

Victorian Aboriginal Legal Service Co-operative Ltd

Newsletter September-October 2006



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Staff Update

VALS welcomes two new Criminal Law Solicitors: James Corcoran and Alexandra Squarci. James comes to VALS from the Moree office of the Aboriginal Legal Service of NSW/ACT and Alexandra from the Registry of the Family Court of Australia. VALS farewells Helen Webber who has left to take up a position as Outreach Worker at Elizabeth Hoffman House. VALS also welcomes Jon Kanoa to the newly created position of Client Service Officer (CSO) for the Grampians region, located in Ballarat. The former Western District has now been divided into the Grampians and Barwon South West regions and Wayne (Swisha) Bell is still the CSO for the Barwon South West region.

New Ballarat Office

The details at the new Ballarat office are:

- Street Address: Suite 1, 2nd Floor, 11 Lydiard Street Ballarat VIC 3350
- Postal Address: Po Box 516 Ballarat VIC 3353
- Ph: 5331 3211
- Fax: 5331 8792

Civil Law: for civil law assistance call Mike Zaccaro on 9419 3888.

Wills Outreach

On 4th September 2006 VALS Civil Law Solicitor, Mike Zaccaro, visited the Kookaburra Club (Darebin Community Health Centre) to provide information to Indigenous Australians about Wills. The Solicitor provided general information on Wills, such as the importance of not delaying making a Will and using a lawyer to ensure you have a valid legal document. This outreach event provided a good opportunity for the community to find out about Wills and any other Civil Law legal issues. VALS is also performing such outreach at the Aboriginal Community Elders Services

Sexual Harassment in the Workplace - Ask For Advice, Be Empowered, Know Your Rights and Take Action

Sexual harassment in the workplace is one of the matters that form the basis for complaints under the Equal Opportunity Act 1995 [Vic]. Sexual requests can take the form of behaviour, requests, comments or actions of a sexual nature that are unwelcome, offending, humiliating, intimidating and harassing. A person sacked for refusing to comply with requests for sexual favours by an employer, manager, supervisor or others can complain to the Equal Opportunity Commission of Victoria, Victoria Police (being stalked is a crime), Victims Support Agency, which can provide counselling, and the Victims of Crime Assistance Tribunal. It is essential that immediate action is taken to stop the inappropriate behaviour and VALS is here to help.

Criminal Law

New Koori Courts

There are currently six Koori Courts in Victoria. VALS welcomes the extension of this number with the introduction of new Koori Courts (for adults) in Bairnsdale (March 2007) and Swan Hill (June 2007) and a Children's Koori Court in Mildura (end of 2007).

Congratulations Bangerang Cultural Centre

VALS congratulates the Beechworth Correctional Centre and the Bangerang Cultural Centre for together taking out the award for the Most Outstanding New Project at Corrections Victoria's 2006 Community Work Partnership Awards. The Centre has equipped the prison to conduct cultural immersion programs for Koori Prisoners.

VALS Research

Chroming

VALS surveyed staff about the Interagency Protocol between Victoria Police and nominated agencies. The Protocol means that if an Indigenous Australian, who is found chroming or suspected of chroming, is taken to a police station VALS is notified.

The Protocol was developed in response to the Drugs, Poisons and Controlled Substances (Volatile Substances) Act 2003 which does not make chroming illegal but gives police more powers to deal with people who are chroming. Police can search and seize chromers (suspected chromers) and take them to safety or refer them to a service.

The survey revealed that VALS has had a small number of notifications about chroming. In some regions the police have contacted Client Service Officers. The extent of chroming varies from area to area as does police practice and relationships with police. Many people had not heard of the protocol which is available at: <http://www.health.vic.gov.au/drugservices/pubs/volatile.htm>.

Cultural Background as a Factor in Sentencing

VALS welcomes the findings of the Senate Legal and Constitutional Affairs Committee which are critical of the Crimes Amendment (Bail and Sentencing) Bill 2006. VALS does not support the Bill, which seeks to exclude customary law and cultural factors from the sentencing process, and calls for the Government to act in accordance with the findings of the Committee outlined below:

- The legislation could discriminate against Aboriginal and Torres Strait Islanders.
- "Cultural Background" of an offender should remain an essential consideration in sentencing.

VALS repeats the call of the Law Council of Australia that the Government "stop demonising Aboriginal culture and work together with State and Territory Governments, Indigenous community leaders and other key stakeholders to address Indigenous disadvantage."

