



Victorian
Aboriginal
Legal Service



South Eastern Australian
Aboriginal Justice Services
Limited

ABN: 45 926 675 900

13 February 2025

Elizabeth Langdon
Victims of Crime Commissioner
Victims of Crime Commission (VOCC)
By email: policy@vocc.vic.gov.au

Dear Commissioner

Re: Victims' Charter Review Consultation Paper

VALS welcomes the opportunity to provide feedback to the consultation on the review of the *Victims' Charter Act 2006* (Victims' Charter).

The state's failure to support and believe Aboriginal victims of crime is ongoing. From the widespread denial of the crimes of genocide, stolen lands and stolen wages since colonisation to the misidentification of Aboriginal women as users of family violence instead of affected family members.

Police, investigators and prosecutors routinely mistreat and disregard Aboriginal victims of crime due to systemic racism, bias, negligence, and lack of accountability for misconduct. This is in breach of their obligations under the Victims' Charter, and has the effect of victimising, traumatising or retraumatising Aboriginal victims.

Further, police and government agencies are often the perpetrators of crimes against Aboriginal people and communities.

VALS is deeply concerned with the treatment of Aboriginal victims of crime by Victoria Police and other state representatives, and the lack of redress and accountability available through the Victims' Charter.

VALS' perspective is that the Victims' Charter is currently ineffective at protecting and articulating the rights of Aboriginal victims of crime. Broad reforms are critical if the government and VOCC intend to be meaningful advocates and resources for Aboriginal communities.

We recognise the need to uphold the rule of law and the presumption of innocence whilst designing and operating a system that respects and supports victims of crime

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at the same time. Our recommendations in this letter align to that goal. However, the mistreatment of Aboriginal victims of crime has not been in defence of the rule of law or presumption of innocence and is more often reflective of racism, poorly designed policy systems and/or the inadequate training of state actors in cultural safety and trauma-informed and supportive care.

Summary of recommendations

That the VOCC's final report on the Victims' Charter Review:

1. Proposes reforms to legislate greater enforcement and accountability powers for breaches of the Charter.
2. Proposes reforms to recognise Aboriginal peoples' right to self-determination and cultural safety in the Victims' Charter and by supporting ACCO-led victim service-delivery.
3. Reiterates recommendations in its *Silenced and Sidelined* report to address systemic barriers to participation for Aboriginal and Torres Strait Islander peoples by providing for introducing alternative, culturally safe ways to report crimes and receive assistance from alternative first responders to police and ACCO-led, community-based, trauma informed, holistic victim support services.
4. Reiterates its recommendation in the *Silenced and Sidelined* report for the Victorian Government to establish an independent, statutory office of the Aboriginal Justice Commissioner.
5. Proposes reforms to enable the VOCC to recognise, and extend its reach and advocacy for, criminalised cohorts of Aboriginal people as victims of crime for victimisation that occurs both before and after their involvement in the state legal system.
6. Proposes reforms to enable the VOCC to recognise, and extend its reach and advocacy for, Aboriginal children and young people in corrections and child protection as victims of crime.

VALS also requests that the VOCC collect and provide Aboriginal specific data to ACCOs, in accordance with Aboriginal Data Sovereignty principles, on key measures of the Victims' Charter.

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Enforcement and accountability mechanisms

VALS' position is that the Victims' Charter requires greater regulatory, enforcement and accountability powers for breaches of the Victims' Charter to be useful for Aboriginal people. Regulatory powers and enforcement mechanisms should be well empowered and informed by the expertise and experience of other independent regulators advocating for the rights of vulnerable people, such as the Commission for Children and Young People.

Without accountability and oversight mechanisms to hold state law enforcement agencies to account and incentivise their compliance with the Victims' Charter, the Victims' Charter cannot meaningfully assist Aboriginal victims of crime.

Based on VALS' practice experience in our Civil and Human Rights and Wirraway Police and Prison Accountability practices, Aboriginal people do not use the Victims' Charter complaints mechanism as it is unlikely to result in any meaningful outcome for them. Without significant change to the Charter's enforceability regime, VALS could not reasonably recommend its complaints process to our clients.

The Victims' Charter must address the victimisation of Aboriginal people by state agencies and legal systems by having robust enforcement and regulatory powers to oversee the conduct of state actors within these systems.

To remove barriers to making complaints, the complaints mechanisms should also be amended so complaints can be made directly to the VOCC, without the requirement for victims to have first made a complaint to the agency the complaint is against and received an unsatisfactory response from the agency.

Recognition of Aboriginal peoples' right to self-determination

The VOCC and Victims' Charter should recognise Aboriginal peoples' right to self-determination and right to be treated culturally appropriately and safely in victims' services and support. As it stands, the current Victims Charter is outdated and does not currently refer to these rights, which are of paramount importance to Aboriginal communities.

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Alternative and culturally safe ways to report crimes and access support

Aboriginal people are dramatically overrepresented as victims of crime yet under-represented as recipients of victim services.¹ This discrepancy has formed after over 250 years of having our reality and experiences denied, questioned, minimised and mishandled by police and other state representatives.

