

Victorian Aboriginal Legal Service Co-operative Ltd

Quarterly Newsletter

JULY - SEPTEMBER 2010



Staff Update

VALS welcomes Client Service Officers (CSOs) Graham Norris and Shaune Austin to the metropolitan office and Steve Bowden to the Mildura region.

VALS also extends a farewell to Criminal Law Solicitors Patrick Kelly and Marlene Dixon and Principal Legal Secretary Helen Webber.

Credit and Debt Clinic

The Aboriginal Credit and Debt Clinic was established through a partnership between VALS and the Public Interest Law Clearing House (PILCH).

The Aboriginal Credit and Debt Clinic was a short-term project designed to help Aboriginal people in regional Victorian communities who were experiencing financial stress and problems with:

- gas, electricity and water bills;
- mobile phone fines;
- Centrelink debts;
- small personal loans;
- transport fines; and
- debt collectors.

The Clinic started in May this year and has been to Ballarat, Shepparton, Morwell and Mildura. Free and on the spot legal advice as

well as on-going casework assistance has been provided through these one day clinics.

The Clinic is currently under evaluation. It is hoped that future funding will allow the continuation of the Clinic to further regional areas.



24 Hour Legal Service

6 Alexandra Parade [PO Box 218] Fitzroy Vic 3065
1800 064 865 or 94193888

INSIDE THIS ISSUE:

- Credit and Debt Clinic
- New VALS website
- Taser use by Victoria Police
- Equal Opportunity Act 2010
- Committee on the Elimination of Racial Discrimination
- Community Events

Aurora Internships at VALS

VALS recently had an international intern at VALS through the Aurora Project.

A 2nd year law student from Fordham University, New York, Virginia Gervin decided to come to Australia as part of her studies following 2 years volunteering with the United States Peace Corps. Posted in Swaziland, Virginia provided HIV education to the local community.

Working at grassroots level helped her realise she wanted to do more to effect change at a higher level, and therefore enrolled in law school on her return to the US. Virginia has been focusing her VALS internship working with the Criminal Law Division.

Her internship highlights include attending the Koori Courts and meeting some of VALS clients.

Virginia has returned to New York to finish her final year of law school. When she passes her Bar Examination, she hopes to practice criminal law.

For further information on the Aurora Project and Aurora Internships, visit:



**VALS CEO
Frank
Guivarra
and Virginia
Gervin at
the 2010
NADOC
Ball,
Melbourne.**

VALS Website

Over the past months VALS staff have been working hard to get our new website up and running.

The website has gone live and is aims to be more user-friendly while having greater facility to be kept up-to-date with the latest:

- VALS news;
- VALS submissions;

- community projects;
- community events;
- legal fact sheets;
- advice on what to do if you are arrested;
- information about the different legal services provided at VALS;
- Employment opportunities; and

- contact information for VALS and links other community service organisations.

We will be continuing to upload new information and make alterations to the website in the coming months. Visit:

www.vals.org.au

Taser Trap

Community Legal Centres have long argued the dangers of use of *Tasers* by police. The Federation of Community Legal Centres (Vic) has been focusing on this issue in recent years, and has released a report looking at the dangers in *Taser* use by police, especially when used on vulnerable groups or in particular ways.

On July 1st 2010, a 12 month pilot of *Tasers* by general duties police began in Bendigo and Morwell, Victoria.

VALS is concerned about this pilot in light of evidence from other jurisdictions in Australia and overseas showing that *Tasers* are prone to misuse.

A *Taser* is the brand name for a stun gun that uses electricity to subdue people. When used, the “Probe Mode” delivers an electrical current delivered by the stun gun to cause involuntary stimulation of the motor and sensory nerves. This results in muscle contractions and severe pain that are intended to immobilise a person by causing them to fall to the ground. “Drive-Stun Mode” is when the stun gun is pressed directly against a persons skin causing pain. This is intended as a pain compliance tool.

While *Taser* use in Australia has previously been restricted to specialist police units and agencies, they are now used beyond these specialist groups.

Western Australia was the first state to roll out *Tasers* to general duties officers. The Northern Territory, New South Wales and Queensland have followed this lead.

VALS will continue to monitor the Victorian *Taser* pilot and plans to advocate around *Taser* concerns in partnership with the Federation of Community Legal Centres (Vic) and other Community Legal Centres and groups.

For more information about the use of *Taser* by police locally, nationally and internationally, visit the Federation of Community Legal Centres (Vic) website for their report: *Taser Trap: is Victoria falling for it?* at: www.communitylaw.org.au

“While *Taser* use in Australia has previously been restricted to specialist police units and agencies, they are now used beyond these specialist groups”

Victims of Crime Website

A victim of crime is a person who has experienced emotional or physical harm or financial loss due to a criminal act such as family violence, assault, robbery etc. You are also considered a victim of crime if a family member has been affected by crime. In some cases witnesses to a violent may also be considered a victim of crime.

