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The Hon A R Abadee RFD QC
Chairperson
NSW Sentencing Council
GPO Box 6
Sydney NSW 2001

Dear Sir

Court-imposed fines and their enforcement

Thank you for the opportunity to provide a submission to this review.

The Shopfront Youth Legal Centre is a free legal service for homeless and disadvantaged people aged 25 and under. We represent and advise young people on a range of legal issues, with a primary focus on criminal law.

In recent years, a large proportion of our workload has involved assisting clients with their outstanding fines. We have also seen increasing numbers of young people charged with driving while unlicensed, suspended or disqualified. Many of our clients have accumulated very lengthy disqualification periods; some have also been declared habitual traffic offenders. In most cases, their unlicensed status is directly attributable to the fact that they have outstanding fines.

Attached is a copy of a submission we made in June 2002 to the Office of State Revenue's review of the *Fines Act*. This submission thoroughly details our position in relation to fines and their enforcement. Although there have been some helpful legislative amendments and policy changes since the review of the Act, most of the concerns expressed in our 2002 submission remain valid.

While court-imposed fines are not as significant a problem for our clients as infringement notices, they still are a matter of concern. We believe that fines are an inappropriate sentencing option for most young people, especially those who are under 18 and those who are disadvantaged as the result of homelessness, poverty, disability, or mental illness.

For young and disadvantaged people, fines fail to achieve the purposes of sentencing as set out in section 3A of the *Crimes (Sentencing Procedure) Act*. For people whose offending is not generally the product of rational choice, the

deterrent value of fines is questionable. The aim of rehabilitation, which is a primary consideration when sentencing young offenders, is not achieved (and in fact is often undermined) by the imposition of fines. Further, imposing fines on young people who lack the capacity to pay does not sit well with the principles expressed in section 6 of the *Children (Criminal Proceedings) Act*.

The current fine enforcement system, and in particular the imposition of sanctions on driver licences, is an ineffective mechanism for enforcing the payment of fines when applied to offenders who do not have the capacity to pay. It commonly results in further financial hardship and potentially places the livelihoods and liberty of young people at risk.

I would be happy to discuss any issue arising from this submission, including attending any hearings or consultations the Sentencing Council may be convening. I can be contacted by email at jane.sanders@freehills.com or by telephone on 9360 1847.

Yours faithfully

Jane Sanders
Solicitor