2 complaints formed the basis for the Commissioner's investigation into the relevance of the *National Measurement Act 1960* (Cth). This investigation has been finalised.
 - ✓ 6 complaints formed the basis for the Commissioner's investigation into the operation of the red light function of the road safety camera located at the intersection of St Kilda Road and Kings Way, Melbourne. This investigation has been finalised.
- ✓ 15 complaints requested that the Commissioner review the decision of Victoria Police to issue traffic infringement notices and asked that infringement notices be withdrawn. The Commissioner does not have the power to review the decision to issue traffic infringement notices. The authors of these complaints were advised of this fact and that the appropriate body to review the decision to issue the infringement notice was the Victoria Police TCO. A request to review the decision to issue an infringement notice generally accompanied one or more other issues.

INCOMING CORRESPONDENCE BY ISSUE
Diagram A



05 Investigations

Section 10(c) of the Act provides that the Commissioner has the power to conduct investigations into matters requested or agreed to by the Minister into the integrity, accuracy or efficiency of the road safety camera system.

Section 10(e) of the Act provides that the Commissioner has the power to investigate complaints received concerning any aspect of the road safety camera system that appears to indicate a problem with the road safety camera system and to make recommendations to the Minister to address any systemic issues identified.

Section 10(f) of the Act provides that the Commissioner also has the power to investigate any matter in relation to the road safety camera system that the Minister refers to the Commissioner.

Investigations that have been finalised

Since my appointment in February this year, I have concluded investigations into the following issues:

- ✓ the decision of Victoria Police to withdraw 717 traffic infringement notices issued from a road safety camera located on the Wellington Road Bridge, EastLink
- ✓ an incident in which the double Doppler effect erroneously produced an excessive speed reading in relation to a courier van
- ✓ a series of complaints made by a group of motorists in relation to the operation of the red light function of the road safety camera located at the intersection of St Kilda Road and Kings Way, Melbourne
- ✓ road safety cameras and their ability to detect motorcyclists
- ✓ the relevance of the *National Measurement Act 1960* (Cth) to the Victorian road safety camera program.

A summary of each investigation and the relevant recommendations are set out in Part C of this report.

Ongoing investigations

Based on the volume of correspondence from motorists, it is clear that there is ongoing public distrust of the road safety camera system operating on EastLink. Accordingly, I will carry out a thorough investigation of the road safety camera system installed on EastLink in the financial year 2012–2013.

06 Monitoring the road safety camera system

The Commissioner is required by section 10(a) of the Act to undertake, at least annually, reviews and assessment of the accuracy of the road safety camera system in order to monitor compliance of the system with the requirements of the *Road Safety Act 1986* and the regulations made under that Act.

For the financial year 2012–2013, the Road Safety Camera Commissioner will monitor a range of fixed digital road safety camera systems as a representative sample of the full Victorian camera network. This sample will cover highway systems that monitor speed and intersection cameras that monitor both speed and red light compliance.

The objectives of the technical analysis and monitoring of the road safety camera system are:

- ✓ to find any potential systemic issues with the road safety camera network
- ✓ to monitor performance of the cameras and the camera system as a whole
- ✓ to oversee the testing and maintenance activities performed on the camera system.

The Commissioner will monitor approximately 25 fixed digital road safety camera systems, a representative sample of the total number of road safety camera locations across Victoria.

These locations were selected because they fall within the top 50 camera locations that issued the highest numbers of traffic infringement notices for the 2010–2011 financial year. The sites were also selected because they carry high volumes of traffic.

This sample will take into account the proportional representation of different types of cameras utilising the full range of enforcement technologies available to the State. Furthermore, a geographical spread of camera systems, including metropolitan and rural sites, will be examined.

07 Following on from the recommendations made in the Victorian Auditor-General's Office Report

In August 2011, the Victorian Auditor-General's Office published its report regarding the Road Safety Camera Program. The report contained eight specific recommendations which affected the road safety partners: the Department of Justice, Victoria Police, VicRoads and the TAC.

As many of those recommendations seem to fall within my statutory responsibilities, I have followed up with the road safety partners, which, if any, of those recommendations have now been implemented.

The eight recommendations and the progress made to 30 June 2012 are set out in the Appendix to this report.

