



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

Victorian Aboriginal Legal Service Co-operative Limited Submission (14 October 2004)

Response to the Victorian Parliament Law Reform Committee Warrant Powers and Procedures Discussion Paper (July 2004)

INTRODUCTION

The Victorian Aboriginal Legal Service Co-operative Limited (VALS) welcomes this opportunity to respond to the Warrant Powers and Procedures Discussion Paper (July 2004). The Discussion Paper contains many comments from stakeholders that VALS agrees with. Also, many of the issues raised in the Discussion Paper support the comments VALS made in its preliminary submission.

CONCERNS ABOUT WARRANT POWERS AND PROCEDURES

VALS has the following concerns about warrant powers and procedures:

LACK OF FAIRNESS

1 Warrant Powers and Procedures are used to Over-police Indigenous Australians

VALS notes that by their nature warrants impact upon the civil liberties of Indigenous Australians. As a result it is essential that safeguards are in place to ensure that warrant powers and procedures are fair, consistent and efficient. It is essential that the impact of warrant powers and procedures on Indigenous Australians is addressed by the Victorian Parliament Law Reform Committee (VPLRC) inquiry into warrant powers and procedures.

Indigenous Australians are subjected to over-policing which is both a result of and contributes to poor relations between Indigenous Australians and Victoria Police. VALS is concerned that warrant powers and procedures are used as a vehicle to over-police Indigenous Australians.

The warrant system has a disproportionate impact on the lives of Indigenous Australians in comparison to non-Indigenous Australians. This is due to the over-representation of Indigenous Australians in the criminal justice system and the extreme disadvantage of Indigenous Australians. If warrant powers and procedures are implemented in an unfair,

inconsistent or inefficient manner, it is likely they will have a detrimental impact on Indigenous Australians.

Examples of the use of warrants to over-police Indigenous Australians:

Warrant to arrest

Indigenous Australians are more visible to police than non-Indigenous Australians, represented by the fact that the former are twelve times more likely to be incarcerated than the latter. The increased likelihood of Indigenous Australians coming into contact with the criminal justice system translates to their increased likelihood of being subjected to warrant powers and procedures

Remand Warrants

Indigenous Australians are more likely than non-Indigenous Australians to be placed on remand, which means that Indigenous Australians are more likely to be subjected to remand warrants. In September 2003, Indigenous Australian prisoners were more likely to be on remand (22%) than non-Indigenous Australian prisoners (19%).¹

RECOMMENDATIONS

General:

- 1.1 Given the high likelihood of Indigenous Australians being impacted upon by warrant powers and procedures, it is essential that warrant powers and procedures, and officials/agencies enforcing them, take into account issues affecting the Indigenous Australian community and are culturally sensitive.
- 1.2 VALS urges the VPLRC to inquire into the extent to which Indigenous Australians and non-Indigenous Australians are subjected to warrant powers and procedures and the impact this has on Indigenous Australians.
- 1.3 Given the over-representation of Indigenous Australians in the criminal justice system, safeguards should be in place to ensure the warrant system does not unfairly impact Indigenous Australians.

Specific:

- 1.4 VALS recommends that the VPLRC enter into meaningful consultation with the Indigenous Australian community about warrant powers and procedures. The consultation process *must* not be rushed and should include the opinions of people such as men, women, adults, juveniles, Elders, current prisoners and ex-prisoners. It is too common a story for the perspective of Indigenous Australians to be

¹ Victorian Implementation Review of the Recommendations from the Royal Commission into Aboriginal Deaths in Custody Discussion Paper (March 2004), p 15.

overlooked, or consultation processes to be rendered ineffective because of constrictive timelines.

2 Penalty Enforcement by Registration of Infringement Notice

VALS repeats concerns raised in the preliminary submission that once the Sheriff becomes involved (ie: execute penalty enforcement warrant) individuals have an inadequate amount of time (ie: seven days) to pay before harsher measures are taken (ie: seizure of property/arrest). Given the low socio-economic status of Indigenous Australians, the Indigenous Australian community is adversely affected by the manner in which penalties are enforced (ie: cycle of poverty/over-representation in the prison).

