

# Victorian Aboriginal Legal Service Co-operative Ltd Newsletter September-October 2005



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## Staff Update

Becky Pattinson who worked in the position of Criminal Law Solicitor on a fixed term contract has departed VALS and secured a position at Victoria Legal Aid (VLA). Interviews for the seconded VLA Family Law position at VALS took place on Friday 21<sup>st</sup> October 2005.

## Human Rights - Victorian Bill of Rights

### *Community Meeting – 7 September 2005*

VALS facilitated a community meeting on 7 September 2005 to discuss a Victorian Bill of Rights which was attended by 20 Indigenous Australians. VALS facilitated the meeting for the Human Rights Consultation Committee (Department of Justice), which funded the meeting. VALS secured support for the meeting from seven Indigenous Australian organisations. The meeting was an outcome of a recommendation made at a similar meeting VALS facilitated on 10 August 2005 which was attended by seventy five Indigenous Australian and non-Indigenous Australians.



The minutes of the two meetings are available on the VALS website. It was suggested at the second meeting that VALS collect documents that have been produced by the Indigenous Australian community that are relevant to the topic of human rights. VALS is in the process of doing this and will send the documents to the Human Rights Consultation Committee who will release a Report in November 2005.



### ***Request for Indigenous Australian to be appointed to the Human Rights Consultation Committee denied***

On 12 August 2005 VALS sent a letter to Attorney-General, Rob Hulls requesting that an Indigenous Australian person is appointed to the Human Rights Consultative Committee. Such a request was recommended by participants of the Indigenous Australian Human Rights Forum (10 August 2005). VALS received a letter from Rob Hulls, dated 15 September 2005, denying this request. Rob Hulls stated “I appreciate the concern members of the Indigenous community may have regarding the composition of the Committee.... [u]nfortunately at this stage, it is unlikely that the Government would be able to identify and appoint an additional member to the Committee”.

### ***Charter of Rights Petition to the Human Rights Consultation Committee***

A comment to the effect of the following was made at the Indigenous Australian Human Rights Forum (10 August 2005): ‘[i]t feels like the horse has bolted and we are trying to catch it. Something needs to be written up, such as a petition in order to get the numbers supporting it. Can the Victorian Aboriginal Legal Service do something?’ A petition to the Human Rights Consultation Committee has been drafted by representatives of VALS and the Victorian Aboriginal Child Care. The petition is available at <http://www.vals.org.au/news/submissions/46%20Charter%20of%20Rights%20Petition.pdf> or alternatively contact Greta Jubb (9419 3888 or [gjubb@vals.org.au](mailto:gjubb@vals.org.au)). Please send the signed petitions to:

Michelle Burrell Human Rights Project  
Department of Justice  
55 St Andrews Place  
East Melbourne VIC 3002

The petition contains seven principles such as

- Ensuring Victorian law is consistent with United Nations Instruments:
- Including in the body of the Charter of Rights the explicit right to self determination for Indigenous peoples in Victoria in regard to their lands and waters, the protection of their culture and early engagement with Government policies and procedures which impact on their future.
- Establishing a Human Rights Commission (Commission) which develops policy and promotes awareness of rights issues and reviews Bills and Legislation.

### **Civil Law Update**

#### *Mediation Conference settled*

VALS settled Complaints at a Mediation Conference in September 2005 at the Victorian Civil & Administrative Tribunal [Anti-Discrimination List] on satisfactory terms for a client. The client approached VALS in October 2004 complaining that his employer had discriminated against him on the basis of race and impairment. One allegation he made was that his employer did not exhibit cultural sensitivity when he experienced a death in the family. Ultimately, the employer’s treatment of the client affected his health and ability to work and ended in his resignation.

## **Criminal Law Update**

### *Increase in failure to appear highlights importance of role of Client Service Officer*

The recruitment process for the position of Client Service Officer (CSO) at Mildura is almost completed. It is expected that an appointment to the position will be made very shortly. VALS has observed a trend whereby the rate at which clients are charged with failing to appear at Court has increased since the position of CSO has been vacant.

In one instance recently at a Court in rural Victoria nine clients, out of a total of twelve, failed to appear before the Court. The remaining three appeared via video-link from the jails where they were imprisoned. This trend highlights the importance of the role that CSOs undertake in making sure that clients are aware of their Court dates.

The role of CSO is an Indigenous Australian designated position. CSOs act as a bridge between the Indigenous Australian community and the legal system. VALS stresses that the CSOs are not taxi drivers who take clients to Court. The CSOs encourage clients to attend Court and follow them up. Also, the presence of CSOs in a supportive capacity at Court may result in more clients attending Court.

### *Victory in having charges dismissed*

A VALS' client was charged with committing an indecent act in the presence of a child, willful exposure in a public place and behave in an indecent manner in a public place. Victoria Police alleged that he was on the fence perimeter of a Primary School when he exposed himself while school children were present. The basis of these charges was the statements of two Department of Human Services (DHS) employees who were driving past the school. The client firmly instructed that this was not the case, and in actual fact he was simply walking home at the time.

Tessa Theocharous (Criminal Law Solicitor) represented the client and contested the charges on his behalf. Photos were taken of the scene which clearly proved that the DHS employees could not have seen what they alleged as they were driving past, given the location of trees, fences and other structures in the way.

At a Contested Hearing one of the DHS witnesses admitted under cross-examination that she only assumed the man was exposing himself and had not actually seen him do it. All the charges were dismissed.

### *Children's Koori Court*

On 9<sup>th</sup> September 2005 Australia's first Children's Koori Court was opened in Melbourne by Attorney-General Rob Hulls and the Minister for Children, Sherryl Garbut. The Children's Koori Court, located inside the Children's Court of Victoria at 477 Little Lonsdale Street, and had its first sitting on 6<sup>th</sup> October and was created under the *Children and Young Persons (Koori Court) Act 2004*. The Children's Koori Court is designed to help reduce the over-representation of Indigenous children in the criminal justice system.

## **Statement of Co-operation**

VALS has formalised its relationship with the two tertiary institutions by signing Statements

of Co-operation with Melbourne University Department of Criminology and the Castan Centre for Human Rights Law at Monash University. These institutions will work closely with staff of the Research, Planning and Development Unit.

Preliminary discussions have taken place between VALS and the Mildura Aboriginal Corporation Indigenous Family Violence Prevention Legal Service at Mildura and it is envisaged that a Statement of Co-operation between the two organisations will be signed in the very near future.

### **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 on the VALS website.