



# 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

## **VALS Submission to the Victorian Parliament Law Reform Committee in response to the Coroners Act 1985 Discussion Paper (April 2005) – sent 25 July 2005**

VALS notes that the Coroners Act 1985 Discussion Paper (Discussion Paper) is filled with references to the Royal Commission into Aboriginal Deaths in Custody (1991 - RCIADIC). VALS is not an expert body on coronial investigations and is not aware that any of the RCIADIC Recommendations in relation to coronial investigations are controversial within the Indigenous Australian community or to non-Indigenous Australians involved in coronial investigations. As a result, VALS approves of the instances in the Discussion Paper when a Recommendation of the RCIADIC is raised as a suggested reform point. VALS is not in a position to comment on all of the references to the RCIADIC in the Discussion Paper, after all the RCIADIC made 179 Recommendations concerning the criminal justice and coronial systems.<sup>1</sup>

The RCIADIC Recommendations have not been adequately implemented in the context of coronial investigations and this needs to be rectified. Please see VALS' response to question 28, in particular, for suggestions about how to go about this.

### **VALS RESPONSE TO QUESTIONS**

- 4. Do you think the current definitions in the Act of “deaths in custody” and “deaths in care” as categories of deaths reportable to a Coroner are adequate or should the categories be extended in any way—for example, to include deaths of other vulnerable persons?**

VALS supports broad definitions of ‘death in care’ and ‘death in custody’. Indigenous Australians are arguably over-represented in the category of being ‘in care’ and ‘in custody’. Indigenous Australians are ten times more likely to enter the Child Protection system than non-Indigenous Australians.<sup>2</sup> According to a Fact Sheet published by the Office of Women’s Policy, in 30 June 2003, the over-representation rate of Indigenous Australian women in prison in Victoria was 12.2 and the over-representation rate of Indigenous Australian men was 11.8.<sup>3</sup>

<sup>1</sup> Deaths In Custody: How Many More? (1997) 2 AILR 551

<sup>2</sup> Department of Human Services Protecting Children: Ten Priorities for Children’s Wellbeing and Safety in Victoria” (2004)

<sup>3</sup> Office of Women’s Policy (Victorian Department of Community Services) Justice and Safety Figures and Fact Sheet ‘Facts And Figures About Victorian Women’ as at [http://www.women.vic.gov.au/web12/rwpgslib.nsf/Graphic+Files/Justice\\_Safety/\\$file/Justice\\_Safety.doc](http://www.women.vic.gov.au/web12/rwpgslib.nsf/Graphic+Files/Justice_Safety/$file/Justice_Safety.doc)

Broad definitions of ‘death in care’ or ‘custody’ will ensure that the broad range or circumstances in which Indigenous Australians come into care or custody are classified as ‘reportable deaths’.

In particular, VALS supports the recommendation of the RCIADIC that the definition of ‘death in custody’ should include at least the following categories:

1. The death wherever occurring of a person who is in prison custody or police custody or detention as a juvenile.
2. The death wherever occurring of a person whose death is caused or contributed to by traumatic injuries sustained or by lack of proper care whilst in such custody or detention.
3. The death wherever occurring of a person who dies or is fatally injured in the process of police or prison officers attempting to detain that person.
4. The death wherever occurring of a person who dies or is fatally injured in the process of that person escaping or attempting to escape from prison custody or police custody or juvenile detention.<sup>4</sup>

**11b: Should the Act be changed so that the State Coroner is appointed for a defined period. If so, how long should the appointment be for?**

The Act should be changed so that the State Coroner is appointed for a defined period. VALS supports the argument made by the Aboriginal and Torres Strait Islander Commission (ATSIC), in its Report into Indigenous Deaths in Custody, that State Coroners should be appointed on a lifetime basis.<sup>5</sup> The tenure of Coroners should be secure in order to enable them to be critical of Government without fear of losing their tenure (ie: independent and impartial). This way there is more chance of addressing systemic issues and preventing avoidable deaths. This is especially the case if the outcomes of coronial investigations are to be used to influence future practice (see question 29 below about the role of the Coroner in the prevention of avoidable deaths).

