



**Road Safety
Camera
Commissioner**

IDENTIFICATION OF UNINHIBITED DRIVERS

REPORT OF THE ROAD SAFETY CAMERA COMMISSIONER TO THE MINISTER FOR POLICE

17 September 2019

The Road Safety Camera Commissioner respectfully acknowledges the Traditional Owners of the land of Victoria and pays respect to their culture and their Elders past, present and emerging.

A decorative graphic element in the bottom right corner, consisting of yellow and grey diagonal stripes, mirroring the logo's design.

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ACKNOWLEDGEMENT

I thank:

Mr Stuart McCormack and ByteSmart for their expert assistance in analysing millions of road safety infringements in Victoria, incurred during the period 1 July 2016 to 30 June 2018. I also thank members of my office for the support provided.

Various leaders in Department of Justice and Community Safety, and in particular Deputy Secretary, Corri McKenzie.

Assistant Commissioner Stephen Leane and members of Victoria Police Road Policing Command.

Associate Professor Tony Walker of Ambulance Victoria.

Members of the Road Safety Camera Commissioner's Reference Group: Prof B Fildes, Prof Carolyn Unsworth, Ms Pauline Kostuik, Ms Tia Gaffney.

Various corporate CEOs who took my phone calls and correspondences.

ABBREVIATIONS AND ORGANISATIONS

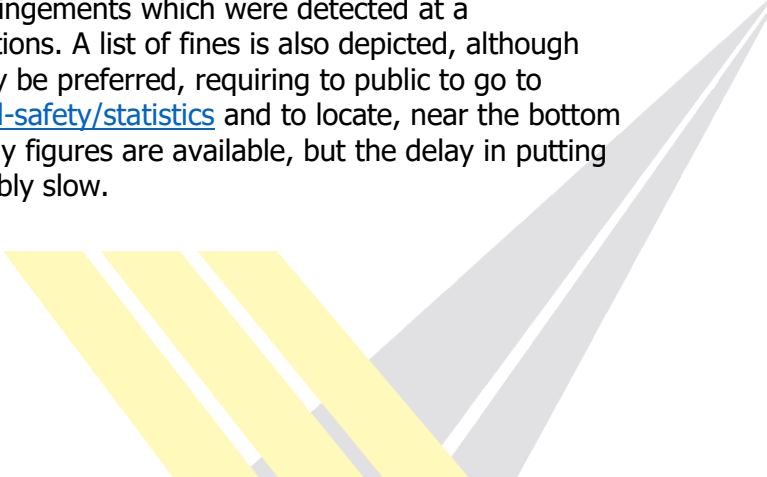
DJCS	Department of Justice and Community Safety
LOLE	Loss of Licence Event
CSL	Cameras Saves Lives



PURPOSE

- 1 This report forms part of a larger investigation being undertaken by the Office of the Road Safety Camera Commissioner into finding possible improvements in efficiencies in the methods of administration (in many forms) of the road safety camera systems.
- 2 Much of the information of this report is withheld from publication because it would represent a breach of privacy of owners. It could identify vehicles which have been repeated offenders as detected by the road safety camera systems. The purpose of this report is not to shame those infringers, but to **make public the practice that has been detected**, by which an aggregate of drivers is behaving in a fashion consistent with being **uninhibited by Victoria's road safety rules**.

BACKGROUND

- 3 Provisions of road safety legislation require that infringements which are detected by road safety cameras be delivered to the registered owner of the vehicle involved. The reasonable assumption of these provisions is that generally the driver and the owner will be the same person. The process delivers an infringement notice to the owner and they are also docked appropriate demerit points. For the sake of readers of this report, the order of magnitude of the fine is around \$300.
 - 4 If however someone other than the registered owner was driving then the owner should nominate the driver to the authorities. That nominated driver, the **nominee**, will receive paperwork from the authorities, and with it the fine and demerit points.
 - 5 In some circumstances the vehicle will be owned by a corporation. In those cases the provisions of road safety legislation require that the corporate owner receives a fine of the order of \$3,000, and zero demerit points. This fine can be waived if the corporate owner nominates the driver. By nominating the driver, the nominee driver will instead receive the fine and demerit points appropriate.
 - 6 Some infringements bring about immediate loss of licence, such as excessive speed events under section 89A of the *Road Safety Act 1986*. These are referred to collectively as Loss of Licence Events.
 - 7 The DJCS's Cameras Save Lives website, <https://www.camerassavelives.vic.gov.au/>, contains statistics, generally identifying numbers of infringements which were detected at a comprehensive list of road safety camera locations. A list of fines is also depicted, although navigating to it is a little less obvious than may be preferred, requiring the public to go to <https://www.camerassavelives.vic.gov.au/road-safety/statistics> and to locate, near the bottom of the (long) page, *Fines By Location*. Quarterly figures are available, but the delay in putting the current kind of statistics online is inexplicably slow.
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- 8 In response to three separate written requests, plus telephone discussions, the DJCS provided my office with significant tranches of data, but as became apparent DJCS was unable or unwilling to provide us with precise figures of whether every fine has been paid (or not). The data which we received did contain important information, but not sufficient to complete this report.
- 9 The Victoria Police Infringement Notices website <https://www.police.vic.gov.au/infringement-notices> lists a number of ways that infringements may be dealt with.
- 10 I consider that some of driving behaviour seen here is consistent with that of drivers who feel uninhibited by the road safety laws. Their conduct is consistent with an approach that they would choose to pay a larger fine than to receive demerit points, and on some occasions a loss of licence. It is consistent with a disregard for the safety of themselves and for other road users.