VALS is concerned whether the Enforcement Review Program (ERP) is responsive to the needs of Indigenous Australians. In explaining the ERP, the Discussion Paper did not mention that the special circumstances of Indigenous Australians are taken into account specifically. However, VALS concedes that the experience of Indigenous Australians can fall within the circumstances listed: social dysfunction, homelessness, mental illness, intellectual disability, acquired brain injury, physical handicap. Similarly, VALS is concerned by the fact that the vulnerability of Indigenous Australians was not specifically mentioned in the Discussion Paper when 'warrants relating to the protection of vulnerable groups' was discussed.²

VALS agrees with elements of the West Heidelberg Community Legal Service publication, *The Perin Court: A Discussion Paper* (July 2004). VALS agrees that the Perin Court does not deal fairly with people who are poor, homeless, sick, mentally ill or illiterate.

RECOMMENDATIONS

- 2.1 Consideration should be given to providing disadvantaged people with additional warnings to pay fines. This may mean allowing disadvantaged people more than seven days to pay a fine when it comes to crunch time.
- 2.2 VALS should be informed of the existence of a penalty enforcement warrant. VALS should be informed that the Sheriff intends to attend an individual's home to either seize property or arrest them etc. If this was to occur CSOs could attend with the Sheriff in both instances to ensure accountability. Also, CSOs could educate clients of their rights (ie: convert fine to community work).
- 2.3 Consideration should be given to launching an education campaign targeted at disadvantaged community members to inform them of their rights.
- 2.4 Consideration should be given to the automatic revocation of fines where THE offender's income is below a certain level.

² Victorian Parliament Law Reform Committee, 'Warrant Powers and Procedures Discussion Paper', July 2004, 68

- 2.5 Consideration of increasing the range of special circumstances that fall under the ERP. VALS argues that the effects of colonization on Indigenous Australians should also be considered by the ERP. The following should also be considered: chronic alcohol substance or gambling addiction, illiteracy and severe financial hardship.
- 2.6 Fines should be indexed according to resources to make it fairer for disadvantaged members of the community.
- 2.7 VALS agrees with the Youth Affairs Council of Victoria that a more flexible and innovative approach to penalty enforcement is required.³
- 2.8 Consideration should be given to increasing the availability of payment by installment options.

3 Negative Police Culture

A Pro-Arrest Culture

VALS noted in the preliminary submission that there appears to be an unwritten law or culture in Victoria police that if an officer is not results oriented, in terms of making a certain amount of arrests, then they are not doing their job. This raises the question of whether all arrests are legitimate or merely made to bump up a quota number.

VALS now takes this opportunity to question whether Indigenous Australians are more likely than non-Indigenous Australians to be victim of a pro-arrest culture. For instance, do stereotypes and racist attitudes come into play when trying to reach a quota? According to a VALS criminal law solicitor, it is common for police to arrest more people than they should and then ask questions afterwards. This is in conflict with Recommendation 87 of the Royal Commission into Aboriginal Deaths in Custody (RCIADIC) which urged that arrest be used as a last resort.

B Inconsistency in Alerting VALS to the Existence of a Warrant

VALS argued in the preliminary session and continues to argue that police are inconsistent in informing VALS of the existence of warrants to arrest. In the preliminary submission VALS identified two scenarios in which warrants to arrest are executed.

Scenario 1: A Koorie person becomes aware that an outstanding warrant to arrest exists. Alternatively, Victoria Police informs VALS that such a warrant exists. The individual attends at the police station on their own accord, often with support, such as a VALS Client Service Officer, to enable to the warrant to be executed.