**13(g) Should the Act specifically require Coroners to have regard to the Recommendations of the Royal Commission into Aboriginal Deaths in Custody relating to the investigation of deaths in custody?**

The Act should specifically require Coroners to have regard to the Recommendations of the RCIADIC relating to the investigation of deaths in custody. The guidelines will cater for the specific context of Aboriginal deaths in care or custody if they are based on the RCIADIC Recommendations. VALS supports the inclusion in legislation of similar provisions to that which exist in Queensland which requires that the State Coroner to issue investigation guidelines to which Coroners are required to comply with.<sup>6</sup>

VALS endorses Recommendation 8 of the RCIADIC.....”[t]hat the State Coroner be responsible for the development of a protocol for the conduct of coronial inquiries into

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<sup>4</sup> Victorian Parliament Law Reform Committee Coroners Act 1985 Discussion Paper (April 2005)p19

<sup>5</sup> Aboriginal and Torres Strait Islander Commission, *Indigenous Deaths in custody* 1989-1996)

<sup>6</sup> Victorian Parliament Law Reform Committee Coroners Act 1985 Discussion Paper (April 2005)39

deaths in custody and provide such guidance as is appropriate to Coroners appointed to conduct inquiries and inquests”.

**14(a) Should Coroners have the power to require investigating police officers to report directly to Coroners and to issue directions to police officers concerning investigations, as recommended by the Royal Commission into Aboriginal Deaths in Custody in 1991?**

VALS supports the RCIADIC criticism of the lack of legal power given to Coroners to require police officers to report to Coroners. VALS calls for the implementation of RCIADIC Recommendations that Coroners should be given this power as well as the power to give directions to police officers in relation to the investigation. VALS supports the legislative enactment of powers of Coroners similar to those of other State jurisdictions that enable Coroners to direct police in coronial investigations (ie: Northern Territory).

**14(b) In your opinion, are there any kinds of coronial investigations where it is not appropriate for the investigations to be undertaken by police officers? What alternatives could be considered? Are there any resource issues to consider?**

VALS agrees with the Australian Institute of Criminology research that there is likely to be ‘either a perceived or actual conflict of interest which might interfere with either the public confidence in the investigatory process, or the actual conduct of the investigatory process’ when police officers play a role in Coroner’s investigations into deaths in police custody.<sup>7</sup>

**15(b) Should the law require Coroners to appoint lawyers to assist inquiries in relation to the investigation of deaths in custody?**

The law should require Coroners to appoint lawyers to assist inquiries in relation to the investigation of deaths in custody. VALS supports recommendation 28 of the RCIADIC that, in relation to deaths in custody, the State Coroner should appoint a solicitor or a barrister to assist the Coroner who will conduct the inquiry. VALS supports the further Recommendation that the lawyer’s role should be to ensure that all relevant evidence is brought to the attention of the Coroner and tested<sup>8</sup>. VALS supports the enactment of legislation similar to that in the ACT which specifically requires Coroners to appoint a lawyer to assist inquests into deaths in custody.

**17(b) Should the current category of mandatory inquests be extended?**

VALS argues that the current category of mandatory inquests be extended. VALS argues that Act should not only require that the Coroner be required (ie: mandatory) to only hold an inquest when a person who died was, immediately before death, a person held in care. The Act should also require that an inquest must be held when a person who died was,

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<sup>7</sup> Federation of Community Legal Centres submission of the Victorian Parliament Law Reform Committee

<sup>8</sup> Victorian Parliament Law Reform Committee Coroners Act 1985 Discussion Paper (April 2005) 42

immediately before death, a person held in custody. Furthermore, the mandatory inquest should not be limited to cases where ‘immediately’ before death a person was in custody or care, but should be broader.

Please see VALS’ response to question 4 above which supports a broad definition of persons ‘in care’ and persons ‘in custody’ and RCIADIC Recommendation 6 which is relevant here.

**18(a) Are there any issues or concerns with the current criteria Coroners use to determine if a discretionary inquest should be held?**

VALS has concerns with the impact on the Indigenous Australian community of Coroner’s power to make a discretionary inquest. VALS is concerned that a Coroner may be influenced by bias in using his discretion to hold an inquest, or to continue or recommence an inquest (re: Question 19b). VALS is aware of arguments that investigations into Aboriginal deaths in custody or care do not occur as often as they should. This is arguably a result of an attitude to the effect of “... oh well... another Aboriginal death in care or custody”. As they happen so often we will not both looking into this case any further’ (ie: threshold issue or what triggers an inquest). This attitude reflects a de-sensitisation to Aboriginal deaths in custody and care and is racist as it treats Indigenous Australians as second class citizens.

VALS is aware of a similar phenomenon in the context of family violence. Some Courts do not grant Intervention Orders to Indigenous Australian women because the Court incorrectly subscribes to the myth that family violence is party of Aboriginal culture and the norm.

