

Victorian Aboriginal Legal Service Co-operative Ltd

Newsletter July-September 2008



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Staff Update

VALS welcomes Josh Smith to the role of Criminal Law Solicitor. Josh is from the Dunghutti nation and grew up in Kempsey on the NSW North Coast. He moved to Sydney when he turned 18 and studied at the University of Technology Sydney (UTS) where he graduated in 2006 with a Bachelor of Law in Australian Indigenous Law. He has previously worked at the NSW Crown Solicitor's Office in the criminal/coronial section. Prior to that he was a contracts lawyer with the New South Wales Department of Ageing and Disability and Home Care and a Cadet Legal Officer at the New South Wales Law Reform Commission. VALS' farewells Tessa Theocharous who served as a criminal lawyer. VALS welcomes Paul Pitsaras to the role of Civil Lawyer.

Criminal Law Update

[Wulgunggo Ngalu Learning Centre](#) was officially opened on 24th September 2008. Wulgunggo Ngalu Learning Centre is a residential diversion program for Aboriginal and Torres Strait Islander adult males who are on Community Based Orders. The name means 'which way together' and is located on the former Won Wron prison site in South Gippsland. At the Centre, Indigenous Australian men are able to connect with their culture as Elders and Respected persons from across Victoria will visit them. The men are able to participate in vocational training and education, work readiness programs and community work. The centre has five full-time Aboriginal staff, with a local Indigenous Advisory Group established to provide cultural information.

Police Complaints

VALS attended a meeting with the Office Police Integrity organised by the Federation of Community Legal Centres. VALS relayed a concern that police are investigating complaints about police from the same police station. Such a practice discredits the integrity of a complaints process.

Victorian Law Reform Commission Community Law Reform

The Victorian Law Reform Commission (VLRC) is in need of ideas for community law reform projects. **If you have any ideas please let us know so we can relay them to the VLRC.**

Tarwirri Conference

VALS' legal staff attended the National Indigenous Legal Conference hosted by Tarwirri, the Indigenous Law Students and Lawyers Association of Victoria. The conference provided an opportunity for discussion of legal issues impacting on the Indigenous Australian community ranging from sports law, criminal law and native title law. It was encouraging to hear from current law students about their commitment to their studies and community.

Family Law Update

VALS acted for a maternal grandmother in Children's Court (Family Division) proceedings. The Department of Human Services (DHS) opposed the daughter and granddaughter living with their mother and grandmother respectively, although all objective signs indicated that both were thriving in her company and with her guidance. DHS maintained such a stance of opposition throughout three days at Court. DHS eventually conceded on the 4th day of Court that it was appropriate for the daughter and granddaughter to live with VALS' client. Our Counsel was **successful in applying for costs** for \$4,302.00. Unfortunately, as the case was legally aided, the costs are not payable to VALS but to Victoria Legal Aid.

Research Update

Coroners Article

VALS is in the process of preparing an article for a special edition of the Indigenous Australian Law Review on Colonial Reform and Preventing Indigenous Death. The edition will hopefully be available at the end of the year.

Human Rights Working Group

VALS is a member of the Human Rights Working Group of the Federation of Community Legal Centres. The Working Group has been established to raise awareness of the Victorian Charter of Human Rights and Responsibilities Act 2006, and to encourage and support Community Legal Centres to pursue effective advocacy work on behalf of clients through practical application of human rights and Charter arguments. **VALS has been involved in drafting a funding submission to this end and will learn of the outcome in November 2008.**

Aboriginal English in the Courts Kit

VALS successfully launched the "Aboriginal English in the Courts Kit" on 30th June 2008. The intended audience of the Kit, which collates information about Aboriginal English, have warmly received the Kit and VALS has not been able to keep up with demand. The intended audience is people who work in the Courts, such as Judges, Magistrates, Barristers, Solicitors and Court Officials. **VALS has sought funding to reprint the Kit and will find out if the application was successful in November 2008.**

Declaration on the Rights of Indigenous Peoples

VALS sent a submission in response to the Human Rights and Equal Opportunity Commission's request for comments on the Declaration on the Rights of Indigenous Peoples that were then to be relayed to the Rudd Government. VALS argued that a commitment to each

element of the Declaration should be emphasised, rather than particular sections of the Declaration. VALS added, if there is no other way to implement the Declaration other than emphasising particular sections then VALS emphasises the following relevant and broad rights:

- Right to self-determination;
- Right to freedom from discrimination;
- Right to financial and technical assistance;
- Right to redress through effective mechanisms.

VALS argued that the Government should take the following steps to show support for the Declaration:

- Immediately adopt the Declaration;
- Implement the Declaration in domestic law;
- Work with Indigenous Australians.

