

# A MORE FAIR AND EFFICIENT TOLL FINES SYSTEM FOR VICTORIA

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*'Journey Map Guide'*



Centre for  
Innovative  
Justice

# INTRODUCTION

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This 'journey map' of Victoria's toll fines system is the result of a collaboration led by RMIT's Centre for Innovative Justice and the legal assistance sector involving key stakeholders including the toll operators, the courts and key government agencies. The aim of the collaboration has been to gain a shared understanding of the tolls infringements system and its impact on the criminal justice system and community more broadly and to identify potential options to reduce or eliminate that burden.

The collaboration has been informed by 'design thinking' and the challenge has been framed as: **how might we** redesign the toll infringements system **for** all road users **so that:** high-levels of compliance are maintained; There is early intervention so that people in genuine hardship don't get caught in a spiral of fines/debt and ultimately a conviction or jail; Pressure is taken off our courts and justice system so that resources can be more effectively deployed to areas such as family violence; It is consistent with government values and the desire of toll operators to ensure that 'time is better spent' and that transport truly 'strengthens communities'.

## WHY IS THIS IMPORTANT?

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Victoria's toll fines system is placing unsustainable pressure on Victoria's Magistrates' Courts, support services, communities and families.

Victoria's infringement system criminalises private debt owed to the toll road operators and grossly inflates the original toll fees to unmanageably large and numerous fines. The system delivers a disproportionate blow to people who for a variety of reasons are unable to pay their toll fees when they use the toll roads, but who want to do the right thing.

Half of the impact on the Infringements Court results from the use of privately owned toll roads<sup>1</sup> and toll road offences are the most prevalent offence dealt with by the Magistrates' Court:

The scale and approach to enforcement is at odds with other Australian jurisdictions. And while the government is implementing considerable reforms to Victoria's fines system, these do not address the disproportionate impact that toll fines have on individuals or the justice system.

Toll operators have publicly stated they do not want unpaid tolls turned into fines.

The map and accompanying legend aim to support a re-evaluation of the effectiveness of the system and consideration of options for reform.

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<sup>1</sup> In 2014-15, 1.7 million enforcement orders were issued for all fines, with tolling matters making up 49 per cent of all enforcement orders; see the 2014-15 Annual Report on the Infringements System, available at: [http://assets.justice.vic.gov.au/justice/resources/e9d3c72c-3ab2-427c-a036-7e7405c26796/2014\\_15\\_report\\_infringements\\_sys.pdf](http://assets.justice.vic.gov.au/justice/resources/e9d3c72c-3ab2-427c-a036-7e7405c26796/2014_15_report_infringements_sys.pdf)

<sup>2</sup> Magistrates' Court of Victoria, 2014-15 Annual Report, p78, available at: <https://www.magistratescourt.vic.gov.au/sites/default/files/Default/151130%20AR%202014-15%20%28PDF%20final%29.pdf>

## CASE STUDIES

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### *Cassie: Toll fines used to commit family violence*

When Cassie's marriage broke down because of violence, her husband took her e-tag. He used her e-tag to drive on Citylink and maxed out her credit card. Cassie brought the problem to Citylink's attention but they refused to cancel the e-tag unless Cassie returned the e-tag. Cassie told them it was not safe for her to do this but they didn't accept her explanation. As a result, Cassie was forced to cancel the credit card and ended up with hundreds of toll road fines incurred by her ex-husband totaling more than \$70,000.

During this time, Cassie lost her home. At one stage, she was living in her car with her children. As a result of her homelessness, she was not receiving any of the fines.

Cassie's matters eventually ended up in court. She faced 452 days in prison. She had to attend 12 separate hearing dates but eventually her \$70,000 of toll road fines were reduced to \$1,900 by a Magistrate. Cassie is now paying off her fines.