Arguably, Coroners are not the only officials to subscribe to incorrect myths. VALS is also aware of arguments that Doctors have been known to record a death as a ‘natural cause’ when this is not the case because they subscribe to the mindset outlined above.

**28 Do you have any comments regarding the implementation of the 1991 RCIADIC Recommendations relating to coronial investigations?**

It would be easy for VALS to recommend to the Victorian Parliament Law Reform Committee (Committee) to implement the relevant Recommendations of the RCIADIC. However, VALS acknowledges that it is not as simple as that, largely because over a decade has lapsed since the RCIADIC Recommendations were made and changes have occurred in that time. Changes to the policy and political climate over the past decade mean that Governments have been having to come to terms with how to implement the Recommendations of the RCIADIC during a time when the scale of problems facing Indigenous Australians and degree of difficulty has been worsening. This is certainly a challenge.

However, VALS argues that the fact that the Recommendations are over ten years old is no reason to disregard them as they still remain relevant today and are a pertinent viable

currency in which to frame attempts to address the needs of the Indigenous Australian community. The Recommendations are still highly relevant to the pursuit of better justice outcomes for Koorie people. VALS also argues it is possible to read the RCIADIC Recommendations in the context of 2005.

### **Suggestions on how the Committee can read the RCIADIC in the context of 2005:**

VALS has the following suggestion on how the Committee can read the RCIADIC in the context of 2005:

#### ***Consultation***

If the Committee had doubts over the value of a Recommendation or how to implement it in the context of 2005 the Committee should consult relevant people, such as Indigenous Australians.

#### ***Report of the Implementation Review Team of the RCIADIC***

A tool that Committee has at its disposal to read the RCIADIC Recommendations in the context of 2005 is the soon to be released Report of the Implementation Status of the RCIADIC (October 2005). VALS recommends that the Committee consider the Report in formulating reforms to the Coroner's Act 1985. The reason for this is that the Report will provide a current interpretation of the RCIADIC Recommendations in relation to coronial investigations and their implementation status. Also, the scope and quality of this review of the implementation of the RCIADIC is unprecedented as it is the first time that Government were not required to perform a self assessment, but inquiries were made through an external process. The Department of Justice conducted the review and appointed as Co-Chairpersons two highly respected members of the Indigenous Australian Community in Victoria..

#### ***VALS' Submission to the Implementation Review Team of the RCIADIC***

Another tool that the Committee has at its disposal to read the RCIADIC Recommendations in the context of 2005, is the VALS submission to the Implementation Review Team of the RCIADIC. VALS made observations in the submission which may provide useful in tackling how to implement the Recommendations in the future and what mistakes not to make. VALS identified reasons why the Recommendations have not been implemented to date and how to implement them in the future as follows”:

- lack of resources to implement the Recommendations;
- lack of consultation on how best to implement the Recommendations;
- Commitment to policies which are counter to the successful implementation of the Recommendations;
- Policies which are too broad to guide action. The 339 Recommendations are too numerous and comprehensive to provide an accessible strategic guide to progress on implementation and the project focus of the Victorian Aboriginal Justice

Agreement (VAJA) was too narrow to facilitate a more broadly strategic approach.

### **What to take into account in implementing the Recommendations of the RCIADIC**

VALS also identified what to take into account in implementing the Recommendations and these are as follows:

- new macro policy environment.
- lessons from the achievements of the VAJA.

#### Macro Policies

In the submission to the Implementation Review Team of the RCIADIC, VALS identified macro policies over the last decade and the results of these policies as follows:

- Campaigns of intolerance against Indigenous Australians.
- Consistent media coverage of the Courts and prisons premised on the assumption that if enough people were locked up for long enough crime problems would be solved (ie: tough on crime approach). The 91% increase in Indigenous Australian prisoners over the last 12 years compared to a 62% increase for non Indigenous people highlights the impact of harsher sentencing policies and practices. The macro policies, the punitive sentencing regime and the media hysteria that leads to almost double the number of Koori people in prison today compared to 12 years ago.
- A Government mindset that lacks recognition that effective programs and policies, effective justice systems and effective Government require a willingness to be flexible, recognise difference and respond to difference. The Government is reluctant to recognise difference (ie: substantive equality) for fear of creating two systems of justice.
- Implementation problems because the macro policies have a flow on effect in terms of morale, having to explain to people why there needs to be a policy or a service or a strategy and having to justify to people why knowing something about Indigenous Australians.
- Government trend to overlook Indigenous Australian's right to self determination (ie: abolition of the Aboriginal and Torres Strait Islander Commission).
- Mainstreaming of Indigenous Australian services.