SCOPE OF INVESTIGATION

- 11 The statistics state that 2,709,647 infringements were detected by the road safety camera system during the period 01 July 2016 to 30 June 2018.
- 12 From discussions with members of DJCS we had understood that the figures on the Cameras Save Lives website assume that 100% of corporate infringements are the subject of having the driver nominated. This assumes that zero infringements are paid at the approx. \$3,000 rate. This is not precisely accurate, but the CSL website assumes that 100% of fines are paid promptly, and this is also not accurate. These two assumptions can be considered to be reasonable in the circumstances. Based on the three tranches of data received from DJCS we do not precisely know how many were paid as corporate. Some withdrawn matters were included in the data provided to us, even though some had been withdrawn up to three years prior to the data being produced.
- 13 The questions posed include:
 - How many infringements are paid as corporate, without nominating the driver?
 - Why pay \$3,000 when you could pay \$300?
 - Has this represented a hinderance to the Toward Zero road safety program?
 - Are there offenders on our roads whose licences to drive should have been removed?
 - Is there a culture of corporate drivers paying larger fines to maintain their licences?
 - How does this compare to the protests when the legislation was introduced; see for example: <https://www.theage.com.au/national/victoria/companies-face-tougher-penalties-for-employees-who-break-road-rules-20140825-10869u.html>
- 14 In 2014 there were reports regarding aspects of the legislation, such as *"This is disappointing, particularly for smaller freight companies that don't always have the administrative practices in*

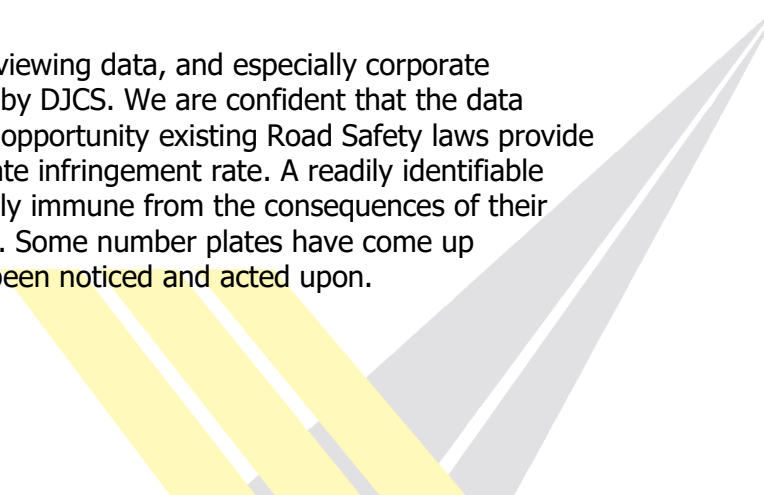
place to immediately identify drivers who have incurred fines," However, employers and freight companies are required to maintain log books. The excuse of administrative difficulty was without merit in 2014 and still is without merit.

- 15** I also noted that there are many benefits that society gives to corporate purchasers of motor vehicles, for example, Australian Taxation Office indicates the possibility in certain circumstances of a corporation claiming a GST credit for the GST included in the price of a purchasing a motor vehicle, see: <https://www.ato.gov.au/business/gst/in-detail/your-industry/motor-vehicle-and-transport/gst-and-motor-vehicles/>

RESULTS OF INVESTIGATION

- 16** The investigation was directed at looking at the extent, according to DJCS data, that payment for infringements for corporate-registered vehicles was at the corporate rate of 20 Penalty Units; that is, more than \$3,000, rather than the rate for a person nominated, around \$300.
- 17** According to the data received, during the period 01 July 2016 to 30 June 2018, a total of 53,845 infringements were identified in the name of a corporate owner of the vehicle, and were not the subject of nominating the driver. We now know some of those corporate infringements were withdrawn, but we cannot identify the precise number on the data supplied, even though there were three separate requests for this precise data. We are confident that the number withdrawn is small relative to the aggregate numbers involved.
- 18** According to the data received, during the period 01 July 2016 to 30 June 2018, we assess that 4,280 of the infringements would have been immediate loss of licence events if the corporate owner had nominated the driver. These 4,280 infringements were dealt with as a corporate fine, without nominating the driver. As a consequence, the driver in each of these 4,280 events has remained personally immune from the consequences of their behaviour under the Road Safety laws. These drivers are described in this short report as behaving as if uninhibited by the road rules which apply to us all. This is both unsafe and unfair.
- 19** According to the data received, during the period 01 July 2016 to 30 June 2018, there were 274 different vehicles with 5 or more loss of licence events. The worst example appears, according to the data, to have 31 Loss of Licence Events in that 24 month period.
- 20** According to the data received, during the period 01 July 2016 to 30 June 2018, there were 730 different vehicles with 7 or more infringements, dealt with as corporate infringements without nominating the driver.
- 21** According to the data received, during the period 01 July 2016 to 30 June 2018, there were 47 vehicles which have avoided 100 or more demerit points each, dealt with as corporate infringements and without nominating the driver. The worst example has avoided 213 demerit points.
- 22** According to the data received, during the period 01 July 2016 to 30 June 2018, we calculate that more than 41% of Corporate infringements which would occasion a loss of licence (LoLE) if the driver had been nominated were instead paid as unnominated corporate events. Such