VALS argued that the Declaration is needed as Indigenous Australians do not have full enjoyment of their rights unlike other Australians. There is a need for substantive equality and formal protection of human rights in the Constitution, or a Bill of Rights, rather than relying on the benevolence of Governments as Australian Governments do not have a good record in relation to Aboriginal Affairs. Given this need, **VALS is fully supportive of the Declaration and its full implementation.**

Deemed Served Program

VALS wrote a submission about the Deemed Served Program and it became apparent that many people do not know about it. The Deemed Served Program enables people in prison to have fines they may have to 'be deemed served' whilst they are in prison.

Law and Justice Advocacy Officers meeting

As part of the National Communication and Resource Sharing Project, Aboriginal and Torres Strait Islander Legal Services law and justice advocacy officers met in Hobart on 17th and 18th September 2008. It was interesting to hear first hand from the staff of the North Australian Aboriginal Justice Agency (NAAJA) about the Emergency Intervention in the Northern Territory.

National Indigenous Law and Justice Advisory Body

VALS attended a consultation session on the National Indigenous Law and Justice Advisory Body. The Commonwealth Government is proposing the establishment of this body to provide high level Indigenous law and justice policy advice to the Australian Government.

Community Legal Education Update

Youth Referral and Independent Person Program

VALS is a partner in the Youth Referral and Independent Person Program (YRIPP).

VALS' partnership involves providing cultural awareness training to YRIPP volunteers and VALS has done so for the past 5 years. YRIPP is a co-ordinated Independent Person system of support provided to young people in police custody. When a parent or guardian is unavailable to attend a formal police questions of a young person under 18 years of age an Independent Person is required to be in attendance. The YRIPP program started off as a pilot at 9 police station locations and is being rolled out to 103 police station locations.

Breath tests

VALS produced the information about breath tests

Preliminary Breath Testing

If you do not STOP your car for a breath test when the police have indicated for you to do so then YOU WILL LOSE YOUR LICENCE FOR 2 YEARS

When you are stopped at a random breath testing station, police will ask you to do a preliminary breath test which requires you to blow into a hand held device, this will show the police a reading of alcohol content, if any.

If you REFUSE the Preliminary Test then YOU WILL LOSE YOUR LICENCE FOR A MINIMUM OF 2 YEARS.

Breath Analysis Testing

YOU MUST HAVE A BREATH ANALYSIS TEST

if the Preliminary Breath Test shows that you are over the .05 limit, the Police will ask you to accompany them back to the police station or inside the booze bus for a full Analysis Breath Test

If you REFUSE TO ACCOMPANY POLICE BACK TO THE POLICE STATION OR BOOZE BUS for a Breath Analysis Test YOU WILL LOSE YOUR LICENCE FOR A MINIMIN OF 2 YEARS

**The Breath Analysis Test is the main test to show your correct blood alcohol content but you may wish to appeal against its reading. Get legal advice
For legal advice contact the Victorian Aboriginal Legal Service (VALS) on 9419 3888 or toll free 1800 064 865.**

Youth Calendar

VALS was successful in seeking funding from the Attorney-General's Department (Cth) for a youth calendar as follow up to the highly successful 'Recipes for Justice' calendar produced last year. The calendar titled '[Deadly Youth Calendar: VALS helping making Young Koories Beta, Smarta, Stronga](#)' has been released and provides targeted culturally relevant information to Indigenous Australian youth about the legal system. The project attempts to be engaging by providing, in addition to legal information, a calendar and general information appealing to youth (ie: sporting and beauty tips).

Legal Ways for Young Kooris

VALS and its partners, Consumers Affairs Victoria and Ilbjerri Aboriginal Theatre Group have been working towards delivering the 'Legal Ways for Young Kooris' project. VALS was successful in seeking funding from Kildonan Uniting Care School Focused Youth Service Brokerage Funding for the project. The outcome of the project will be role plays that enact legal and consumer issues to Indigenous Australian youth.

New South Wales Stolen Wages - Registration deadline 31 December 2008

The following information is applicable to Indigenous Australians from New South Wales. There is currently no scheme to register for in Victoria. Between 1900 and 1969 money of Indigenous Australians in New South Wales was placed into Trust Funds. In December 2004 the NSW Government said it would establish an Aboriginal Trust Fund Repayment Scheme. [If money is owed it will be paid to the rightful claimants, or if they are deceased to their descendants](#)

For further information contact the NSW Aboriginal Trust Fund Repayment Scheme call [1800 765 889](tel:1800765889) or PIAC's Indigenous Justice Program Senior Solicitor, Keppie Waters, on [02 8898 6527](tel:0288986527) or kwaters@piac.asn.au.

Registration for the scheme finishes on 31st December 2008.

Contact Details

If you require information about the contents of this newsletter or wish to subscribe to the mailing list, please contact VALS on 03 9419 3888.