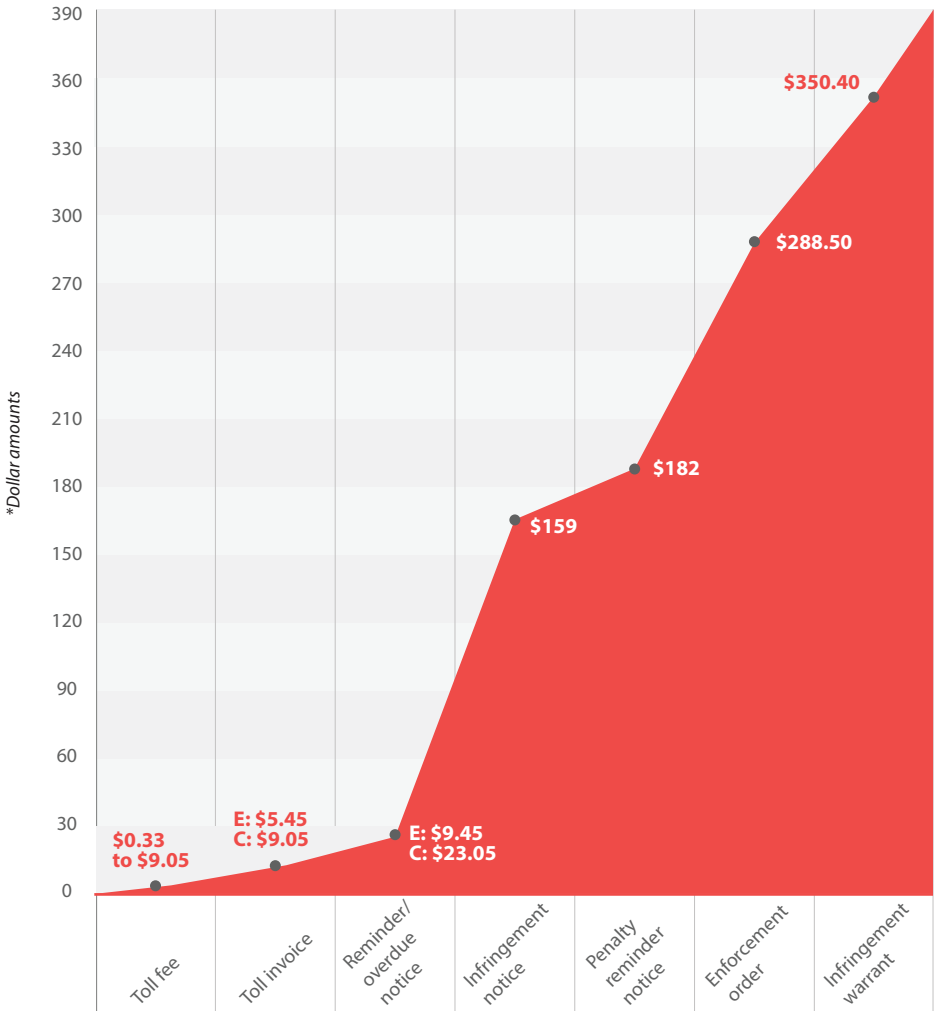
### *Geoff: A courier from Melbourne's North*

During a period of family crisis and financial hardship, Geoff had accumulated over a hundred toll infringements as he travelled along Citylink for work as a courier. Over the next few years Geoff tried to start making payments but he always fell behind. What had been around \$6,000 in toll invoice fees was now \$150,000 in fines. Geoff tried putting the fines on payment plans but there were so many that he was paying \$700 per week.

To date, Geoff has paid over \$97,000 in toll fines. Paying the cost of the tolls 50 times over with no end in sight, his health has suffered. If Geoff stops making payments, he is afraid that he will be sent to prison for 8 months. Geoff was recently hospitalised with serious stress-related health conditions.

# PROPORTIONALITY

The simple act of driving on a toll road without paying a toll fee of \$9 or less carries a fine of \$159, which increases to \$350 if not paid. If this occurs every day, which is regularly the case for people experiencing financial hardship or other disadvantage, the fines add up to \$2,450 a week. When compared to other criminal offences such as careless driving or theft of a motor vehicle, where the majority of people found guilty of these offences who are fined receive an aggregate fine of between \$500 and \$1,000 (for careless driving) and \$1,000 and \$2,000 (for theft of a motor vehicle), it is evident that the current practice of issuing toll infringements is disproportionate both to the seriousness of the offending and the original toll fees.



\*Victoria's toll fees and fines throughout the system

## CASE STUDIES

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### *Daphne: a pensioner grandmother*

Daphne is a pensioner in her '60s. A couple of months after Daphne's husband passed away, she offered to drive her grandson to school, to help her daughter who was starting a new job. Daphne's husband used to take care of things like e-tags. As she drove her grandson to school via Eastlink, Daphne heard the e-tag beeping and didn't give it another thought. When the notices arrived saying she owed money, she thought they were a mistake. She meant to call and tell them, but things got on top of her. When nothing further happened, she figured the mistake had been fixed.