#### Future Progress towards Implementation of the RCIADIC

VALS identified a range of ways that the policy climate and community awareness of the need for RCIADIC issues implementation could be improved. These include:

1. Reaffirm the importance of working in partnership with the Koorie Community and finding ways to do this more effectively.

2. Programs and policies to increase knowledge about and discussion of rights protection mechanisms and the role of human rights standards and other mechanisms to establish a fair and just system of resource distribution and dispute resolution by Parliaments, Governments and Courts. (This could help debunk the myth that treating everybody the same is the only or the best means of achieving justice)
3. Law making, implementation and policy making has to be more inclusive and transparent to reduce the level of cynicism about the role of Government and Courts.
4. The idea that new laws and longer sentences are effective means of achieving compliance needs to be recognised as one that has limited effectiveness.
5. The importance of community understanding and engagement in problems and solutions associated with critical social and justice issues needs to be promoted.
6. A more comprehensive Government commitment to reducing systemic disadvantage using a range of strategies. A subset of this policy would be promoting awareness that disadvantaged groups and minority group's views and interests should be respected and listened to.
7. Any proposed new legislation should, prior to development, be subject to an analysis by people with Indigenous, non-Indigenous and academic perspectives of its impact on Koorie people. The analysis could encourage things such as alternatives to legislation to be considered, how consistent the proposed legislation was with other legislation, capacity of the legislation to cause confusion, ambiguity and cost, impact on other disadvantaged groups, impact on legal aid, and human rights impacts.
8. Instead of a 'whole of government' approach to RCIADIC implementation (which is utopian and difficult to establish), a more strategic approach might identify key issues areas and key stakeholders. Thus an arc or matrix of people identify possible responses to key issues and then strategies to implement them.
9. Some key outcomes or indicators around specific issues could be established to provide a road map which was easily identified. In relation to sentencing this could take the form of an objective of reducing the total number of Indigenous prisoners and the overrepresentation rate. It could also involve an Education Strategy to build community support. This could involve the Sentencing Council, Crime Prevention Victoria, Corrections Victoria, Regional Aboriginal Justice Advisory Committees (RAJAC), community organisations and the media.
10. Other areas of critical importance where headline indicators might assist continuing recognition of the issues are in relation to self determination, education, Indigenous people and police and relations with non-Indigenous community and child welfare.
11. The RCIADIC Implementation Review must be an ongoing process, rather than an occasional review.
12. There needs to be a much smaller number of 'headline' or report card items which are identified as key performance indicators which facilitate a clearer and more strategic use of the Recommendations to guide action and monitor progress.

***Dialogue with VALS about Recommendations that relate to Aboriginal Legal Services***

VALS notes that RCIADIC Recommendations 38 and 39 relate directly to Aboriginal Legal Services. VALS has not had any discussions to the effect of the Recommendations and is prepared to enter into discussions about this.

Recommendation 38: “The Commission notes that whilst the conduct of a thorough autopsy is generally a prerequisite for an adequate coronial inquiry some Aboriginal people object, on cultural grounds, to the conduct of an autopsy. The Commission recognises that there are occasions where as a matter of urgency and in the public interest the Coroner may feel obligated to order that an autopsy be conducted notwithstanding the fact that there may be objections to that course from members of the family or community of the deceased. The Commission recommends that in order to minimise and to resolve difficulties in this area the State Coroner or the representative of the State Coroner should consult generally with Aboriginal Legal Services and Aboriginal Health Services to develop a protocol for the resolution of questions involving the conduct of inquiries and autopsies, the removal and burial of organs and the removal and return of the body of the deceased. It is highly desirable that as far as possible no obstacle be placed in the way of carrying out of traditional rites and that relatives of a deceased Aboriginal person be spared further grief. The Commission further recommends that the Coroner conducting an inquiry into a death in custody should be guided by such protocol and should make all reasonable efforts to obtain advice from the family and community of the deceased in consultation with relevant Aboriginal organisations”

Recommendation 39. “That in developing a protocol with Aboriginal Legal Services and Aboriginal Health Services as proposed in Recommendation 38, the State Coroner might consider whether it is appropriate to extend the terms of the protocol to deal with any and all cases of Aboriginal deaths notified to the Coroner and not just to those deaths which occur in custody”