08 Future directions

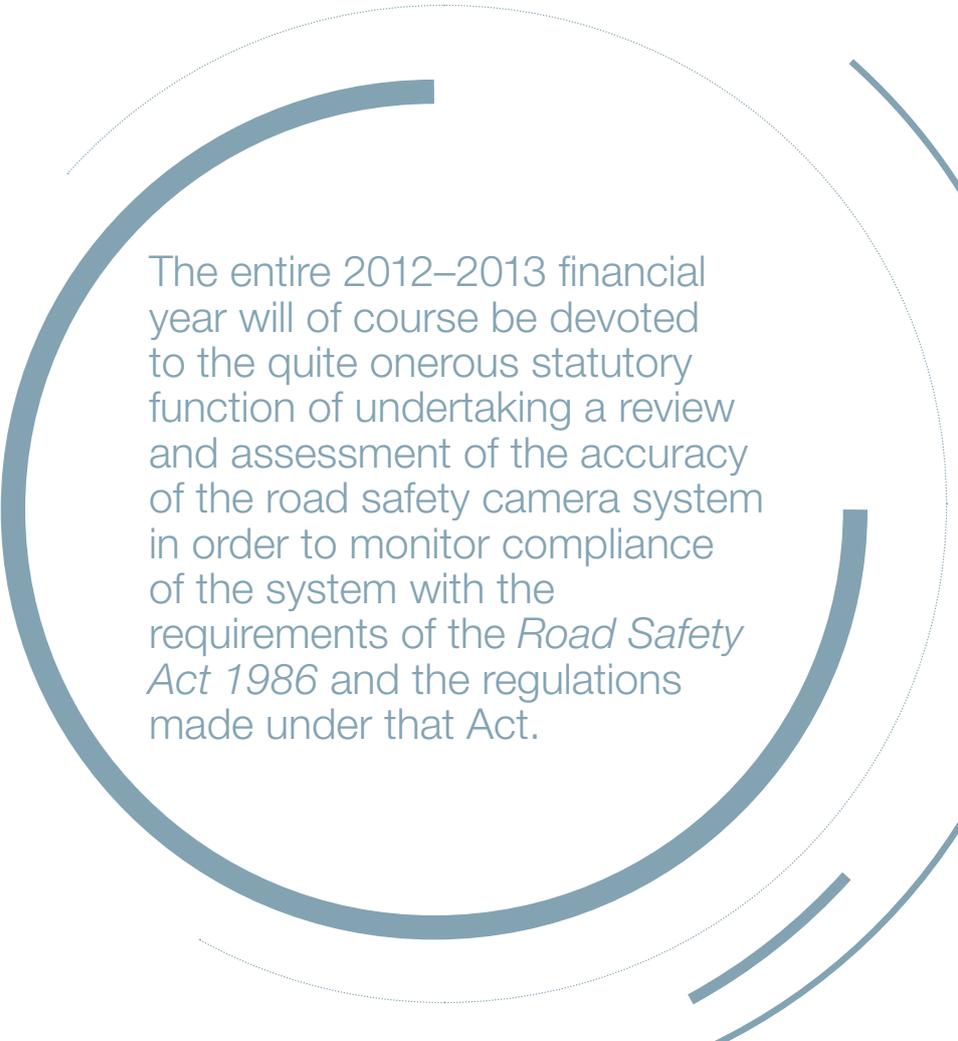
The five months that the office of the Road Safety Camera Commissioner has been operating have been largely devoted to establishing relationships with other relevant government agencies and the motoring public as a whole. Setting up the office itself in its most effective form has taken time, as has establishing the statutory parameters within which this office will work.

High on the list of projects for the financial year 2012–2013 is of course a thorough investigation of the road safety cameras operating on the entire stretch of EastLink, which includes the cameras located at the Mullum Mullum Tunnel, the Melba Tunnel, the Wellington Road Bridge and the Dandenong Bypass Bridge.

The entire 2012–2013 financial year will of course be devoted to the quite onerous statutory function of undertaking a review and assessment of the accuracy of the road safety camera system in order to monitor compliance of the system with the requirements of the *Road Safety Act 1986* and the regulations made under that Act.

The coming financial year will also see the first meeting of the Reference Group and I look forward to the benefit of the experience and the technical knowledge that the members will provide.

Finally, throughout the coming year I will endeavour to improve both the public's awareness of the existence of this office, and perhaps more importantly, an understanding of its role.



The entire 2012–2013 financial year will of course be devoted to the quite onerous statutory function of undertaking a review and assessment of the accuracy of the road safety camera system in order to monitor compliance of the system with the requirements of the *Road Safety Act 1986* and the regulations made under that Act.

B / ABOUT THE OFFICE

His Honour Gordon Lewis AM was appointed the inaugural Road Safety Camera Commissioner on 22 December 2011 and the Office of the Road Safety Camera Commissioner commenced operation on 6 February 2012.



THE COMMISSIONER

His Honour Gordon Lewis AM was appointed the inaugural Road Safety Camera Commissioner on 22 December 2011 and the Office of the Road Safety Camera Commissioner commenced operation on 6 February 2012.

