

# Victorian Aboriginal Legal Service Co-operative Ltd

## Newsletter March 2006



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### **Job Vacancy: Project Worker (Koori Legal Access Project) 12 month position**

VALS is seeking to employ a Project Worker (Koori Legal Access Project) to investigate and document access to law and legal services issues affecting Koorie people in Victoria. The position requires a person with knowledge and understanding of the Victorian Koorie Community, skills in analysing policies and practice, excellent verbal and written communication skills, computer literacy, networking skills and a current driver's licence. Applicant must address the Key Selection Criteria which may be obtained by contacting Mr Lance Zampaglione on (03)9419 3888. Aboriginal and Torres Strait Islander persons are encouraged to apply. Applications close on Friday 5<sup>th</sup> May 2006.

### **Staff Update**

VALS farewells Brad Boon who has ceased employment as Client Service Officer.

### **Criminal Law Update**

A VALS solicitor recently attended the Melbourne Juvenile Justice Centre (Centre) on an outreach visit. Despite being eligible for bail, an Indigenous Australian youth was held in custody at the Centre because his private solicitor refused to make a bail application for him. The youth sacked the private solicitor and instructed VALS to make a bail application for him. The youth was granted bail as a result of the assistance of VALS. This is evidence of how valuable the service that VALS provides to the Indigenous Australian community is.

A VALS client was scheduled for a two day Committal at the Magistrates' Court for charges, including armed robbery. After witnesses were cross-examined it became apparent that the police had conducted their investigation in a questionable manner. The Court did not accept the evidence of two witnesses in relation to the identification of the suspect. The case was adjourned for a couple of weeks for the Crown to produce another witness, yet the Crown was unable to do this as the witness had left the country permanently. As a result, the VALS client was discharged on all counts and VALS was awarded costs against the Department of Prosecutions.

### **Waiver of Fees for Fines (31 May 2006 deadline so ACT NOW)**

The State Government is waving some fees on some outstanding fines. Most State Government fines are covered by the amnesty, but most Local Government fines are not. When a person fails to pay a fine on time they may have to pay some fees on top of their fine for being late with payments. Some people do not have to pay some fees on top of their fines.

To find out if you are eligible to have your fees waived call 9200 8222 or go to [www.fines.vic.gov.au](http://www.fines.vic.gov.au).

If you have an existing payment plan and you continue to make your regular payment the fees will be automatically deducted. If you do not have an existing payment plan then you need to Act before 31 May 2006. The waiver offer ends on 31 May 2006 so ACT NOW. To take up this offer you need to pay your fine by doing one of the following things: pay the reduced amount in full, arrange an installment payment plan or arrange for an extension of time to pay.

If you do not do one of these things before 31 May 2005 then your fees will not be waived and you will have to pay them in full. Act NOW!!!

The Darebin Community Legal Service has a lawyer, seconded from Minter Ellison Lawyers, dedicated to dealing with the waiver of fees for the next three months. Loretta O'Neill, VALS Community Legal Education Officer, and the lawyer are providing information sessions on the fee amnesty.

### **Have your say about Discrimination in the Western Suburbs**

The Western Suburbs Legal Service is doing a project to find out about Racial and Religious Discrimination in the western suburbs. The Western Suburbs Legal Service is requesting that people tell them about experiences of discrimination. To find out how to tell your story contact Karen Jackson (Karen.Jackson@vu.edu.au) on 9919 2836 or Bec at the Western Suburbs Legal Service on 9391 2244.

### **Victim Support Agency Information Sessions**

Over the next couple of months the Victim Support Agency (VSA) is conducting information sessions for the Indigenous Australian community about assistance available to victims. The VSA has a Victims of Crime Helpline (1800 819 817, open 8.30am-5.00pm weekdays). The VSA may link you up with a local Victim Assistance and Counselling Program. A person is eligible to receive some free counselling sessions if they have been a victim of a crime in Victoria in the last twelve months.

VALS will attend some of the information sessions to provide information about how VALS can help victims of crime. VALS has a Civil Law Solicitor, Mike Zaccaro, who can help people who have been a victim of a crime. For instance, Mike makes applications to the Victim of Crime Assistance Tribunal (VOCAT) for people who have been a victim of a crime in Victoria in the last two years. An outcome of a VOCAT application may be that a victim receives free counselling or compensation.

The following information sessions will take place in April and RSVP to Peter Rotumah: 0408 579 345 or peter.rotumah@justice.vic.gov.au

- **Healesville:** 18 April from 1.00pm-3.00pm (arrive 12.30 for lunch) - Darren Honey Centre, 286 Maroondah Highway, Healesville (behind the Uniting Church). RSVP by 17 April.
- **Hastings:** 19 April from 10.00am-12.00pm - Peninsula Community Health Service, Cnr Coolstore Road & Victoria Street, Hastings. RSVP by 19 April.
- **Dandenong:** 19 April from 1.00pm-3.00pm - Dandenong & District Aboriginal Co-operative, 3 Carroll Avenue, Dandenong. RSVP by 18 April.
- **St Kilda:** 20 April from 10.00am-12.00pm - ECO Centre, cnr Herbert & Blessington Sts, St. Kilda. RSVP by 19 April.