Facing denial and discrimination when seeking support, Aboriginal people have become less likely to report a crime, actively seek out victim support services or accept support when offered.²

Many victims of crime do not want to report to police or pursue prosecutorial pathways. This can stem from fears they might not be believed, or be misidentified as the perpetrator, criminalised, discriminated against and mistreated in the process. Additionally, they may not want to criminalise a community or family member or risk having their report weaponised against them by a government agency as a reason to, for example, remove their children.³

VALS asks that, in its Victims' Charter review, the VOCC reiterates its recommendations in its *Silenced and Sidelined* report to address systemic barriers to participation for Aboriginal and Torres Strait Islander peoples by introducing alternative, culturally safe ways to report crimes and access assistance from victims' services.

For the VOCC to truly support Aboriginal victims of crime, its advocacy must extend to assisting people who need support outside of existing reporting and prosecutorial pathways.

The Victims' Charter should provide Aboriginal people an entitlement to alternative first responders to police, in a system designed and led by ACCOs, to assist victims of crime with trauma-informed, culturally sensitive, wrap-around support. This should

¹ Centre for Innovative Justice, *Strengthening Victoria's Victim Support System: Victim Services Review (Final Report, November 2020)* 11, 73.

² Yoorrook Justice Commission, *'Yoorrook for Justice'* (Report, August 2023) 261.

³ Centre for Innovative Justice, Djirra, Elizabeth Morgan House Aboriginal Women's Service and Dardi Munwurro, *'Ensuring that Aboriginal perspectives inform responses to Aboriginal victims'* (Report, November 2024).

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be accompanied by investment in community-based Aboriginal led support services. Such a reform would support Aboriginal self-determination.

Recognising and reaching criminalised cohorts as victims of crime

Criminalised cohorts of Aboriginal people in the legal system are most often victims of crime themselves. Despite this, the state legal system and its agencies often fail to recognise Aboriginal people as victims of crime, while simultaneously criminalising, punishing and marginalising them.⁴

It is well recognised that the trauma of being a victim of crime, and a lack of effective support to overcome it, can lead people to contravening behaviour. Yet, instead of adequately funding and providing early intervention and ACCO-led support to Aboriginal victims of crime in the first instance, the state funds their criminalisation and further victimisation at the hands of the state legal system ‘downstream’.

The state also often fails to hold itself accountable as a victimising power and perpetrator of crime as the arbiter of a corrections system that subjects people to treatment amounting to torture, assault and manslaughter.

All organisations purporting to represent or support victims of crime should use a definition of victims of crime that appreciates and captures the intersectionality where people are, at the same time, victims of crimes by state systems and/or non-state actors, and people who have engaged in criminalised behaviour themselves.

The VOCC and the Victims’ Charter can play a role in addressing this by ensuring its operations and victim services, supports and legal entitlements extend their reach to all Aboriginal victims of crime, for the crimes they experience both before they are criminalised by the state and at the hands of the state legal system.

Recognising and reaching children and young people as victims of crime

Aboriginal children in state corrections and child protection system should also be recognised by the VOCC as a unique cohort of victims of crime. Aboriginal children and young people within these systems are almost always victims of crime themselves – both before contact with the system and at the hands of the system.

⁴ Yoorrook Justice Commission, [‘Yoorrook for Justice’](#) (Report, August 2023) 261.

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The VOCC should recognise and assume this victimisation by default, in both respects, and extend its advocacy and reach to protect these children and young people as far as possible.

Child protection and corrections agents and agencies should be included as prescribed agencies that the Victims' Charter applies to.

All state services involved in child protection and youth corrections should also be required to treat Aboriginal children and young people as victims of crime and to provide access to holistic, culturally sensitive, trauma-informed victims services and supports in accordance with the Victims' Charter.

For the VOCC to truly support Aboriginal victims of crime, its advocacy must extend to recognising and assisting Aboriginal children and young people who are criminalised or in child protection as people who are victimised and in need of support instead of punishment and incarceration.

Aboriginal Social Justice Commissioner

Under the Victims' Charter, the Secretary of the Department of Justice and Community Safety is given the function of 'monitoring operation of the Act' under Part 3 of the Victims' Charter. VALS' position is that independent oversight is necessary to protect the needs and interests of Aboriginal victims of crime.

VALS asks that the VOCC reiterates its recommendation in the *Silenced and Sidelined* report for the Victorian Government to establish an independent, statutory office of the Aboriginal Social Justice Commissioner, to provide oversight for Aboriginal justice in Victoria including the treatment of Aboriginal victims of crime. This office should be properly funded, with appropriate powers (including powers to give it "teeth" and conduct own motion inquiries), and report directly to the Parliament.

Monitoring the effectiveness of the VOCC and Charter for Aboriginal people

VALS requests that the VOCC collect and provide Aboriginal specific data to ACCOs, in accordance with Aboriginal Data Sovereignty principles, on key measures of the Victims' Charter, such as the number of complaints made under the Victims' Charter, and the types of behaviours and crimes Aboriginal victims bring to the VOCC. This

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will assist VOCC and VALS to understand the utility and effectiveness of the Victims' Charter for Aboriginal victims of crime.

Yours sincerely,

Nerita Waight

Nerita Waight
Chief Executive Officer, VALS

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