His Honour commenced legal practice in 1957. He was appointed the Director of the Law Institute of Victoria in 1975, where he served for 11 years. After three years as the Victorian Government Solicitor, he was then appointed as a County Court Judge in 1990 and served on the bench for 18 years. In 2008, he conducted an inquiry into Integrity in Racing and served as the Deputy Chairman of the Victorian Commission for Gambling Regulation from 2008 to 2011.

GOVERNANCE AND ORGANISATIONAL STRUCTURE

The staff of the Road Safety Camera Commissioner are employed under Part 3 of the *Public Administration Act 2004* to enable the Road Safety Camera Commissioner to perform his functions and exercise his powers under the Act.

The staff of the Road Safety Camera Commissioner are appointed by the Commissioner, but are employed by the Department of Justice. For the purposes of their work for the Commissioner, the Commissioner's staff work independently of the Department of Justice.

THE STAFF

The Road Safety Camera Commissioner operated initially with staff seconded from the Infringement Management and Enforcement Services Unit in the Department of Justice. The Commissioner recruited permanent staff in May 2012.

The three permanent staff include a Manager, Operations, a Technical Officer and an Executive Assistant to the Commissioner.

The Road Safety Camera Commissioner is committed to applying merit and equity principles when appointing staff. The selection processes employed by the Commissioner ensure that applicants are assessed and evaluated fairly and equitably on the basis of the key selection criteria and other accountabilities without discrimination.

At 30 June 2012 there were three full-time staff working for the Road Safety Camera Commissioner.

FINANCIAL REPORTING OBLIGATIONS

The Road Safety Camera Commissioner's annual financial statements and report of operations have been consolidated into the Department of Justice's annual financial statements and report of operations pursuant to a determination dated 16 July 2012, made by the Minister for Finance under section 53(1)(b) of the *Financial Management Act 1994*.

This report contains only the reporting requirements under Part 3 of the *Road Safety Camera Commissioner Act 2011*.

C / REPORT ON OPERATIONS

Since my appointment in February 2012,
I have concluded the following investigations
and have made appropriate recommendations.

SUMMARY OF INVESTIGATIONS

C1 / The courier van and the double Doppler effect

C2 / The EastLink deactivation

C3 / Investigation regarding the operation of
the road safety camera at the intersection
of St Kilda Road and Kings Way, Melbourne

C4 / Speed measurement and the relevance of section 10
of the *National Measurement Act 1960* (Cth)

C5 / Road safety cameras and motorcycles

C6 / Publication of the reasons for selecting mobile
safety camera sites in Victoria

C7 / Electronic speed advisory signs



At my request, the Department of Justice reviewed all deactivation requests on all six camera sites on EastLink over the previous 12 months and that review confirmed that all deactivation requests were carried out correctly.



M 3 **EASTLINK**
Dandenong
Frankston

C1 /

The courier van and the double Doppler effect

In early 2012, the driver of a courier van was detected by a mobile road safety camera travelling at 116 km/h in an 80 km/h zone. The driver went directly to the media and his complaint was aired on 3AW and Channel 7. The Victoria Police TCO reviewed the infringement notice and it was subsequently withdrawn.

The camera was tested by the Department of Justice and an independent testing consultant, both at the location of the incident and in a certified laboratory, and it was found to be operating accurately.

The testing revealed that the incorrect speed reading was caused by the reflection of the radar beam off a sign on the opposite side of the road from the camera, resulting in what is known as the 'double Doppler' effect, which causes the camera to detect the speed of the vehicle as double the speed it is actually travelling. In this case the detected speed of the vehicle was 116 km/h but the actual speed of the vehicle was 58 km/h.

Victoria Police guidelines require that mobile camera sites be set up to avoid reflective surfaces located on the edge of the radar beam.

The inaccurate reading of the speed of the courier van could have been avoided by repositioning the mobile camera further to the south of the site, which would have effectively taken the offending sign out of the equation. However, I am reserved in my criticism of the mobile camera operator, as I consider that the Victoria Police guidelines could provide clearer guidance in respect to avoiding factors which could affect the accuracy of a speed camera reading.

Victoria Police publicly acknowledged that it was human error which caused the issuing of the excessive speed infringement notice, as the Victoria Police member who initially assessed the excessive speed infringement did not do so in accordance with TCO policy.

I am satisfied that had the driver of the van applied to the TCO for an internal review of the decision to issue the infringement notice, the appropriate application of the verification process would have been applied and the infringement notice would have been withdrawn.

The occurrence of the 'double Doppler' effect is rare. While future human error cannot be excluded, I am satisfied a rigorous process exists at the TCO to prevent infringement notices from being issued when the 'double Doppler' effect has produced an erroneous speed reading.

Recommendations

The guidelines contained in criteria 5 and 6 of the *Victoria Police Traffic Camera Office Mobile Digital Speed Camera Policy and Operations Manual* should be redrafted to provide clearer guidance in respect to avoiding factors which could affect the accuracy of a speed camera reading.