payment was at the corporate rate of 20 Penalty Units; that is, more than \$3,000, rather than the rate for a person nominated, around \$300.

- 23** From the data we received we undertook a comparison of the infringements issued and the infringements paid. According to the data received, during the period 01 July 2016 to 30 June 2018, we noted that most Corporate infringements resulted in driver nomination. Some of the statistics we found included:
- 7.87% of infringements with potential demerit points to heavy vehicles are paid as corporate and the driver is not nominated
 - 10.13% of infringements with potential demerit points to non-heavy vehicles are paid as corporate and the driver is not nominated
 - 29.14% of LoLE issued to heavy vehicles are paid as corporate and the driver is not nominated
 - 43.24% of LoLE issued to non-heavy vehicles are paid as corporate and the driver is not nominated
- 24** There is an unmistakable rise in the numbers of corporate infringements in which the driver is not nominated if the infringement would be a LoLE.
- 25** However, where such corporate infringements would have otherwise been a LoLE, or result in licence loss for a nominated driver, the rate of nomination plummeted.
- 26** We also located 687 infringements that had been issued with individual owners being named but were apparently paid as corporate. By doing so no driver would have received demerit points or loss of licence.
- 27** Regrettably the data received from DJCS was not the data we had understood it to be. We have been able to draw some conclusions from the data received, we have needed to abandon some aspects of the investigation which relied on other parts of the data given. I hope that this investigation can be advanced with an improved data set, in due course.
- 28** The results of analysis have been complex, and this short report is a small sample of the Efficiency work which is being compiled. However, to our surprise, the data received from DJCS had included details of many infringement which had been withdrawn.
- 29** We are required to respect the privacy of individuals involved, and that includes information which may identify the individuals. We have the identification of every one of the infringing vehicles, and have looked closely at a number of the vehicles with corporate infringements without nominating the driver. Some of those vehicles have identifying registration numbers (such as 3 or 4 alphanumeric), some have signwriting on the vehicle body, some have metal tool-boxes on the tray at the rear, some are top-line European sports cars. Alarming, some of the corporate un-nominated vehicles are seen speeding at the same road on many different days.
- 30** It seems that the significance of the task of reviewing data, and especially corporate infringements may have been underestimated by DJCS. We are confident that the data reveals that some drivers are conscious of the opportunity existing Road Safety laws provide to people who are willing to pay at the corporate infringement rate. A readily identifiable group of these people have remained personally immune from the consequences of their behaviour under the existing Road Safety laws. Some number plates have come up repeatedly, and I suggest that ought to have been noticed and acted upon.
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CONCLUSIONS

- 31** These analyses show that some readily identifiable corporations are using a corporate veil to hide the uninhibited driving of truly bad drivers. It appears that many are treating the corporate fine as a cost of doing business.
- 32** This is unfair and unsafe for the large majority of drivers and road users.
- 33** It appears that DJCS are not noticing that some number plates are repeatedly coming up as “paid at corporate unnominated” rate
- 34** There is insufficient transparency by DJCS about why the Cameras Save Lives website has remained so delayed in posting the approximations of infringements. Currently the delay is of the order of 8 months. Given that the delayed lists contain some withdrawn infringements, there is a need for a clear display from DJCS of what CSL represents, and its purpose.

RECOMMENDATIONS

- 35** I recommend that the existing provisions for prosecuting offenders with multiple corporate infringements be strengthened. I recommend that section 84BEA of the *Road Safety Act 1986* and all like provisions be reviewed and strengthened to achieve their intended purpose.
 - 36** I recommend that in Loss of Licence Event circumstances where driving infringement is paid by a corporation without nominating the driver, there also be a new penalty attached to corporate vehicle, suspending registration for at least the period commensurate with the LoLE event. I also recommend that demerit point be attributed to the corporation forbidding them from owning any registered vehicle where demerit points have accrued.
 - 37** I recommend that DJCS improve its data retention and design to enable more ready handling and accessibility and to enable prompt analysis. In particular I recommend that DJCS ought to put into place systems to more efficiently signal when a particular number plate comes up repeatedly and especially when paid as corporate. The top 50 corporate infringing vehicles merit immediate analysis.
 - 38** I recommend that DJCS bring its CSL website data more up to date rather than posting the results from 8 months previous. I recommend that DJCS explain to the public with some clarification of what the posted data depicts.
 - 39** I recommend that the availability of the corporate infringement veil should be recognised a consequence of automation of road safety policing.
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