There should also be dialogue with VALS by the Committee about how to prevent avoidable deaths in custody or care (see question 29). VALS is the primary provider of legal services to Indigenous Australians in Victoria and is aware of the reality of the risk of Indigenous Australian deaths in custody as is apparent from the following case studies:

*Case Studies:*

A VALS’ client, in March 2004, attempted to hang himself in the cells at the Swan Hill police station, using his belt. The fact that the client was placed in the cells with his belt is in breach of Police Operating Procedures. It ignores the RCIADIC finding that belts are an object used by people to hang themselves, and that hanging points in cells need to be eliminated.<sup>9</sup> Recommendations (122-128) deal with safety in custody and highlight the importance of addressing the above matters.

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<sup>9</sup> RCIAIC (1991) paragraph 3.2.4

VALS argues that the fact that the VALS' client is alive today is not a result of the effective implementation of the Recommendations in terms of management and planning. Instead, the client is alive today due to the quick actions of a fellow prisoner and extremely good fortune.

**29(a) How effective do you think the current system is in preventing death and injury?**

The current system is not effective in preventing death and injury. This is because the potential of the coronial process to prevent avoidable deaths is not fully realized. This has resulted in one hundred and forty seven Indigenous Australians dying in custody since the RCIADIC, compared with ninety nine deaths in the previous decade (Aboriginal and Torres Strait Islander Social Justice Commissioner).

**19(b) Do you think that the preventative role of the Coroner should be expanded in any way? Should the preventative role of a Coroner be a specific function of the Act?**

The preventative role of the Coroner should be expanded. The preventative role of a Coroner must be a specific function of the Act. The Coroner is in a position to prevent Aboriginal deaths in custody and care because the Coroner is aware of the causes of deaths in custody or care. This information should be shared with outside bodies, such as Victoria Police, Department of Human Services or the Victorian Aboriginal Child Care Agency. The information the Coroner has is a resource that is not be used effectively. The inability to capitalise on this resource, as well as failure to implement the RCIADIC, means that avoidable deaths are occurring

VALS supports the implementation of the RCIADIC Recommendations, in particular Recommendations 13-23 that a Coroner inquiring into a death in custody be required by law (ie: responsibility) to make Recommendations, that these Recommendations be provided to relevant parties, Recommendations be required to be acted upon, and that the Coroner be empowered to take action to ensure that Recommendations are acted upon. Currently, the making of Recommendations is not mandatory. According to the AIC, coroners do not make Recommendations in all cases where such Recommendations may be appropriate "not enough advantage is taken of the opportunity to learn preventive lessons from investigations into deaths in custody cases, and this deficit is reflected in the lack of appropriate Recommendations, overall." (AIC p.15). If a RCIADIC Recommendation is not followed this should make up the subject matter of a recommendation by the Coroner.

However, the Recommendations need to be given more weight or the Coroner needs more powers or authority to enforce recommendations. The Recommendations of Coroners should be tabled in Parliament. This will ensure wide publication of Recommendations. It will also embarrass the subject of the Recommendations (ie Victoria Police) which will result in change or accountability.

**29(c) Should the Act require a mandatory response to certain coronial Recommendations? Should the State Government be required to provide a written response to certain Coronial Recommendations within a specified timeframe? Should responses to Recommendations be required to be tabled in Parliament?**

The Act should require a mandatory response to certain coronial Recommendations. The State Government should be required to provide a written response to certain Coronial Recommendations within a specified timeframe. Responses to Recommendations should be required to be tabled in Parliament. This will be a way of giving the Coroner more power and develop a mechanism for change. VALS supports the model in Act/NT where a response is required.

**29(d) Should anyone be responsible for monitoring the implementation of Coroner's Recommendations? Who do you think should be responsible?**

The State Coroner should be responsible for monitoring the implementation of the Coroner's Recommendations.

**31a In general terms, what do you identify as the needs of a member of the community who is involved in the coronial process following the death of a family member or friends**

VALS argues that the needs of a member of the Indigenous Australian community who is involved in the coronial process following the death of a family member or friends is for a coronial process that reflects an understanding of the relevance of Aboriginal culture and community. VALS argues that a protocol needs to be established about cultural issues in the objection to an autopsy (please see response to questions 13g. Currently the ability of the Act to meet the needs of family is questionable (see below).

