

**Submission of the Federation of Community Legal Centres to the  
Department of Justice in relation to the Public Accounts and  
Estimates Committee "Report on Outstanding Fines and  
Unexecuted Warrants".**

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1/11/03  
17/11

**Note: This submission is subject to ratification by the General Meeting of the  
Federation of Community Legal Centres (Vic) Inc.**

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## Introduction

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The Federation of Community Legal Centres (Vic) Inc is the peak body for over 41 generalist and specialist community legal centres throughout Victoria. **Attachment A** provides further information about the Federation.

The PERIN Fines Working Group is a policy group of the Federation of Community Legal Centres comprising of community lawyers, financial counselors and barristers. The aims of the PERIN Fines Working Group include a commitment to bring about systemic changes to the PERIN system to make it more accessible, equitable and just.

The Working Group submitted to the Public Accounts and Estimates Committee Inquiry into Outstanding Fines and Unexecuted Warrants (the Committee) A copy of this Submission appears as **Attachment B**.

The Working Group has analysed the Report of the Public Accounts and Estimates Committee ('the Report') and wishes to make the following points.

## The Report

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The PERIN Fines Working Group (the Working Group) is pleased with the overall thrust of the Report. We believe it has been well researched and provides a sound basis upon which appropriate legislation can be drafted to deal with PERIN matters. It presents a balanced view in that it recognises that people who do not pay their fines are not all deliberately avoiding payment, but that many just cannot pay. These people often consult community legal centres for assistance, and therefore it is these people whom the Working Group aims to assist by seeking systemic change to PERIN procedures.

We particularly support the Committee recommendations which suggest a fine enforcement system which is easy to use and understand, gives clear information about options to people who are fined, offers alternatives at an early stage to mere payment of fines as a lump sum, including the availability of community work, and ensures that fine defaulters are brought before a Magistrate before the last option of imprisonment is exercised against them.

In addition we support the Committee in its generally expressed view that the system must operate fairly, effectively and efficiently before the public can be expected to comply with it.

## Supported Recommendations

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In particular the Federation supports the following recommendations:

### ***Recommendation 1:***

The Federation supports the introduction of a new 'Infringement Act', similar to those adopted in South Australia or New South Wales. The consolidation of legislation into one Act will ensure that the PERIN system is easily comprehensible, transparent and expresses a unity of purpose of Government policy in this area. We support all of Recommendation 1 and particularly that part that states that the range of measures available to enforce infringement penalties should not be fewer than those available in respect of court imposed fines.

### ***Recommendations 2, 3, 4 and 6:***

Community Legal Centres have experienced constant difficulty with our clients not understanding notices they receive therefore we fully endorse these recommendations.

### ***Recommendations 7,9, 10 and 11:***

The current PERIN system provides limited options for payment at an early stage for those that cannot afford to pay fines as a lump sum. These recommendations suggest options for payment at the outset which allow for a person's financial and personal circumstances to be taken into account. This will remove the necessity for people to have to wait until their matter is referred to the PERIN court to exercise appropriate options, therefore encouraging upfront payment and avoiding additional enforcement costs.

### ***Recommendations 19 and 35:***

Community Legal Centre clients have frequently presented with the problem of being held responsible for fines incurred by a previous owner. We therefore support measures to ensure that vehicles are transferred without liability with respect to fines.

### ***Recommendation 24, 27 and 28:***

We are pleased that the Committee has recognised that privacy issues must limit options available for chasing fine defaulters.

### ***Recommendation 29:***

Given that the rationale for infringement notices should be to discourage offending behaviour, rather than to raise revenue, we support this initiative.

### ***Recommendations 31, 32 and 33:***

We support the non attachment of fines to licence and registration renewal and support warning notices attached to such renewal notices.

***Recommendation 37:***

We strongly support the introduction of community work as an option at the earliest possible stage.

***Recommendation 41 and 42:***

We strongly support appearance of fine defaulters before a Magistrate to determine whether or not imprisonment is appropriate. Furthermore, we strongly support the retention of imprisonment only as a last resort.

## **Concerns**

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The Federation wishes to raise the following concerns:

***Recommendation 4:***

The Federation is supportive of an opportunity being available for persons with fines to advise the agency of a medical or other significant circumstance which would justify the penalty not being enforced. However, as the provision of this information could lead to other adverse consequences such as a person's licence being cancelled by VicRoads on medical grounds, the notice should also advise a person to obtain legal advice prior to pursuing this course of action.

***Recommendation 5:***

The Federation is of the view that any such guidelines should be publicly available and that there should be community representative on the Committee referred to in this recommendation.

***Recommendation 12:***

The Federation views that the adding of agency costs at the reminder notice stage is inappropriate for a number of reasons. The addition of extra costs discriminates against poorer people who are unable to pay the lump sum outright. The notice is meant to act as a reminder and the owner of the car, may have no previous notice of the fine if someone else was driving the car. In the experience of community legal centres this is a common occurrence. It is not appropriate to add extra costs before the person has the appropriate documentation to refer the matter to court for hearing.

It is also our experience that the addition of extra agency costs at this stage makes people less inclined to deal with the fine. We believe the position adopted in the New South Wales *Fines Act* 1996 which abolished extra agency costs at the reminder stage should be adopted.

***Recommendation 30:***

The Federation is concerned that such a procedure requires the satisfactory proof of the debt and go through a similar procedure for that of civil debts. Whether or not this procedure results in hardship will only be able to be ascertained upon the provision of more detailed information as to how this will operate in practice. Care must be taken to ensure undue hardship does not result.

***Recommendation 34:***

It is the experience of Community Legal Centre workers that many persons will continue to drive despite cancellation of a licence due to necessity such as employment, physical disability, accessing hospitals and lack of public transport. Accordingly, in such cases, cancellation of licence merely results in further involvement with the courts.

Any procedure for the suspension of drivers license should have adequate procedures to enable personal and financial circumstances to be taken into account before the suspension occurs. Any such procedure must be made accessible through the provision of easily understood information material including in a range of languages and disability access.

***Recommendation 36:***

The Federation views that the threshold of ten penalty units is too low and does not warrant the expense of execution.

***Recommendation 38:***

The Federation is concerned that the utilisation of breathalyser locations for purpose other than drink driving could frustrate police efforts in this regard. Furthermore, enforcement must take into account issues of financial hardship and personal circumstances and the Federation is concerned that such issues would not be able to be aired and considered at road side locations.