VALS argued in its submission to the Committee that:

- Consideration of cultural background by Courts is not leading to lenient sentences. It is the experience of VALS that the use of cultural background by courts to justify more lenient sentences is extremely rare.
- Removing the requirement to consider cultural background implies that an integral part of a person's identity no longer retains importance for Courts making sentencing decisions. This is not dissimilar to trying to remove a person's identity.
- Cultural background is not the enemy of the justice system. Court initiatives, such as

Koori Courts, highlight the positive effects of including Aboriginal and Torres Strait Islander knowledge and perspectives (ie: reduced re-offending).

Native Title Decision

VALS welcomes the findings of Judge Murray Wilcox of the Federal Court, that the Nyoon-gar people, Perth's original inhabitants, could prove they had an ongoing connection with the land. VALS is disappointed by Appeals against the Decision by the Federal and the Western Australian Governments.

Smart Justice

Smart Justice Campaign

In September 2006, the Federation of Community Legal Centres (FCLC) launched the 'Smart Justice Campaign 2006'. The FCLC is calling upon community organisations and individuals concerned about social justice and human rights to get involved. To join the Operation Smart Justice Alert List go to: <http://groups.yahoo.com/groups/SmartJustice/> or email SmartJustice-subscribe@yahoogroups.com. For further information go to www.smartjustice.org.au

Flaws of law and order populism

Often during election time politicians talk about the need to get 'get tough on crime' as this is seen to win votes (ie: law and order populism). VALS consistently argues that this approach is flawed because a tough on crime approach has limited deterrent effect, results in more people with mental illness being imprisoned and criminalises marginalised communities. Also, most people want real solutions to crime and violence and when given the facts that are presented to the Judge (ie: not just information in the media) they do not consider the sentence lenient.

Arguments for a smart on crime approach

VALS consistently argues for a 'smart on crime' approach which not only recognises the legitimacy of a criminal justice response but also alternative responses to the criminal justice system. For instance, VALS is currently developing a Police Cautioning and Youth Diversion Pilot Project in Mildura and the La Trobe Valley, which aims to divert youth from the criminal justice system by increasing the rate at which they receive a 'caution' (ie: warning) from police, as opposed to an 'arrest'. This Pilot involves breaking down police attitudes towards Indigenous youth which means they are less likely to receive a caution than non-Indigenous Australian youth (ie: police are tougher on Indigenous youth). The status of the Pilot for La Trobe Valley is that it is awaiting Police approval.

EVENTS

Croc Festival

VALS Community Legal Education Officer, Loretta O'Neill, attended the CROC Festival (17-19 October 2006) in Swan Hill. It is an annual event that builds partnerships whilst celebrating youth and culture. The event brings together Indigenous and non-Indigenous Australians and gives everyone an opportunity to learn about Indigenous culture. It is a fun time that gives Indigenous kids the opportunity to share their culture and talents.

Stolen Wages

The Wampan Wages: Stolen Wages Working Group (Working Group) and Public Interest Law Clearing House organised a Stolen Wages Event Series in October. The event series gave people an opportunity to share their story and hear about the experience of Indigenous people in Queensland, Victoria and the United States of America. The low attendance rate

indicated that not many people know about the issue of stolen wages. Indigenous Australians allege that they worked but never received payment. They also allege they defended Australia at war but received nothing in return.

Dr Elouise Cobell, Elder of the Blackfeet Nation, spoke of her experience of being the lead Plaintiff in the United States of America Federal Court (*Cobell v Secretary of the Interior et al 1996*). The Court said the Government was trustee of Indigenous money and must account for every cent held in trust since 1887. Dr Rosalind Kidd spoke of how stolen wages is a national issue. She was involved in campaigning for the Queensland Government to pay back stolen wages. The Queensland Government offered a maximum of \$4,000 to Indigenous Australians between 2002 and 2006. Joel Wright, a Guntijmara man and member of the Working Group, spoke of how the Victorian Government had the potential to mishandle Aborigine's wages. The Working Group is in the process of drafting a funding submission to the Victorian Government to examine the occurrence of stolen wages in Victoria. The Working Group and VALS have submitted separate submissions to the Senate Committee into Stolen Wages which are available at: http://www.aph.gov.au/Senate/committee/legcon_ctte/stolen_wages/submissions/sublist.htm.



Dr Rosalind Kidd presenting at event 3 at Trades Hall on 13 October 2006

Contact Details

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