1 August 2011

Ms Helen Mason  
Acting Executive Officer  
Scrutiny of Acts and Regulations Committee  
Parliament of Victoria,  
Melbourne Vic 3002  

By email to: helen.mason@parliament.vic.gov.au  
Copied to: christine.campbell@parliament.vic.gov.au ;  
edward.o'donohue@parliament.vic.gov.au ;  
charter.review@parliament.vic.gov.au

Dear Ms Mason,

We are very grateful to the Scrutiny of Acts and Regulations Committee (SARC) for giving the Law Institute of Victoria (LIV) the opportunity to appear before SARC on 19 July 2011 in connection with the Review of the Charter of Human Rights and Responsibilities Act 2006 (Review).

At the hearing, we undertook to provide further information on:

1. The number of decisions in the LIV Case Audit that had concerned crime-related matters;  
2. The LIV’s project on the impact of the Charter on the legal profession (the Charter Impact Project).

Our responses to these questions are set out below. Our responses should be read together with the LIV submission to the Review of 30 June 2011, Appendix 1 of which contains the LIV Case Audit.

**Further breakdown of crime-related decisions**

There are 51 decisions in the LIV Case Audit that are crime related matters, out of a total of 209 decisions in which the Charter has been raised or considered from September 2006 to June 2011.

As stated in our submission (see paras 19-20, 135-136) and at the hearing:

- 76% of the cases (or 158 decisions) in which the Charter was cited concerned administrative or civil law-related areas and  
- 24% of cases (or 51 decisions) in which the Charter was cited concerned crime-related areas.

![Chart showing civil and criminal cases where the Charter was cited](chart_example.png)
Crime-related matters included both procedural and substantive issues. The areas of law considered in both procedural and substantive crime-related matters addressed (in descending order of overall percentage):

- Criminal Procedure (10% of all cases or 20 decisions)
- Bail, (5% of all cases or 10 decisions)
- Criminal Law in general (3% of all cases or 7 decisions)
- Regulation of Sex Offenders (3% of all cases or 6 decisions)
- Sentencing (2% of all cases or 5 decisions)
- Motor Vehicle offences (1% of all cases or 3 decisions)

Excluded from our ‘crime-related’ areas of law are approximately 11 cases in total identified in the LIV Case Audit that are: Real Property cases that concern the *Confiscation Act 1997* (Vic); Residential Tenancies cases that concern notices to vacate upheld for illegal use; Administrative Review cases that concern, for example, parole or prison matters; Civil Procedure cases that concern compensation under the *Sentencing Act 1991* (Vic).
**LIV Charter Impact Project**

As indicated in our submission and at the hearing, independent of the Charter Review, the LIV is undertaking a research project on the impact of the Charter on legal practice.\(^1\) The findings will assist the LIV in planning professional development and education programmes and future policy. The project has included a survey of our membership and Victorian lawyers and interviews with lawyers experienced in applying the Charter. The report of the project will be finalised in August and will be made available to SARC.

In light of the comments at the hearing made by Mr O’Donohue on the timing of finalising the SARC report on the Review, we shall endeavour to forward to you the draft report for the Charter Impact Project which should be approved for publication in early August.

In the meantime, please contact me or Alice Palmer on apalmer@liv.asn.au if you have any queries concerning our submission.

Yours sincerely

[Signature]

**Caroline Counsel**  
President  
Law Institute of Victoria