A new website has been launched designed to guide victims of crime through the justice system in Victoria. The website provides information about victims rights, keeping safe, your entitlements and who is available to help along the way.

The website also provides information aimed specifically to help Aboriginal and Torres Strait Islander victims of crime such as information regarding:

- The Victims Support Agency (VSA) who has Aboriginal and Torres Strait Islander support workers available to contact via a hotline (1800 819 817 between 8.00am – 11.00pm weekdays) and can meet you in person to talk about options and referrals to assisting services.
- Local Victims Assistance and Counselling Program (VACP) that can provide counselling services, assistance with filling out forms, court attendance, child care assistance, emergency accommodation assistance and more.

For more information on Aboriginal and Torres Strait Islander specific supports, visit:

Young people are more likely to be victims of crime than others. The Victim Support Agency (VSA) are working with young people to provide better services.

The VSA has a confidential Victims of Crime Helpline staffed by VSA workers who are there to provide support and advice such as:

- Information about the justice system.
- Referrals to local services.
- Financial assistance information.

The helpline number is **1800 819 817** (open between 8am and 11pm Monday - Friday, except public holidays). More information for young people can be accessed at:

www.justice.vic.gov.au/victimsofcrime

Equal Opportunity Act 2010

In April 2010 the Victorian Government passed the *Equal Opportunity Act 2010 (Vic)*, replacing the *Equal Opportunity Act 1995 (Vic)*.

The new provisions of the Act came into effect in August and changes discrimination law in Victoria in a number of ways. It is still against the law under the *Equal Opportunity Act 2010 (EOA 2010)* to discriminate against a person on attributes such as those listed in the previous Act, including, but not limited to:

- Age
- Gender
- Marital status
- Physical features
- Political beliefs
- Religious belief or activity
- Race
- Sexual orientation
- Disability

The EOA 2010 contains simpler definitions of direct and indirect discrimination to make the law easier to understand. The new definition removes the technical requirement to prove differential treatment, that

was less favourable than the person would treat someone without the attribute (or with a different attribute in the same or similar circumstances).

The new test is whether or not certain treatment was unfavourable to the person claiming discrimination, focusing on the consequences of the treatment on the person claiming direct discrimination because of a certain attribute.

The EOA 2010 also gives the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) more power to respond to discrimination, such as the power to investigate serious systemic discrimination and engage directly with duty holders and require compliance or an enforceable undertaking to address the discrimination.

The EOA 2010 also articulates the VEOHRC's role in encouraging best practice and compliance with the Act through new functions such as: guidelines; action plans; reviews; enhanced complaint handling and dispute resolution model.

For further information, visit :

www.humanrightscommission.vic.gov.au

Victorian Equal Opportunity and Human Rights Commission Advice Line

The Victorian Equal Opportunity and Human Rights Commission (VEOHRC) has an advice line that provides free, impartial and confidential information to the community about equal opportunity, discrimination, racial and religious vilification, and the Victorian Charter of Human Rights and Responsibilities.

In 2009/10 the VEOHRC Advice Line Received almost 6,000 calls that resulted in more than 7,470 enquiries on varying issues.

The Advice Line can provide information about your rights and responsibilities under anti-discrimination law and staff can advise about the complaint process and help people in making their complaint if they feel they have been discriminated against. The Advice Line is available 9am-5pm weekdays on **1300 292 153**. You can also contact the Advice Line by email at: complaints@veohrc.vic.gov.au.

Committee on the Elimination of Racial Discrimination

VALS recently supported the preparation the Australian NGO report to the United Nations Committee on the Elimination of Racial Discrimination (CERD).

Following their investigations in Australia, CERD had some strong Concluding Observations in relation to a range of issues affecting Aboriginal and Torres Strait Islander peoples which included the suggestion of a treaty.

Among other things, CERD recommends that the 'State party' (government):

- reinstate the Racial Discrimination Act and implement the NTER Review Board recommendations;
- increase funding for 'Aboriginal legal aid' in real terms, as a reflection of the governments recognition of the essential role that professional and culturally appropriate 'Indigenous legal and interpretive services' play within the criminal justice system. Furthermore, government strengthen training for law enforcement personnel and the legal profession in this regard;
- dedicate sufficient resources to address the social and economic factors underpinning Aboriginal and Torres Strait Islander contact with the criminal justice system;
- adopt a justice reinvestment strategy;
- continue and increase the use of Aboriginal and Torres Strait Islander courts and conciliation mechanisms, diversionary and prevention programs, and restorative

justice strategies;

- in consultation with the Aboriginal and Torres Strait Islander community, take immediate steps to review the recommendations of the Royal Commission into Aboriginal Deaths in Custody to identify those which remain relevant with view to their implementation;
- assure the provision of adequate health care to prisoners;
- address appropriately and through a national mechanism, past racially discriminatory practices including compensation to all involved.