³ Ibid, 65

Scenario 2: Koorie people in a public place are often stopped by police on ‘routine matters’. The police then discover upon checking police records that there is an outstanding warrant to arrest for the individual. The police then take the individual to the police station.

VALS argued in the preliminary session that is concerned::

- By disadvantages attached to scenario two as in this scenario there is potential for the situation to become confrontational resulting in additional charges being laid (ie: resist arrest, assault police). This is especially the case if Indigenous Australians who are intoxicated are targeted. In contrast, an advantage of scenario one is that is a less traumatic experience. Additionally, a person who attends a police station on their own accord can use this occurrence as plea material and are more likely to be re-bailed.
- That often, plans put in place for the Defendant to attend the police station on their own accord to execute a warrant to arrest are often thwarted when scenario one occurs.
- The fact that there is no formal procedure whereby police notify the Defendant of the existence of a warrant to arrest over their head at an early stage (ie: pre-execution of warrant). The fact that police are not consistent in notifying VALS that a warrant to arrest exists at an early stage. These occurrences limit the Defendant’s choices. Defendants are denied the opportunity to attend the police station of their own accord to have the warrant to arrest executed.
- VALS takes this opportunity to raise an additional concern. According to a VALS solicitor there are discrepancies in the way police inform different people of the existence of a warrant to arrest. The solicitor’s experience, whilst working at a mainstream law firm acting for middle class non-Indigenous clients, was that clients were given multiple courtesy calls about the existence of a warrant to arrest. Such courtesy is not extended to Indigenous Australians or VALS.

VALS argues that the following comment in the Inspectors’ Powers Reports supports VALS arguments about scenario one and two:

- Whether authorized officers attempt to effect compliance through education and co-operation or by resorting to their coercive powers can have a significant impact on questions of fairness, effectiveness and consistency of powers.⁴

⁴ Victorian Parliament Law Reform committee *Powers of Entry, Search, Seizure and Questioning by Authorised Persons* as noted in the Victorian Parliament Law Reform Committee, ‘Warrant Powers and Procedures Discussion Paper’, July 2004, 41

RECOMMENDATIONS

General:

- 3.1 Measures need to be put in place to change police culture which results in failure to notify VALS of the existence of a warrant to arrest. Also, accountability mechanisms need to be put in place to ensure that police culture/measures are monitored.

Specific:

- 3.2 A formal process be developed whereby Victoria Police notify Indigenous and non-Indigenous Australians who are subject to a warrant to arrest of its existence before execution of the warrant.
- 3.3 An agreement should be developed whereby Victoria Police inform VALS about the existence of warrants of warrants to arrest so that it may facilitate surrender of the individuals concerned.
- 3.4 The example of 'best practice' in country areas should be rolled out. In country areas there is open communication about warrants to arrest between VALS and Victoria Police which leads to the maximization of scenario one and minimization of scenario two.

The arguments for such recommendations are that:

- They are realistic as VALS and Victoria police already have an agreement that the latter will inform the former when an Indigenous Australian is taken into custody.
 - They have the potential to result in:
 - Improved relations between Koorie people and Victoria Police;
 - Reduce the amount of time police spend searching for people subject to a warrant to arrest;
 - Indigenous Australians who have are homeless or move regularly and do not receive notification of a warrant from police will not fall through the gaps. This is because VALS is in a better position than Victoria police to get in touch with the individual given the contacts VALS has with the Indigenous Australian community and existing client base.
- 3.5 Decriminalisation of public drunkenness and establishment of sobering up centres to cater for the decriminalization of public drunkenness.

C Inconsistency of Police Alerting VALS that an Indigenous Australian is in Custody

The agreement mentioned above between VALS and Victoria Police that the later will inform the former when an Indigenous Australian is taken into custody is not consistently complied with, resulting in breach of the Victoria Police Manual Quarter 4 2004-2004

(VPM). The agreement is in the following terms in the VPM (Topic 113-01, Section 4.3.5):

- “Where a person who identifies as being of Aboriginal or Torres Strait Islander descent is taken into custody for any reason the police member responsible must:
 - complete the Attendance Register as required. This will create a notification to the Victoria Aboriginal Legal Service (VALS).”