C2 /

The EastLink deactivation

The road safety cameras located at the Wellington Road Bridge on EastLink underwent routine quarterly testing on 13 July 2011. As a result of that testing, the camera in northbound Lane 2 was found to be non-compliant and it was ordered to be deactivated to enable further testing. The camera in Lane 1 was incorrectly deactivated instead of the camera in Lane 2.

The error was discovered in February 2012 and Victoria Police withdrew all 717 infringement notices issued on or after 13 July 2011 from the camera located in northbound Lane 2.

The camera in northbound Lane 2 was thoroughly tested on 13 March 2012 and found to be compliant and to be operating correctly.

The error came to light because one aggrieved motorist out of the 717 who had received infringement notices, decided to contest his infringement notice in the Magistrates' Court. After a thorough investigation, I am satisfied that the deactivation of the incorrect lane was caused by human error. However, I am concerned that it took until February 2012 to detect this error.

At my request, the Department of Justice reviewed all deactivation requests on all six camera sites on EastLink over the previous 12 months and that review confirmed that all deactivation requests were carried out correctly.

Recommendations

Although one cannot exclude human error, I make the following recommendations to ensure the chance of human error is reduced significantly:

- ✓ Any communication between the Department of Justice and the Contractor in relation to the activation and/or deactivation of any road safety camera should refer to the road safety camera in question by the Location Code as well as the Lane Description. In effect, both parties should speak the same language.
- ✓ The Department of Justice and the Contractor should review their activation and deactivation processes to reduce the possibility of this type of human error being repeated. The outcome of this review could result in the implementation of either a manual or automated solution that reduces the likelihood of an incorrect deactivation of a lane. I recommend that the Department of Justice engage an independent third-party consultant to:
 - /// review the complete end-to-end road safety camera activation and deactivation process
 - /// recommend further improvements to the process to eliminate the risk of human error in the future.
- ✓ The responses of the Department of Justice and the Contractor to these recommendations, and any report produced as a result of these recommendations, should be communicated to the Road Safety Camera Commissioner.

C3 /

Investigation regarding the operation of the road safety camera at the intersection of St Kilda Road and Kings Way, Melbourne

Between 10 February 2012 and 16 March 2012, the Road Safety Camera Commissioner received six separate complaints in relation to the red light function of the fixed digital road safety camera located at the intersection of St Kilda Road and Kings Way, Melbourne. The six complaints were made on behalf of a total of 22 motorists, in relation to 32 separate incidents.

Each motorist received at least one traffic infringement notice for failing to stop at the red light signal at the intersection of St Kilda Road and Kings Way, Melbourne. Thirty-one of the 32 incidents occurred when vehicles failed to obey the right-hand turn arrow which controls the traffic turning right from St Kilda Road into Toorak Road. In each of their letters, the motorists indicated a belief that there was an issue with the operation of the red light function of the road safety camera.

My investigation of the infringements that occurred at the intersection revealed that:

- / the traffic light sequence and timing for this intersection adhere to VicRoads policy
- / the camera was certified on 24 May 2011 and 22 May 2012. It was tested regularly between those two dates and on each occasion it was found to be compliant
- / each of the 31 infringement offences occurred 0.8 seconds or more after the traffic signal had turned red and none of the vehicles attempted to stop once they had entered the intersection.

Thirty incidents show the offending vehicle following closely after a stream of vehicles travelling through the green or yellow arrow. In each case, the red light runner, had ample time to stop but instead decided to risk running the red.

Based on vehicle speed, the time into red and the site layout, it can be confirmed that all 31 infringing vehicles were behind the white stop line when the traffic light turned red. The infringement was committed because the vehicle entered the intersection after the traffic arrow turned red, contrary to road rule 60 of the *Road Safety Road Rules 2009*.

Recommendations

After investigating the complaints, I am satisfied that the road safety camera in question is working accurately and is operating in accordance with the *Road Safety Act 1986* and the *Road Safety (General) Regulations 2009*. Each of the 32 traffic infringement notices that form the basis of this investigation was issued correctly. The detected offences can be attributed to impatience and drivers trying to 'beat the red' and not any malfunction of the relevant road safety camera.

C4 /

Speed measurement and the relevance of section 10 of the *National Measurement Act 1960* (Cth)

The Road Safety Camera Commissioner received complaints to the effect that a person cannot be convicted of exceeding the speed limit on the basis of a reading taken by a road safety camera unless it can be established that the measurements obtained by the speed camera comply with section 10 of the *National Measurement Act 1960* (Cth) (the Commonwealth Act). The decision of Owen J in *Breedon v Kongras* (1996) 16 WAR 66 has been cited as authority for this proposition.

