



Hon Jack Dempsey MP
Member for Bundaberg

**Minister for Police
and Community Safety**

Ref: 13650 P1 TMc BJ

1 AUG 2012

Mr Neil Laurie
The Clerk of the Parliament
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr Laurie

I refer to three petitions numbered 1854-12, 1855-12 and 1856-12 all posted with the Legislative Assembly on 10 July 2012. The principal petitioner is Mr Murray Peterson of Mackay.

Petition 1854-12 calls for motorists electing court proceedings in relation to a traffic infringement notice not to be exposed to considerable costs when contesting the fine, nor to be intimidated by the prosecution in reference to these costs. Petition 1855-12 progresses the matter, indicating the cost of a prosecution should be limited to the value of the original traffic infringement notice. The third petition, 1856-12, suggests costs ordered by the court should not exceed the value of the original traffic infringement notice. All three petitions request amendments to the *Transport Operations (Road Use Management) Act 1995* in relation to costs based on members of the public having fair and unprejudiced access to justice. These petitions are similar in nature and therefore should be addressed collectively.

I referred the matter to the Queensland Police Service (QPS) for consideration. In response it is noted the QPS is required, along with other Government Departments, to undertake traffic enforcement in an effort to reduce road-related trauma and fatalities in Queensland. A consequence of responding to this public issue with enforcement action is the likelihood of a traffic infringement notice being disputed in court proceedings.

To progress a disputed traffic infringement notice there are administrative costs associated with the preparation and service of the complaint and summons. In the event court proceedings involve an intention to challenge or dispute the accuracy of a photographic detection device in accordance with the provisions of the *Transport Operations (Road Use Management) Act 1995*, the prosecution will present evidence from lay and expert witnesses.

To maintain a fair and transparent approach to court proceedings, the prosecution is obliged to bring this information to the notice of the defence. Should a conviction be ordered the prosecution is entitled to recoup the costs associated with court proceedings on behalf of the general public.

The current legislative scheme concerning costs for court proceedings of this nature is contained in the *Justices Act 1886*, in particular sections 157 (Costs on conviction or order) and 158 (Costs on dismissal). This legislation implies a judicial discretion to award just and reasonable costs to either the prosecution or defence should the court consider it appropriate. This legislation places the decision-making authority with the judiciary where discretion can be applied.

To limit costs as suggested would restrict the ability of the prosecution to present relevant evidence in court proceedings as well as to increase the financial burden on the QPS and ultimately, the public. This may also have an impact on the effectiveness of traffic safety enforcement strategies designed to reduce road-related trauma and fatalities.

I trust this information is of assistance. Should Mr Peterson have any further enquiries, Acting Superintendent Michael Ede, Legal Services Branch, Operations Support Command, QPS, is available on telephone 3234 2210.

Yours sincerely



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Minister for Police and Community Safety

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