The breach of the VPM is relevant to an inquiry into warrant powers and procedures as the breach means that sometimes VALS is not informed of the arrest of a Indigenous Australians pursuant to a warrant to arrest.

RECOMMENDATIONS

3.6 That the police practice of notifying VALS when Indigenous Australians are taken into custody be investigated.

3.7 That the agreement between VALS and Victoria Police that the latter will inform the latter when an Indigenous Australian is taken into custody be enshrined in legislation.

D Indirect Warrant to Arrest – Intervention Order

VALS is concerned that it is police culture to use Intervention Orders as a indirect or defacto warrant to arrest. Section 23 of the Crimes (Family Violence) Act 1987 empowers police to arrest a person for breach of an Intervention Order without a warrant. VALS is concerned that Police are abusing their power to take out Intervention Orders on behalf of victims as an easy way to arrest Indigenous Australians. According to a VALS solicitor, in regional areas there are streets where an Intervention Order is taken out in practically every second house.

RECOMMENDATIONS

3.8 That the issue of Intervention Orders becoming an indirect warrant to arrest is taken into account by the Victorian Law Reform Commission in its review of the Crimes (Family Violence) Act 1987.

E Inefficient Internal Accountability Mechanisms

Refer to page 14 for a discussion of the inefficiency of internal accountability mechanisms. It is difficult to change police culture if accountability mechanisms are inefficient or not independent of Victoria Police.

F Police Practice of Holding on to Warrants to Arrest

VALS expressed concern in the preliminary submission that anecdotal evidence exists that police hold on to warrants to arrest until the end of the working week, and then

execute them late Friday afternoon. The result is that some Koorie people are locked up in police cells over the weekend until the Courts can deal with their matter the next week.

VALS now takes this opportunity to provide another example of police sitting on warrants to arrest. There is anecdotal evidence that police may come into contact with a person, who they know has an outstanding warrant to arrest over their head, but do not arrest them. Instead, police wait until the end of the day to execute the warrant to arrest, which means that the individual is lock up over night. This occurrence represents an extreme at the opposite end of the spectrum to the occurrence of police stopping Indigenous Australians on the street for routine matters and discovering the existence of a warrant to arrest. These two extremes highlight inconsistency in police approach.

VALS is concerned that the reason behind police holding on to warrants and executing them at an inconvenient time is show the Indigenous Australian community who is more powerful (ie: power play). VALS is concerned about the ramifications of police executing warrants at an inconvenient time, resulting in imprisonment, in light of the RCIADIC.

RECOMMENDATIONS

- 3.9 Police culture should be altered to ensure that police do not hold on to warrants and execute them at an inconvenient time, resulting in unnecessary imprisonment of Indigenous Australians.
- 3.10 Police should be educated about issues impacting Indigenous Australians, particularly deaths in custody.

RECOMMENDATIONS THAT MAY WORK TO CHANGE POLICE CULTURE AND WHICH APPLY TO ALL OF THE ABOVE ISSUES

Police Manual

- 3.11 VALS supports the recommendation to change police Standing Orders or procedures in the Police Manual concerning the arrest of vulnerable and disadvantaged people. The changes that are appropriate are..... **(fill in)**

Police Code

- 3.12 Arguably the Police Manual does not carry enough weight or is not implemented effectively (ie: agreement between VALS and Victoria Police in relation to people in custody not implemented consistently). Perhaps there should be a Police Code specifically dealing with police interaction with Indigenous Australians. The idea for this recommendation is influenced by recent attempts to change police culture in relation to family violence matters (ie: Police Codes of Practice for Responding to Family Violence). The Police Code could contain agreements between Police and external agencies (ie: VALS).