It was hoped that a later contrary decision of Macaulay J in *Agar v Dolheguy* (2010) VSC 406 would resolve the issue. However, subsequent correspondents seem to have either been unaware of, or paid no heed to this more recent decision. In his judgement, His Honour observed that the provisions of the Commonwealth Act:

... do not compel States to adopt or apply metrological principles in their regulatory provisions with respect to measuring instruments (eg. their use and testing) except perhaps in relation to measuring instruments used in trade and, as I will show, in relation to an 'evidential breath analyser'.

In June 2012, the Road Safety Camera Commissioner briefed a leading Victorian Silk PG Nash QC to examine the authorities and advise. Mr Nash brought all relevant authorities together with the following result.

The decision in *Breedon v Kongras* supports an argument that a prosecution for exceeding the speed limit which is based on a reading by a speed camera is required to satisfy the requirements of the Commonwealth Act. However, that decision is contrary to decisions of the Full Court of the Supreme Court of Victoria, the WA Court of Appeal, the Queensland Court of Criminal Appeal, the Supreme Court of Western Australia, the Supreme Court of Tasmania and the Supreme Court of Victoria.

No decision handed down in any superior court in Australia since 1960 has followed *Breedon v Kongras*.

Irrespective of the compelling logic of the reasoning in the decided cases, Victorian courts, other than the Court of Appeal, are bound by the coinciding views as to the operation of the Commonwealth Act expressed by the Full Court of the Supreme Court of Victoria, the WA Court of Appeal, and the Queensland Court of Criminal Appeal.

And that should be the end of the matter.

Recommendations

A copy of the full advice of PG Nash QC should be provided to any Government department where the method of measurement by a scientific instrument is being challenged on the basis that it does not comply with the Commonwealth Act.

C5 /

Road safety
cameras and
motorcycles

In the August 2011 report of the Victorian Auditor-General on the Road Safety Camera Program, the Auditor-General looked at the issue of road safety camera coverage of motorcyclists, and he found that:

Motorcyclists and pillion passengers are approximately 30 times more likely to sustain a fatal or serious injury per kilometre travelled than other vehicle occupants ... If motorcycles could be identified by all cameras, it would be possible to evaluate any changes in road safety outcomes for motorcyclists in comparison to an established baseline at the time of the introduction of the initiative.

The Auditor-General made the following recommendation that:

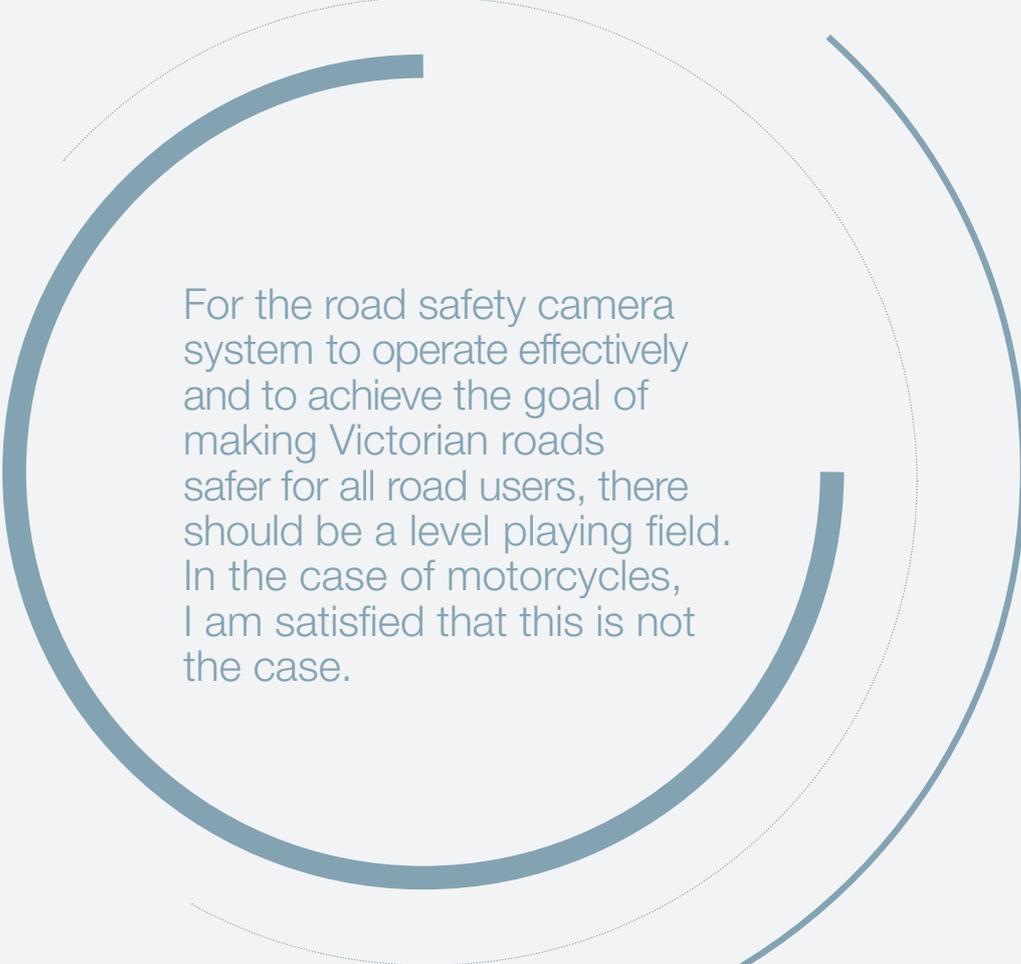
VicRoads, in partnership with the Department of Justice, Victoria Police and the Transport Accident Commission should address the gap in speed enforcement for motorcyclists.