**31b Should the Act define the term "family member"? Who should be included in the definition?**

The Act should define the term "family member" and Indigenous Australian familial relationships should be included in the definition (ie: inclusive definition). There should be legislative recognition of Indigenous familial relationships. VALS argues that the exclusion in s29 of the Act of persons *other than* the senior next of kin is discriminatory as it results in failure to consider the needs of other members of the Aboriginal community or Aboriginal Elders and respected persons. The term 'family member' needs to be broadened to take into account the differing nature and constitution of Indigenous Australian families and family relationships (extended family or kinship networks).

**33(a) Should the Act specifically give the family of the person who has died the option of viewing and touching the body while the body is under the control of the Coroner?**

VALS supports RCIADIC recommendation 25 that when a death in custody occurs, the family of the person who has died should have the right to view the body.

**36(b) Should the Act require a Coroner to have regard to the Recommendations made by the Royal Commission into Aboriginal Deaths in Custody relating to notifying immediate family members regarding the inquest?**

VALS supports the enactment of a requirement that a Coroner have regard to the Recommendations of the RCIADIC relating to notifying immediate family members regarding the inquest.

**37(a) Should the Act require the Coroner to notify the senior next of kin that the Coroner proposes to order an autopsy and that the senior next of kin has a right to object to a direction that an autopsy be performed?**

VALS believes that the Act should require the Coroner to notify the senior next of kin or relevant family member of the proposal and give the senior next of kin the right to object to the autopsy being performed.

**37(c) Should the Act permit anyone else besides the senior next of kin to object to the Coroner directing that an autopsy be performed?**

The Act should permit people *other than* the senior next of kin being able to object to the Coroner directing that an autopsy be performed. VALS argues that limiting the right to object to an autopsy to the senior next of kin is discriminatory towards members of the Indigenous Australian community, Indigenous Australian Elders and respected persons and others who have a cultural interest in whether the autopsy is performed.

The exclusion in section 29 of the Coroners Act 1985 of persons other than senior next of kin (ie: members of the Aboriginal community or Aboriginal elders and respected persons objecting to autopsies should be rectified

In *Green v Johnstone*, the most senior Aboriginal man in the Gippsland region did not have standing to initiate an objection to an autopsy.<sup>10</sup> Justice Beach ordered that no autopsy be performed in recognition of the fact that it was contrary to Aboriginal cultural and religious law. VALS agrees with Justice Beach that ‘in a multicultural society great weight should be given to the cultural and spiritual laws and practices of the various cultural groups forming our society and that great care should be taken to ensure that their laws and practices, assuming they are otherwise lawful, are not disregarded or abused’. VALS argues that the Act should be amended to reflect a recognition of the relevance of cultural objections to autopsies similar to that of Justice Beach.

The Coroners Act 1985 should also be amended to reflect the following comments of Royal Commission into Aboriginal Deaths in Custody (RCIADIC 1991) Commissioner Elliott Johnson QC, supported by Justice Beach:

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<sup>10</sup> *Green v Johnstone* [1995] 2 VR 176

- “no autopsy should be performed until the Coroner has made every reasonable effort to contact the deceased’s family and other interested persons to give them an opportunity to make representations in relation to the conduct of an autopsy”. VALS notes that Johnson did not limit standing to next of kin, but ‘other interested persons’, which could incorporate Indigenous community members, Aboriginal elders and respected persons.

Additionally, the Coroners Act 1985 could be amended to reflect the Coroners Act (NT) 2000 which includes the following in the definition of next of kin: “where a person is an Aborigine - a person who, according to the customs and tradition of the community or group to which the person belongs, is an appropriate person” [s3(e)].

**43 Should the Act require the State Coroner’s Office to inform family members about the availability of the free counselling service?**

The Act should require the State Coroner’s Officer to inform family members about the availability of the free counseling service. VALS argues that the free counseling service should be culturally sensitive and meet the needs of the Indigenous Australian community in order for it to be accessible. For instance, Indigenous Australian counselors could be employed or non-Indigenous Australian counselors could receive cultural awareness training. VALS argues that there should be a publication specific to the Indigenous Australian community that draws their attention to the free counseling services. The publication could go further and explain the coronial investigation process and rights in a manner appropriate for the Indigenous Australian community. It is VALS experience that simplified pamphlets that are identifiable to the Indigenous Australian community (ie: Aboriginal artwork) are effective.

Thank you for considering VALS submission in response to the Coroners Act 1985 Discussion Paper. If you have any queries please do not hesitate to contact Greta Jubb (Research Officer) on 9419 3888.