Employment

- 3.14 VALS recommends that measures should be put in place to ensure increased recruitment of Indigenous Australians within Victoria Police.

Aboriginal Liaison Officer within Victoria Police

- 3.15 VALS recommends that the role of Police Aboriginal Liaison Officer (PALO) should be optimized. This could be achieved by making the role of PALO a portfolio in itself. Currently, the role of PALO is not a distinct portfolio which means that PALOs are not able to provide a full commitment to their role as PALO.

Training and cultural sensitivity

VALS agrees with the comment of several stakeholders that there are deficiencies in training provided to individuals who execute warrants. There is a lack of attention to the particular needs of Indigenous Australians. (how often/mandatory?)⁵ Often people enter the police force with no understanding of different cultures, but with stereotypical ideas. Arguably, such stereotypical notions are perpetuated once within Victoria Police (ie: institutionalized racism and discrimination).

- 3.16 VALS supports Darren Palmer's call for a national review of police training and education.⁶
- 3.17 VALS agrees with the view of the VPLRC of the 54th Parliament that "training of authorized officers is a vital component of the effectiveness, consistency and fairness of the use of those powers."⁷ VALS agrees with the VPLRC suggestion of establishing a body to evaluate current programs and set minimum standards for inspector training.⁸
- 3.18 The training of members of Victoria Police in relation to Indigenous Australians (ie: cultural sensitivity training) should not be a once off. Instead, such training should be a continual process that is constantly updated. Members of Victoria Police should be made aware that there are resources they can access to learn more about Indigenous Australians, for instance VALS CSOs.
- 3.19 There is a need for standardized training. Indigenous Australians should be involved in training on issues affecting Indigenous Australians.

⁵ Victorian Parliament Law Reform Committee, 'Warrant Powers and Procedures Discussion Paper', July 2004, 40

⁶ Victorian Parliament Law Reform Committee,(5) 40

⁷ Ibid 40

⁸ Ibid

3.20 An Independent training body may be appropriate to ensure accountability of Victoria Police.

4 Negative Culture of the Court System

VALS mentioned in the preliminary submission a concern about inconsistency among the various Victorian Courts in issuing warrants to arrest. Some Courts will issue a warrant if a Defendant is not present at Court by 10.00 on the dot, or even earlier. In contrast, other Courts are prepared to wait for Defendants to arrive and are more flexible. It appears that whether a warrant to arrest is issued depends on the Court and the presiding Magistrate. It appears that some Magistrates are ‘warrant happy’ and issue a warrant to arrest early, rather than wait until the end of the sitting. Indigenous Australians appear to be affected by Magistrates that are inflexible. Indigenous Australians often fail to appear for issues related to their socio economic status (ie: lack of transport, not aware of court dates because no fixed address).

RECOMMENDATIONS

4.1 VALS calls on the Warrant process to take a leaf out of the book of recent reforms to the Bail process. Section 4(2)(c) of the Bail Act 1977 was repealed because it was considered it created an inflexible system that did not allow a full consideration of factors that lead Indigenous Australians ‘failing to appear’. The effect of section 4(2)(c) was to restrict what Courts do take into account in deciding whether to grant or refuse bail when a person failed to appear (ie: cultural issues excluded).

LACK OF CONSISTENCY

Many of the arguments made above fit into this category of lack of consistency. Often lack of fairness is a result of lack of consistency. VALS wishes to draw attention to other instances of lack of consistency as follows:

5 Ad hoc Nature of Warrant Powers and Procedures

VALS agrees with the comments of some stakeholders that the ad hoc development of warrant powers and procedures affects the fairness, consistency and efficiency of warrants.⁹ For example, warrants relating to entry, search, seizure are in subordinate legislation.¹⁰ Provisions relating to warrants are in both the Magistrates Court Act 1989 and the Crimes Act 1958.

RECOMMENDATIONS

5.1 VALS supports the recommendation of Dr Chris Corns to consolidate warrant provisions that are currently “scattered over a number of different Acts”.