In April 2012, I contacted the Road Safety Partners to enquire what action had been taken as a result of this recommendation. Victoria Police advised me that in September 2011, it provided a submission to the Parliamentary Road Safety Committee (PRSC), which included a recommendation regarding the mandatory affixing of a physical frontal identifier to a powered two-wheeled vehicle.

VicRoads advised me that it had made a submission to PRSC regarding motorcycle safety. That submission included options for better identification of speeding motorcycles.

The TAC advised that it has had a long-held view that improvements in frontal identification on all vehicles, including motorcycles, will improve compliance with speed limits by all road users.

In my role of Road Safety Camera Commissioner, I am required to investigate matters that relate to the integrity, accuracy or efficiency of the road safety camera system and to provide advice to the Minister on any matter in relation to the road safety camera system. The fundamental purpose of the road safety camera system is to reduce crashes, serious injuries and ultimately, the road toll. For the road safety camera system to operate effectively and to achieve the goal of making Victorian roads safer for all road users, there should be a level playing field. In the case of motorcycles, I am satisfied that this is not the case.



For the road safety camera system to operate effectively and to achieve the goal of making Victorian roads safer for all road users, there should be a level playing field. In the case of motorcycles, I am satisfied that this is not the case.

As the Auditor-General stated, motorcyclists and pillion passengers are 30 times more likely to sustain fatal or serious injury compared to other vehicle users. In 2011, motorcyclists and pillion passengers accounted for approximately 17 per cent of the road toll in Victoria, yet motorcycles made up only four per cent of registered vehicles and accounted for an estimated one per cent of kilometres travelled.

A Victoria Police study of the 63 motorcycle fatalities that occurred from January 2007 until May 2008, illustrates the role speed plays in motorcycle fatalities. Victoria Police estimated that some 87 per cent of the 63 motorcyclists were speeding at over 120 km/h, with some 46 per cent exceeding 150 km/h. Alcohol was not a major factor. In excess of 40 per cent of fatalities resulted from single-vehicle crashes. Department of Justice figures indicate that over 60 per cent of motorcycles detected speeding are not issued with infringement notices, primarily due to the lack of front identification. In my view, this represents a major erosion of the effectiveness of the road safety camera system in providing a speed deterrence mechanism compared with other vehicles.

There is considerable opposition to motorcycle front number plates from motorcycle lobby groups and I received a lengthy written response from the Victorian Motorcycle Council. The logic of this submission was elusive and it did not persuade me that my concern was ill founded.

All my research suggests a logical case for the four following propositions:

- ✓ a reduction in average motorcycle speeds would reduce motorcycle casualties both in number and severity
- ✓ increased speed limit enforcement of motorcycles would reduce motorcycle speeds
- ✓ increased speed limit enforcement of motorcycles would be achieved by mandatory front identification
- ✓ the road safety camera system would have maximum effect in controlling the speeds at which motorcycles are ridden if both front and rear identification plates were attached to the motorcycles.

Recommendations

Motorcycles and motor scooters should be required to be equipped with the means to enable road safety cameras to identify the registered number of a motorcycle from a front perspective, thus bringing motorcycles and motor scooters into line with all other registered motor vehicles.

C6 /

Publication of the reasons for selecting mobile safety camera sites in Victoria

Since the Office of the Road Safety Camera Commissioner was established, a consistent theme in correspondence from the motoring public is the assertion that 'revenue raising' is the main purpose of using road safety cameras.

Across Victoria there are approximately 2000 mobile road safety camera sites that have been approved as suitable to locate a mobile safety camera. To be approved, a site must meet criteria contained in the *Victoria Police Mobile Digital Speed Camera Policy and Operations Manual*.