Daphne was stopped in a roadblock operation by the Sheriff and told she owed almost \$5,000. Daphne's pension is less than \$800 a fortnight, she has very little savings and no credit card. In total, she had 15 fines totalling almost \$5,000 due to enforcement costs. Daphne couldn't believe it when she worked out that if her e-tag account been up-to-date, those 15 trips would have cost less than \$100. Instead Daphne will need to attend court to resolve her outstanding toll fines.



### *Pete: A traveling tradesman*

A couple of years ago, Pete moved out when his marriage became strained. As the family's sole breadwinner, Pete continued to pay the mortgage, but he also had to pay rent for a place of his own. Pete was struggling to cope. He was working long hours and had a long commute from the southern Mornington Peninsula to Ringwood each day – more than two and a half hours – unless he used Eastlink which cut the trip down by half an hour. Pete used Eastlink over the next nine months without an e-tag – around 200 trips. When the mail started piling up, he just couldn't deal with it and eventually stopped opening the letters.








Pete is now facing \$60,000 in toll fines. He says he was an "idiot" and wants to pay what's reasonable. The amount he should have paid in toll fees is around \$1,100. He could handle that – plus a modest processing fee. Pete is having trouble sleeping at night knowing the Sheriff could cancel his licence or seize his car, and if that happens Pete will lose his job. Another person in Pete's shoes – but who doesn't own assets – could be facing arrest and even imprisonment at a huge cost to the state.

# MAP LEGEND





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This legend is the key to understanding the full complexity of this system and its impacts. While we have tried to simplify where we can, it is a complex system for all concerned, so please use this legend as your guide.

## *Journey Paths*

-  User journey both Eastlink and Citylink
-  User journey Citylink
-  User journey Eastlink
-  user journey in justice system
-  User journey seeking assistance
-  Possible user journey
-  User is channelled into a separate but related system, for example the Children and Young People Infringement Notice System or Magistrates' Court systems to enforce court fines and community worker orders.

## *Who's involved*

-  Toll user
-  Victoria Police
-  The Sheriff
-  Magistrates Court

## Communication used



Letters



Email/Internet

SMS

Mobile SMS



Telephone

## When help is needed



User is assisted by legal assistance agency, financial counsellor or another practitioner (such as psychologist, housing worker, GP, family violence worker, drug and alcohol worker, etc)

## Things to know



Cost proportionality



Toll user testimonies



Information & Statistics

## Critical Points to Note



Warnings / Something to note



Cost is incurred by the user



Payment orders and 'imprisonment in lieu' orders often lock users into long-term unsustainable payment arrangements. This can cause or exacerbate financial hardship. Compliance with these orders can mean users are unable to consistently pay their rent or other essential expenses, or buy medicine. Vulnerable users sometimes obtain payday loans to meet these financial needs, which entrench them deeper in cycles of financial hardship.



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Legislation requires Magistrates to make \$40 costs orders whenever a person is found guilty of driving on a toll road without paying. These costs orders are civil orders, meaning the toll operator to whom they are owed would need to take civil action in the Magistrates' Court to enforce them. However, this information is not provided to users, who often pay the costs orders or fear they could be imprisoned if they don't.



User swap - Infringement or toll is re-issued to another user following nomination

## Outcomes



Represents where users who have had a negative outcome can re-enter/are pushed along the system.



The main nexus point within the system where a user is either pushed along or re-enters the system following a negative outcome



Positive outcome for user. .



Offence is recorded on user's criminal record. Victoria does not have a spent convictions scheme, meaning there is no statutory scheme to clear people's criminal records. Instead, Victorians rely on a Victoria Police policy in relation to disclosure of criminal records, under which findings of guilt recorded without conviction will be released for ten years. Findings of guilt for toll offences may interfere with a user's ability to obtain or maintain employment or to travel overseas.



User is imprisoned or is at high risk of imprisonment. Infringement offenders are imprisoned using a formula of one day for each penalty unit owed. A penalty unit is currently valued at \$155.46. So a \$30,000 toll fines debt equates to 193 days in prison. Imprisoning one person costs the State \$289.83 per day or \$105,788 per year.



Interference with user's legal entitlement to drive, for example because of suspension of user's driver's licence or because user's registration is suspended or not renewed.