⁹ Ibid 1

¹⁰ Ibid 5

- 5.2 VALS supports the recommendation of the Law Reform Committee of the 54th Parliament to develop a set of general principles applicable to all coercive powers. The Indigenous community should be involved in the development of such principles. Guidelines or standardized rules should be developed to ensure that warrants are executed in the least instructive manner.¹¹

6 Conditions of Arrest

VALS agrees with the comment of Senior Law Lecturer Dr Chris Corns that common law principles are the sole source of authority for what conditions must be satisfied for an arrest to be valid.¹²

RECOMMENDATIONS

- 6.1 VALS agrees with Corns' recommendation that conditions should be codified to "provide greater consistency and uniformity in approach"¹³

LACK OF EFFICIENCY

7 Warrants are Lost in the System

VALS agrees with comments made in the Youthlaw preliminary submission that multiple warrants are issued against the same person and are lost in the system.¹⁴ The warrant process is inefficient as according to a VALS solicitor there are probably many warrants in 'limbo land'.

RECOMMENDATIONS

- 7.1 The warrant process should be improved to ensure that warrants are not lost in the system.

8 Inefficient Issuing of Warrants - Rubber Stamping

VALS commented in the preliminary submission that Magistrates rubber stamp warrants and VALS wishes to reinforce this notion. According to a VALS solicitor the warrant process is a 'sausage factory' and people's 'liberty is taken away lightly'. This comment is supported by further comments made in the Victoria Legal Aid (VLA) preliminary submission. VALS agrees with VLA that due to caseloads, Magistrates in rural areas conducted less rigorous evaluations of request for warrants than Magistrates based in metropolitan areas, with Melbourne being the most rigorous.¹⁵ VALS argues that this

¹¹ Ibid 39

¹² Ibid 51

¹³ Ibid

¹⁴ Ibid 35

¹⁵ Ibid 36

occurrence is also an issue relating to the consistency of warrant powers and procedures (ie: lack of consistent levels of scrutiny of warrant applications).

VALS is concerned by the comment of Duncan Kerr (former Commonwealth Minister for Justice) that “it can hardly be expected that busy court staff will really provide effective scrutiny for the results of searches” which raises the issue of efficiency.¹⁶

RECOMMENDATIONS

Reporting Requirement and record-Keeping

- 8.1 VALS agrees with the comment of VPLRC in *the powers of Entry, Search, Seizure, Questioning and Detention by Authorised Persons*, Discussion Paper (October 2001) that agencies report their entry and search activities to Parliament as an effective way of ensuring that records are kept and “that the process is open and available to public scrutiny and comment”. VALS argues that this idea should not be limited to search warrants but apply to all warrants.¹⁷
- 8.2 VALS agrees with Gregory Connellan’s (Barrister) preliminary submission comment that the reporting requirement could “usefully be subjected to an ongoing audit as a way of reducing the possibility of the Court “rubber stamping” the execution reports”.¹⁸
- 8.3 VALS agrees with the comment of Barrister Brian Walkers S.C that those who authorize the issue of warrants should be made aware of the outcome of the process (ie: disposition of prosecutions/awareness that evidence in support of the application for a warrant was rejected by a Court).¹⁹ Information should be provided to Magistrates that provide details of the number of warrant applications granted, refused, reheard with additional supporting evidence or otherwise disposed of.

9 Inefficient Internal Accountability Mechanisms

The Discussion Paper lists internal disciplinary proceedings as a mechanism of accountability of warrant powers and procedures.²⁰ However, VALS questions the value of an internal disciplinary mechanism because it is not independent of Victoria Police. The inefficiency of the Ethical Standards Unit is made apparent by a recent civil case where a Indigenous Australian was awarded \$89,426.00 in Damages. This case had been before the ESD which found that the complaint was unsubstantiated. In this case it also became apparent that Ombudsman’s Office is a toothless tiger in many respects as the finding are not binding.