As was pointed out in the Victorian Auditor-General's Report on the road safety camera program, the selection of these sites is not a capricious bureaucratic act and mobile road safety camera site selection is determined by four current criteria:

- / the site has a documented history of serious and major injury collision in the last three years
- / the site has been the subject of a complaint of excessive speed, which has then been validated by police, for example, complaints from the general public or local councils
- / the site has been identified by police and substantiated by intelligence to be a speed-related site.
- / the site is one where proposed speed enforcement to address unsafe driver behaviour by other means has been deemed impractical or unsuitable.

Sites must also satisfy physical field criteria and deployment criteria.

That information should be readily accessible to the motoring public and there should not only be easy access to the list of current sites, but the reason why the site was chosen should also be clearly identified. As the preparation of data is likely to take some time, the list could be phased in over the coming months.

Recommendations

To rebut continued assertions of 'revenue raising', the reason for the selection of particular mobile road safety camera sites should be promulgated on an appropriate website. This recommendation could be implemented over the next 12-month period.

C7 /

Electronic speed advisory signs

VicRoads is to be commended for the installation of electronic speed advisory signs located on various Victorian freeways.

Attached to gantries erected across the freeways, electronic speed advisory signs have been installed at six freeway sites in Victoria, at the following locations:

- / Princes Freeway, Lara
- / Western Freeway, Ballarat
- / Western Freeway, Ballan
- / Hume Freeway, Beveridge
- / Hume Freeway, Barnawartha North
- / Calder Freeway, Diggers Rest.

I am advised by VicRoads that the advisory signs at four of the six sites are currently operational with the exceptions being the advisory signs at Beveridge and Diggers Rest.

Because it had been drawn to my attention by motorists that this worthwhile initiative had a history of being inoperative, I enquired of VicRoads about the history of the six sites, who was responsible for maintaining them and at what cost.

I am indebted to VicRoads for the following information:

Historically, these sites were installed individually on a site by site basis, with the setup and components used varying between sites. Responsibility for the testing and maintenance of the signs, including the speed detecting components, also differs between sites. For example, calibration of the Princes Freeway site is performed by the Department of Justice, whilst the radar equipment on the Western Freeway sites are calibrated off-site at RMIT University. The equipment at Barnawartha North is calibrated on-site using a portable radar gun.

Testing rates vary from site to site between one and four times per year, with the average annual cost to calibrate, maintain and repair at approximately \$20,000 to \$30,000 per site.

The sites at Beveridge and Diggers Rest are currently out of service due to ongoing concerns with accuracy and to funding priorities.

Recommendations

As the speed advisory signs are a useful deterrent against speeding, subject to funding constraints, all reasonable steps should be taken by VicRoads to ensure that all six speed advisory signs are both functional and accurate at any given time.

APPENDIX /

Implementation of the recommendations made by the Victorian Auditor-General regarding the Road Safety Camera Program

On 20 April 2012, I wrote to the Department of Justice, Victoria Police, VicRoads and the TAC requesting that each of them provide me with an update regarding the implementation of the recommendations made by the Auditor-General.

I received the following information:

RECOMMENDATION 1

The Department of Justice should continue its focus on evaluation, though priority should be given to evaluating the effectiveness of both fixed freeway cameras and point-to-point camera systems.

IMES is commissioning the Monash University Accident Research Centre to undertake formal reviews of the effectiveness of both fixed freeway and point-to-point cameras, anticipated for late 2012.

RECOMMENDATION 2

VicRoads, in partnership with the Department of Justice, Victoria Police and the Transport Accident Commission, should address the gap in speed enforcement for motorcyclists.

The Parliamentary Road Safety Committee (PRSC) is currently undertaking an inquiry into motorcycle safety. The Victoria Police submission to the inquiry includes a recommendation for mandatory affixing of a physical frontal identifier for powered two-wheeled vehicles, such as motorcycles and scooters.

VicRoads raised the same issue in its submission to the PRSC. That submission encouraged the committee to consider initiatives to reduce the proportion of riders exceeding the speed limit, including options for better identification of speeding motorcycles.

The TAC, while noting that changes to regulation for identification requirements for motorcycles are a matter for VicRoads and the Minister for Transport, expressed its long-held view that improvements on all vehicles including motorcycles will improve compliance with speed limits by all users.

The Department of Justice understands that VicRoads, responsible for regulating vehicle registration and number plates, will consider recommendation 2 in detail when the PRSC tables its report, anticipated by the end of 2012. The department has indicated that it will provide advice and assistance to VicRoads in any measures to implement recommendation 2.

RECOMMENDATION 3

To determine the optimal development approach for mobile cameras, Victoria Police should conduct and evaluate pilots of the following alternative approaches:

- ✓ site selection based only on physical criteria, not deployment criteria
- ✓ random rostering.

