



www.libertyvictoria.org.au

GPO Box 3161
Melbourne, VIC 3001
t 03 9670 6422
info@libertyvictoria.org.au

PRESIDENT
Professor Spencer Zifcak

SENIOR VICE-PRESIDENT
Georgia King-Siem

VICE-PRESIDENTS
Jamie Gardiner
Anne O'Rourke
Rachel Ball

IMMEDIATE PAST PRESIDENT
Michael Pearce SC

SUBMISSION OF LIBERTY VICTORIA ON THE PROPOSAL FOR BASELINE SENTENCING

1. Liberty Victoria is one of Australia's leading human rights and civil liberties organisations. It is concerned with the protection and promotion of civil liberties throughout Australia. As such, Liberty is actively involved in the development and revision of Australia's laws and systems of government. Further information on our activities may be found at www.libertyvictoria.org.au
2. Liberty Victoria opposes the introduction of base line sentencing. We also strongly endorse the submission of the Criminal Bar Association of Victoria ("CBA") (dated and sent 4 October 2011).
3. In addition to the endorsement, we wish to make the following comments:
 - a. The Sentencing Advisory Council ("SAC") should assess the merits of any minimum sentence regime as part of its report to Government. Liberty notes with some disappointment, that this was excluded from the SAC's terms of reference. Lessons taken from interstate experiences; namely the recent Queensland Sentencing Advisory Councils report of September this year, evidences that minimum sentencing schemes are yet to be shown to be effective.
 - b. We echo the CBA's concern that there does not seem to be any legitimate rationale for the introduction of minimum sentencing schemes; other than media releases ect that see the Government pandering to commercial media editors in a effort to try to be seen as tough on law and order. Liberty believes that the new appeals by the DPP are an effective means of redressing inadequate sentences.

- c. Liberty Victoria joins the CBA in submitting that Judges are best placed to sentence offenders with the widest possible discretion; and any mandatory incursion on such a discretion weakens the ability for just sentencing outcomes for offenders, victims and the community. Each case before the Court is unique. Unique in type and offender circumstance. Liberty does not accept that any minimum baseline-sentencing scheme could reflect the realities of each case.

- d. Liberty also notes that any introduction of such a scheme would have frightful consequences for an already strained indictable trial list in the County Court. The Court is already unable to cope with the cases it has; having up to 10 trials, pleas ect listed in the reserve list in any one week. The introduction of a mandatory baseline sentencing scheme would only add to this delay as offenders would be less likely to plead (and take advantage of the current s.6AAA *Sentencing Act* 1991 discount). This in turn would have similar devastating impact on the funding of these matters by Victoria Legal Aid.

We thank you for the extension of time granted. Should you wish to discuss any aspect of this submission further please contact Jane Dixon or Aggy Kapitaniak through the Liberty Victoria office; 03 9670 6422 or info@libertyvictoria.org.au

