



Victorian Aboriginal Legal Service Co-operative Ltd.

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VALS' submission in relation to the Deemed Served Program – sent 21 August 2008

Thank you for the opportunity to provide comment on the Deemed Served Program. Outlined below are some issues that VALS has identified with the Program and some suggestions on how to improve the Program.

Issues

VALS can identify some issues with the Deemed Served Program. VALS considers that the Program has a good intention but the issues that are identified below mean that the potential of the program is not fully realised:

- A VALS' solicitor noted a lack of understanding about the Program by Indigenous Australians, or an unwillingness by prison staff to assist Indigenous Australians in having matters listed.
- In preparing this submission VALS contacted two Aboriginal Liaison Officers at two prisons. One who had commenced employment recently was unaware of the Program. Out of three VALS Client Service Officers, two were unaware of the program. This highlights lack of awareness about the Program.
- The Program relies too heavily on word of mouth amongst prisoners and prisoners themselves need to take the initiative to access the Program (ie: approaching prison staff). This is instead of prisoners being formally educated about the program or receiving proactive assistance from the prison itself.
- If education about the Program was heightened there would be some prisoners who still would not access the Program. According to one Aboriginal Liaison Officer "You can show someone where the water is, but it's another thing as to whether they drink it". It needs to be acknowledged that some prisoners just want to get out of prison and do not want to think about the Program for fear that it may increase their time in prison. This highlights the need for assistance in accessing the Program even if someone is aware of it.
- Due to lack of formal education about the Program it is possible that through word of mouth someone will find out about the program towards the end of their sentence. It is preferable that identification of outstanding fines occurs at the beginning of a sentence so that it is more likely that the sentence for the

offence which resulted in imprisonment, and the sentence resulting from conversion of fines to prison time, can be served concurrently.

- If the existence of outstanding fines is identified towards the end of a sentence then it is possible a prisoner will not choose to access the Program because the two sentences cannot be served concurrently. For instance, a prisoner's sentence relating to fines may extend past the time of the sentence which they were originally serving. This may act as a disincentive to access the Program as the some prisoners may be more concerned about leaving prison as soon as possible rather than dealing with outstanding fines.
- Failure to deal with outstanding fines whilst someone is in prison leads to post-release issues. Having outstanding fines is a risk factor during the transition process from prison to the community. It will be difficult for a person to reintegrate back into society if fines are still hanging over their head and they are not completely free. According to a CSO, people deserve a clear run when released from prison.
- A VALS' solicitor noted that it takes some time to get paper work from clients forwarding it to the Courts, get listing dates and confirming video link times etc. The paperwork is confusing for prisoners and access to lawyers whilst in prison is limited.
- It is stressful for families of prisoners to get letters about fines of the person in prison whilst they are serving time.

Suggestions

VALS suggests that the Program could be improved by:

- Developing pro-forma documentation for prisoners to have their matter relating to a fine listed at Court.
- If matters of prisoner's outstanding fines are listed on set days a list of those dates would be helpful to VALS.
- As VALS does not usually appear in Court in relation to the Deemed Served Program, but notifies the Court, perhaps the Court should report to VALS the outcome of the matter so that information can then be relayed to VALS' client.
- Developing an education campaign that is perhaps a collaborative project between VALS' Community Legal Education Officer, Victoria Legal Aid or VALS lawyer. There should be workshops that use role models who are accompanied by professionals.
- The onus should be on prison staff to identify which prisoners have outstanding fines. Prison staff could be assisted in this through a database that automatically notes that a person has an outstanding fine. Alternatively, prison staff should have a template form to complete to request information about a prisoner relating to fines.

- Identification of outstanding fines should occur at the beginning of a sentence to increase the chance of time served for a fine being served concurrently with the original sentence. Such identification should also be part of a pre-release program by way of back up.

If you have any questions please do not hesitate to contact Mrs Greta Clarke, Executive Officer-Research, Planning and Development Unit at VALS.