This recommendation sits within Victoria Police responsibility for deployment of mobile road safety cameras. The department, in managing the contract with Serco, the State's contractor for mobile camera operation services, has advised that it will provide support to Victoria Police in any measures to implement recommendation 3.

RECOMMENDATION 4

To increase the effectiveness of the mobile camera program:

- 1/ the Department of Justice should review the impact of publishing the list of weekly rostered sites for mobile cameras on road safety
- 2/ Victoria Police should establish a target number of sites required across Victoria and within police divisions to provide sufficient geographic coverage, and establish a procedure for getting assurance that permanently unsuitable sites are replaced with new sites
- 3/ Victoria Police should determine a target proportion of monthly hours to be allocated at night.

The Department of Justice has completed the first bullet point of recommendation 4. IMES reviewed the effect of the weekly publication of mobile camera sites on road safety outcomes. After briefing the Minister for Police and Emergency Services, the department ceased weekly publication of the camera sites as of 5 December 2011.

The second and third bullet points of recommendation 4 sit within Victoria Police responsibility for deployment of mobile road safety cameras. The department, in managing the contract with Serco for provision of operating hours for mobile road safety cameras, has advised that it will provide support to Victoria Police in any measures to implement recommendation 4.

The response I received from Victoria Police on this recommendation recognised that bullet point 3 had already been addressed. The recommendation in bullet point 2 was not specifically addressed but probably was covered by the helpful response to bullet point 3.

In relation to bullet point 3, Victoria Police advised that in 2011 there were 12,000 hours of night-time deployment of mobile speed cameras. The 2012 Victoria Police Road Policing Plan contains an action to increase the night-time deployment of mobile speed cameras by 15 per cent.

As at the end of May 2012, Victoria Police had not identified a specific '... target proportion of monthly hours to be allowed at night ...', and this will form part of the Terms of Reference of the proposed project in response to the recommendations. Victoria Police further advised that it was exploring suitable options that will provide a comprehensive approach to assessing the recommendations to ensure that any response or proposed change to deployment of mobile speed cameras is evidence based, a project that might take at least 12 months to complete.

Here I observe that the greater use of infrared cameras as mobile speed cameras at night will hopefully reduce the risk of physical injury to mobile speed camera operators during night duties. Until recently the requirement for a flash to illuminate a number plate in the case of a speeding infringement, has revealed the presence of the mobile speed camera to some very violent drivers, who have sought physical retribution against the operator.



... the greater use of infrared cameras as mobile speed cameras at night will hopefully reduce the risk of physical injury to mobile speed camera operators during night duties.

RECOMMENDATION 5

To strengthen assurance the Department of Justice should establish regular independent testing of the accuracy and reliability of speed measurement by mobile speed cameras under actual operating conditions.

The department is developing a Test and Acceptance Plan (TAP) with Serco. The TAP covers independent testing to ensure accuracy and reliability of mobile cameras, particularly under actual operating conditions, via comparison against an independently calibrated speed-testing vehicle.

RECOMMENDATION 6

To increase assurance over the accuracy of infringements from mobile cameras, the Department of Justice should get stronger assurance that mobile camera operators comply with critical procedures.

This recommendation relates specifically to the process where mobile camera operators compare the mobile camera to an independently designed hand-held radar device to ensure the speed readings between the two are consistent before the start of each session, and the desire to provide greater assurance that operators always perform this function.

IMES has been working closely with Serco in developing solutions to provide this assurance, and is currently awaiting final design documentation from Serco.

The design solutions centre on automated methods transmitting the two measurements from the mobile camera and hand-held radar device live to Serco operations centre, to enable confirmation of their correlation independent to the operator prior to the session proceeding.

The solution will also enable the recording of the two comparison speeds for future reference and auditing.

RECOMMENDATION 7

To increase transparency of certification, the Department of Justice should require that all certification service providers comply with appropriate quality control and documentation standards, and are subject to regular audits against these standards conducted by appropriately qualified measurement experts.

IMES is working with RMIT University (RMIT) (the provider of certification service for both mobile and fixed cameras) to implement this recommendation. A second draft of a proposed summary report for RMIT on each camera certification undertaken is being worked through with RMIT. The summary reports will be audited by an independent expert. IMES is also finalising a new agreement between the State, Serco and RMIT, covering the certification services provided by RMIT.

RECOMMENDATION 8

The Department of Justice should expedite the implementation of its communication strategy with a particular emphasis on addressing misconceptions about the program.

IMES is working with the department's Strategic Communications Branch on ways to develop a structured communications strategy to address negative public perceptions of mobile road safety cameras. This will involve both short-term initiatives (such as ways of increasing use of the Cameras Save Lives website) and longer-term initiatives (such as an ongoing social media and public relations campaign).



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