



# Victorian Aboriginal Legal Service Co-operative Ltd.

**Head Office:**  
6 Alexandra Parade,  
P.O. Box 218  
Fitzroy, Victoria 3065  
Phone: (03) 9419 3888 (24 Hrs)  
Fax: (03) 9419 6024  
Toll Free: 1800 064 865

9 December 2004

Mr Jon Cina  
Victorian Parliament Law Reform Committee  
Level 8, 35 Spring Street  
MELBOURNE VIC 3000

**Re: Inquiry into Warrant Powers and Procedures**

Thank you for your email on 2 December 2004. Please find VALS' response to your questions below.

**1. *Information to be sent to Victoria Police.***

VALS consents to the Victorian Parliament Law Reform Committee sending the VALS 10 November 2004 letter (excluding the list of police complaints referred to the Ombudsman), to Victoria Police for comment. Victoria Police already have copies of the paper titled 'Koori Young People, Diversion and Police Cautioning'. Both Victoria Police and VALS are involved in a Steering Committee on the issue of cautioning.

**2. *Implementation Status of the recommendations in VALS' "Koori Young People, Diversion and Police Cautioning" paper.***

VALS is not aware of any of the recommendations in the VALS' paper "Koori Young People, Diversion and Police Cautioning" being implemented. VALS repeats calls for these recommendations to be implemented.

**3. *Effect on arrested Indigenous Australians when Victoria Police do not notify VALS of the arrest within a reasonable time.***

The effect on arrested Indigenous Australians when the police do not notify VALS of the arrest within a reasonable time is as follows:

- Indigenous Australians are denied access to legal advice and may be unaware of their rights. Access to a lawyer is a fundamental human right and those who are denied this right when being interviewed by police are at a disadvantage compared to those who are given this right.
- Indigenous Australians are denied the support that VALS staff may provide through direct contact with the Indigenous Australian at the police station (ie: over the phone or in person) When police notify VALS that an Indigenous Australian is taken into custody VALS will contact the police station. VALS staff can assist Indigenous Australians by explaining the interview process or what the police say.

- If the Indigenous Australian has no contact with VALS, the Indigenous Australians may feel isolated, intimidated by police and vulnerable to confusing and misleading lines of questioning by police.
- Indigenous Australians are denied the peace of mind that VALS knows where they are and will hold police accountable for any actions.
- Indigenous Australians are denied the opportunity to inform VALS of their well-being or if they have been treated appropriately by police.
- Indigenous Australians may die in police custody in the worst case scenario.

#### **4. VALS comments on the agreement with Ombudsman Victoria and the role and effectiveness of the Aboriginal Liaison Officer**

VALS has concerns about the role and effectiveness of the Aboriginal Liaison Officer (ALO) at Ombudsman Victoria. Mr Brett Cunningham is the current Aboriginal Liaison Officer and his ability to assist Indigenous Australians was reduced when his role changed from Aboriginal Investigations Officer (AIO) to ALO (VALS was notified of this change in late October 2004). VALS is concerned that the role of Aboriginal Liaison Officer fails to provide for direct involvement in the investigation and handling of complaints, which undermines the effectiveness of the role.

VALS has a good working relationship with Mr Cunningham and is aware of his valuable contribution to the Indigenous Australian community as AIO and ALO. However, Mr Cunningham's new role of ALO has limited his ability to assist Indigenous Australians in comparison to his previous role of Aboriginal Investigations Officer. For instance, he no longer handles the investigation of complaints, but merely oversees complaints handled by non-Indigenous Investigation Officers. He is no longer a direct point of contact for Indigenous Australians wishing to lodge a complaint with Ombudsman Victoria. The limiting of Mr Cunningham's role has the potential to limit the accessibility of Ombudsman Victoria. For instance, Indigenous Australians prefer to deal with Indigenous Australians.

VALS calls for the reinstatement of Mr Cunningham's previous role of investigating complaints from beginning to end. VALS also calls for a commitment from Ombudsman Victoria to employ at least two ALOs to cope with demand.

Thank you for your inquiries and if you have further questions please do not hesitate to contact Greta Jubb.

Yours sincerely

**Victorian Aboriginal Legal Service Co-operative Limited**

**Frank E Guivarra**  
**Chief Executive Officer**