¹⁶ Ibid 38

¹⁷ Ibid 37

¹⁸ Ibid 38

¹⁹ Ibid 39

²⁰ Ibid 41

RECOMMENDATIONS

- 9.1 An external accountability mechanism should be established to ensure scrutiny of actions of Victoria Police.

10 Transparency of Issuing Warrant – Availability of Police Affidavit.

VALS agrees with Michael McNamara’s preliminary submission comment that it is difficult to ascertain whether a search was conducted within the terms of the warrant authorizing it because the police affidavits in support of the applications for the warrant are not disclosed to the Defendant or their counsel.²¹ Such lack of transparency has an impact on Indigenous Australians who often are unaware of their rights or do not have the power to enforce them.

RECOMMENDATIONS

- 10.1 VALS argues that supporting affidavits and statements be made available to the Defendant and Counsel.

11 Search Warrant

VALS commented in the preliminary submission about the lack of transparency of search warrants (ie: individuals never shown search warrant). This comment appears to be supported by the Inspectors’ Powers Report 2002. The Inspectors’ Powers Report notes a lack of transparency among search powers conferred on authorised persons for the purposes of monitoring compliance with legislation.²²

VALS commented in the preliminary submission about search warrants carried out with excessive force in breach of the Victoria Police Manual, and this occurrence was also noted in the Youthlaw preliminary submission.

RECOMMENDATIONS:

- 11.1 Instances of entry and search both with and without consent should be recorded on video or audio tape.²³

12 Warrant to Arrest

The failure of Victoria Police to notify VALS of the existence of a warrant to arrest mentioned on page 4 in relation to the issue of consistency, also raises the issue of the transparency of warrant powers and procedures.

²¹ Ibid 58

²² Ibid 5

²³ Ibid 39

ADDITIONAL CONCERNS ABOUT WARRANT POWERS AND PROCEDURES NOT RAISED IN THE PRELIMINARY SUBMISSION

13 Warrant issues that arise in respect of children who are subject to protection interventions

VALS did not discuss warrant issues that arise in respect of children who are subject to protection interventions in the preliminary submission and now wishes to draw attention to this issue. Currently, Indigenous Australian children involved in the child protection system go through a traumatic experience when a warrant is placed over them to ensure their apprehension. The children and parents of the children, who may have absconded with the children, are not linked into appropriate services.

RECOMMENDATIONS

- 13.1 The warrant process should ensure a culturally sensitive response to Indigenous Australian children involved in the child protection system. VALS argues that an agreement should be put in place whereby the Victorian Aboriginal Child Care Agency (VACCA) attend with Victoria Police when the former execute a warrant.

The recommendation is in line with existing protocols, as VACCA currently attends child protection notifications with the Department of Human Services. Also, the jurisdiction of VACCA in a children protection case will be extended to the life of a case on 14 October 2004. VALS argues for increased resources (ie: funding and staff) for VACCA to enable it to cope with an increased role. The accompaniment of an Aboriginal organization with Victoria police to ensure cultural sensitivity is not a new concept. The Victorian Aboriginal Community Services Association is currently considering establishing a Indigenous Crisis Unit. This will involve Indigenous Australian Support Personnel attending calls for assistance in instances of family violence with police.

CONCLUSION

VALS agrees with many of the comments of stakeholders, who produced preliminary submissions, noted in the Discussion Paper, as they are applicable to Indigenous Australians.

VALS calls for the VPLRC to consider the impact of warrant powers and procedures on Indigenous Australians. In this paper VALS identified that warrants power and procedures impact Indigenous Australians due to the increased likelihood of Indigenous Australians coming into contact with the justice system. VALS also identified the various ways in which warrant powers and procedures impact Indigenous Australians, often in a detrimental manner. VALS suggested recommendations that address issues of fairness, consistency and efficiency of warrant powers and procedures.

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