A copy of the NGO report can be downloaded at: www.naclc.org.au/multiattachments/2410/DocumentName/UNCERD_Submission.pdf

The CERD Concluding Observations can be downloaded at: www2.ohchr.org/english/bodies/cerd/docs/co/CERD-C-AUS-CO-15_17.doc

News in short

- Victorians with claims before the Victorian Civil and Administrative Tribunal (VCAT) have been able to have their cases heard at 'twilight hearings'. Aimed at increasing accessibility for VCAT users, the first twilight hearing occurred on the 26th August as part of a four-week pilot program at the Neighborhood Justice Centre in Collingwood.
- A new website has been created by members of the Victorian Domestic Violence Resource Centre. 'Love—the good, the bad and the ugly' is a source of information and advice for young people who have experienced a range of negative and positive aspects in their relationships. See <http://lovegoodbadugly.com/>
- Designed to help struggling families get food when they need it the most, the VicRelief Foodbank Centre at the Worn Gundidj Aboriginal Co-operative in Warrnambool opened on the 3rd September.
- Ngwala Willumbong (a Melbourne-based alcohol and drug rehabilitation service and outreach program for Koori men, women and families) in partnership with the Department of Human Services (DHS), The Regional Aboriginal Advisory Committee of the Department of Justice and Victoria Police has developed a series of camps for young Aboriginal and Torres Strait Islander people from the outer metropolitan regions of Melbourne. The camps aim to provide opportunity to promote self-respect, health and cultural pride. For more information contact Alan Thorpe via email at: a.thorpe@ngwala.org
- The Council to Homeless Persons invites recently launched their *It Takes a Home* campaign that aims to unite the homeless, housing and family violence sectors with social justice organisations across Victoria with a focus for simple, practical actions to deliver on the promise to halve homelessness by 2020. For more information, see: <http://ittakesahome.eventbrite.com/>

Community Events

Dandenong Family Law Outreach

VALS' Community Legal Education Officer, Loretta O'Neill, will be at the Dandenong and District Aboriginal Co-operative on the 1st Friday of every month to take part in the community BBQ and talk with people about any legal issues they have. Subject to availability, a VALS criminal law solicitor will attend with Loretta. A family law solicitor will also conduct outreach at the Co-operative on a fortnightly basis. The next outreach date is the 3rd December 64 Stud Road, Dandenong.

Contact Loretta O'Neill: loneill@vals.org.au, 9419 3888 or Pat Farrant at the Co-operative (9794 5973).

Indigenous Public Art Opportunity Briefing

The *Laneway Commissions* are an annual season of temporary artworks in the public realm embracing all contemporary art practices based on the artists choice of site (Melbourne CBD), topic and medium. *Laneway Commissions 2011* will be an exclusively Indigenous season, open to Victorian-based Indigenous artists only. Full briefing: Wednesday 27th October 5:30-7:00pm, Council Meeting Room, Level 2, Melbourne Town Hall. RSVP by 22nd October. Phone: (03), 9658 9455 or email: publicart@melbourne.vic.gov.au

Dates for your Diary

October

- 1st:** International Day of Older Persons.
- 4th:** Start of school 4th Term.
- 5th-7th:** Parliament sitting.
- 10th:** World Mental Health Day.
- 17-23rd:** Anti-poverty week.
www.antipovertyweek.org.au/

November

- 2nd:** Melbourne Cup.
- 9th:** Roundtable for consultation regarding federal protection from discrimination on the basis of sexual orientation and sex and/or gender identity.
www.humanrights.gov.au/human_rights/lgbti/lgbticonsult/
- 11th:** Remembrance Day.
- 20th:** Universal Children's Day.
- 25th:** International Day for Elimination of Violence Against Women.
- 27th:** Victorian State Election.

December

- 3rd:** International Day of Disabled Persons.
- 10th:** Human Rights Day.
- 17th:** Supreme Court sitting term four ends and County Court last sitting day.
- 20th:** International Human Solidarity Day.
www.un.org/...dev/social/intldays/IntSolidarity/index.html
- 22nd:** Magistrates Court last sitting day.



The Victorian Aboriginal Legal Service Co-operative Limited was established as a community controlled Co-operative Society in 1973 to address the over-representation of Aboriginal and Torres Strait Islander peoples in the criminal justice system. VALS provides referrals, advice, duty work or case work assistance to the Aboriginal and Torres Strait Islander community in three areas of law: Criminal, Family and Civil. VALS is actively involved in community education, research and advocacy around law reform and policy development.

If you have any questions regarding this newsletter, or would like a copy of the submission materials mentioned, please contact Louise Hicks (Research Officer) on 9419 3888 or via email at lhicks@vals.org.au

Victorian Aboriginal Legal Service Co-Operative Ltd

6 Alexandra Parade or
PO Box 218
Fitzroy Vic 3065

TOLL FREE 1800 064 865
or 9419 3888