### **Going Bush Festival**

The Going Bush Festival took place on Saturday 25 February 2006. At the Festival the book, 'Going Bush' was launched. The book is based on the SBS documentary series called 'Going Bush', which features Cathy Freeman and Deborah Mailman. Also, service providers attended the Festival to provide information about their service. VALS shared a tent with the following organisations: Victorian Aboriginal Child Care Agency, Dispute Settlement Centre, Indigenous Issues Unit - Department of Justice and Indigenous Consumers Unit - Consumer Affairs Victoria.

### **Indonesian Government Delegates**

On 31 March VALS was visited by Government Officials from Indonesia interested in learning about Indigenous Australians. The Government Officials are completing a Human Rights Training Course, being conducted by the Castan Centre of Human Rights Law on behalf of the Department of Foreign Affairs and Trade. The Government Officials asked many questions, such as is Aboriginal lore recognised in Australia and how does the Koori Court work?



### **Update on plans to introduce a Bill of Rights in Victoria**

It appears unlikely that the Victorian Government will introduce a Bill of Rights this year. There may still be a change to influence the final form of the Bill of Rights. VALS recognises that a Bill of Rights is a valuable first step to consolidation and improved recognition of rights in Victoria, but is critical of the recommendations of the Government appointed Human Rights Consultation Committee (Committee) about what should be included in a Bill of Rights.

The Committee recommended that a Bill of Rights recognise Civil and Political Rights only. The Committee recommended that the Bill of rights not recognise Economic, Social and Cultural Rights, or the right to self-determination for the time being. VALS asked the Castan Centre for Human Rights Law (Castan Centre) for an expert opinion on the exclusion of the right to self-determination from the Bill and this expert opinion became an appendix of VALS' submission to the Committee, sent in February 2006. It is available at: <http://www.vals.org.au/news/submissions/61VALS%20revised%20submission%20in%20response%20to%20HR%20Report%20sent%20170206.pdf>.

According to the Castan Centre:

- "it is no accident that self-determination is included in both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural rights which together are recognised as the primary statement of human rights principles in the UN human rights system".
- "It is a substantial oversimplification to present the right to self-determination as uncertain in law. There is extensive literature and jurisprudence which clarifies the right. Although some elements of international law and policy concerning self-determination are contested, such as the secession entitlements of colonised peoples, these are issues at the margin of the meaning of self-determination. While these issues are important, they do not apply in the Australian context and do not detract from the clear core meaning of the right."

VALS agrees with the above points and also raised the following points in its submission:

- The meaning of self-determination will of necessity be an evolving idea and this is something to be embraced rather than feared.
- The Committee's arguments for not including the right to self-determination in the Bill of Rights are against the spirit of State Government policy. State Government policy, such as the introduction of the Aboriginal Justice Agreement, aims to improve Indigenous Australian people's rights and go some way to recognising their right to self-determination. There is a place for both generic and s p e c i f i c rights protections in the Bill of Rights, such as Indigenous Australians specific right to self-determination.
- Economic, Social and Cultural rights should be protected in the Bill of Rights, not just Civil and Political rights.

### **Nationals call for Mandatory sentences-There must be an election coming.**

Recent calls for mandatory sentences by the National Party highlight how little politicians care about the Criminal Justice System. Mandatory sentencing is a recipe for wasting public money, putting judges in a strait jacket and increasing the over-representation of disadvantaged groups in the Criminal Justice System.

Someone should do a comparison of what political parties' tough sentencing initiatives really cost in social and economic terms. It is not unusual for politicians to use the old tougher sentencing line as a vehicle to get votes. Sooner or later the reality will bite and people will catch up with the idea that tougher sentencing does not equal smarter sentencing or less re-offending.

It is more surprising to find academics such as Mirko Bagaric attacking the sentencing system. Below is an extract from VALS response to Bagaric's letter to the Herald Sun on 14 March 2006.

#### *Academic Says Harsher Sentences Don't Work and Then Argues for Harsher Sentences.*

Academic Mirko Bagaric's attack on the Victorian sentencing system tries to pretend that Victoria is a paradise for criminals. Nothing could be further from the truth. Victoria is locking up more people for longer sentences than at any time in its history.

In spite of some useful Victorian Government initiatives to assist Aboriginal communities, the big picture is that harsher sentencing policies over the last fifteen years have seen more Aborigines and other disadvantaged groups locked up more than ever before.

Bagaric is well aware of this trend and in a Canberra Times article (20/12/2005) - *How We Punish Ourselves When We Hammer Crims*, co-written with Richard Edney only three months ago, Bagaric argues against punitive sentencing. Bagaric draws attention to the 25% increase in people in prison in Australia over the last decade and says "Sure it feels good to hammer prisoners but in the process we hammer ourselves." The Canberra Times article makes it clear that the rationales underlying the move to harsher penalties are community protection and a view that higher penalties reduce crime. "Given that these objectives are in most cases flawed we should be watering down the severity of punishment" Bagaric and Edney say.

### **Contact Details**

If you require information about the contents of this newsletter or wish to subscribe to the mailing list, please contact VALS. Previous newsletters are available at [www.vals.org.au](http://www.vals.org.au)

