Mr Edward O'Donohue MLC
Chairperson,
Scrutiny of Acts and Regulations Committee
Parliament of Victoria
MELBOURNE VIC 3002

Dear Mr O'Donohue,


Please find attached the Victoria Police submission. The submission details Victoria Police’s responses to the seven terms of reference identified in the call for written submissions that accompanied your letter.

The Charter has provided an overarching platform for Victoria Police, upon which human rights practice standards for policing can be established and demonstrated. Since the introduction of the Charter, Victoria Police has embarked on significant operational and corporate practice audits to ensure that our policies and procedures comply with the terms of the Charter.

Thank you of affording Victoria Police the opportunity to make a submission. If you have further queries, please contact Mmaskepe Sejoe, Manager, Human Rights Unit on 9247 3384.

Yours sincerely

Simon Overland APM
Chief Commissioner

09/06/2011
Submission to the inquiry and review of the 
*Charter of Human Rights and Responsibilities Act 2006*

Introduction

Victoria Police is of the view that the rights articulated in the *Charter of Human Rights and Responsibilities Act 2006* (the Charter) provide an overarching platform upon which human rights practice standards for policing can be demonstrated and established. The aspirations of the Charter provide a platform for the development of minimum human rights standards as understood and articulated at every level of the organisation.

Since the introduction of the Charter, Victoria Police has embarked on significant operational and corporate practice audits. This has informed a systematic human rights compliant policy that does not assume human rights deficiency in existing policies and practices.

Developing human rights knowledge in Victoria Police

Furthermore, this process has enabled evidence based decision-making and corrective human rights education and information processes. This has been achieved through:

- a generalised and specialist human rights education and information for both Victoria Police staff and external stakeholders to enable a common understanding of human rights within the context of policing
- a generalised program that seeks to establish the relevance of a human rights framework in the tradition of the Westminster system of governance.

In response to the specific terms of reference, as outlined by the Scrutiny of Acts and Regulations Committee, Victoria Police submits the following for consideration.

(1) **Whether the Charter should include additional human rights, including but not limited to, rights under the:**

   a) *International Covenant on Economic, Social and Cultural Rights*
   
   b) *Convention on the Rights of the Child*
   
   c) *Convention on the Elimination of All Forms of Discrimination Against Women*

Victoria Police is not in a position to comment on this term of reference. However, Victoria Police notes that there has been extensive work undertaken to ensure that the organisation’s response to gender-based violence is compliant with the expected human rights standards. In addition, in 2008, Victoria Police produced a human rights audit to measure compliance with the Convention on the Rights of the Child, which has informed youth focused initiatives in the organisation. Similar work was conducted to measure Victoria Police compliance with the Convention on the Elimination of all Forms of Discrimination Against Women to ensure that current policies and practices are consistent with a human rights framework.

(2) **Whether the right to self-determination should be included in the Charter?**

Victoria Police is not in a position to comment on this term of reference.
(3) Whether there should be a mandatory regular auditing of public authorities to assess compliance with human rights?

Victoria Police is of the view that there should not be a mandatory auditing of public authorities to assess compliance with human rights. Victoria Police has integrated human rights compliance into its ongoing quality assurance framework. In addition, a Senior Management Human Rights Compliance Advisory Committee is chaired by a Deputy Commissioner and human rights compliance reporting is undertaken as part of the annual reporting process.

(4) Whether the Charter should include further provisions with respect to legal proceedings that may be brought or remedies that may be rewarded in relation to acts or decisions of public authorities made unlawful by the Charter?

Victoria Police is of the view that the inclusion of such provisions would not be in the public interest. Over the past four years, Victoria Police has demonstrated that the Charter works well as a platform for public service accountability.

(5) What have been the effects of the Charter on
a) the development and drafting of statutory provisions by Parliament

Victoria Police is not in a position to comment on this term of reference.

b) the consideration of statutory provisions by Parliament

Victoria Police is not in a position to comment on this term of reference.

c) the provision of services, and the performance of other functions, by public authorities

Since the introduction of the Charter, Victoria Police has developed a human rights framework to measure its policies and procedures against the Charter. This process has ensured compliance with the Charter whilst promoting a change in perceptions of human rights issues across the organisation.

For example, the Persons in Custody Review involved a comprehensive review of Victoria Police policies relating to the treatment and processing of persons in police custody against the terms of the Charter. As a result of the review the following outcomes have been achieved:

- an audit of all police cells across the state has been conducted to ensure compliance with the Charter and the Optional Protocol to the Convention Against Torture (OPCAT)
- Inspectors have been appointed for every Region to ensure ongoing compliance with the terms of the Charter that are relevant to managing persons in police custody
- a comprehensive review and restructure of the Victoria Police Manual to ensure that current policy relating to persons in police custody is consistent with the terms of the Charter.

d) litigation and the roles and functioning of courts and tribunals

Victoria Police is not in a position to comment on this term of reference.
e) the availability to Victorians of accessible, just and timely remedies for infringements of rights

Victoria Police is satisfied that existing mechanisms, such as prosecutions and civil and administrative law remedies, are sufficient.

(6) What have been the overall benefits of the Charter?

From a Victoria Police perspective, some of the benefits of the Charter include:

- Greater emphasis on human rights issues and accountability throughout the organisation
- Greater focus on human rights issues when reviewing and developing policies
- A platform from which Victoria Police could work towards the OECD standards for policing in democratic societies, which is articulated in the United Nations International Human Rights Standards for Law enforcement. This has been evident in:
  - the review of police cells and holding rooms as part of the Persons in Custody Review
  - the operating of the Melbourne Custody Centre (MCC) – although Victoria Police is responsible for the MCC, its operation had been run via an external contractor. A human rights practice audit has influenced policies and procedures regarding the operation of the MCC.
- Greater knowledge and awareness of human rights issues and Victoria Police policies that emphasise accountability and the Human Rights Framework. In particular, there has been a gradual acceptance across the organisation that policing is fundamentally human rights work. This is demonstrated by the number of Victoria Police work units that require employees to undertake four hours of human rights education as a minimum requirement to work in the area.

(7) What options are there for reform or improvement of the regime for protecting and upholding the rights and responsibilities in Victoria?

Victoria Police is not in a position to comment on this term of reference.