



Victorian Aboriginal Legal Service

Newsletter May 2003

P.O. Box 218 Fitzroy Vic 3065 vals@vals.org.au
24 Hour Legal Service 1800 064 8651 or 9419 3888

Congratulations to New Board Members

Congratulations to Terrie Stewart, (re-elected Board member) Ray Ahmat and Alf Bamblett who were elected to VALS' Board of Directors at last month's Annual General Meeting. VALS would like to thank outgoing Directors Phil Egan and Peter Hood for their contributions to the organisation.

VALS Launches Kit at Aboriginal Justice Forum

The Community Legal Education unit at VALS recently launched the "*Be Strong. Use Your Rights*" kit at the 8th meeting of the Aboriginal Justice Forum at Traralgon on the 3rd April 2003. A short skit was performed by VALS education staff and Melissa Morgan and Gary Bamblett. Many thanks to Peter Rotumah, Julie Phillips and Raylene Fennell who helped perform on the day.

The kit is a guide to the options available to Indigenous people for making complaints about services, products and abuses such as racial discrimination. For more information about workshops contact Catie Pitman on cpitman@vals.org.au or 9419 3888.

Decrease in Victorian Crime in 2001-2002

Victorian crime rates in 2001-2002 decreased by 4%, the largest decrease since the mid-1990s. The offence categories experiencing the largest decreases include drugs – cultivation, manufacture & trafficking (down 16.7%), robbery (down 13.3%), theft of motor vehicle (down 12.0%) and handle stolen goods (down 10.9%).

Beyond the Rhetoric of Early Intervention - Bridging the Gap between Crime Prevention Education and Health Conference in South Australia

Robin Inglis, the Executive Officer of Research, Planning and Development at VALS attended the "*Beyond the Rhetoric in Early Intervention*" conference in March. The conference featured international and national speakers, many of whom drew attention to research findings that emphasised the importance of strong communities and the importance of early childhood supports to families and children. The hypothetical conducted with representatives from different government departments highlighted the fact that nobody should hold their breath waiting for a whole of government approach to the issues of early intervention. Interesting Indigenous initiatives from the Many Rivers area in NSW and from New Zealand were also presented.

Minister Moves on Separation of Powers

The Minister for Immigration and Multicultural and Indigenous affairs Philip Ruddock recently announced changes to the structure of ATSIC which will split the organisation into two bodies. As of 1 July, a new executive agency called Aboriginal and Torres Strait Islander Services (ATSIS) will manage ATSIC programs and control the \$1.2 billion budget.

ATSIC will become the elected arm staffed by about 20 people. The elected commissioners and regional councillors will act in an advisory role, but will not be able to make funding decisions. Most of ATSIC's 1300 staff will be transferred to ATSIS.

Both ATSIS and ATSIC will be headed by Wayne Gibbons, a career public servant who has previously been deputy chief of four federal departments.

The changes were made because of government concerns about potential conflict of interest. Ruddock said the changes would create a "separation of powers" similar to that which operated in government. "Ministers do not sit there determining who will get a pension, or who will get a loan; the policies are established by a Government; the administration rests with the bureaucracy," Mr Ruddock said.

However, the HREOC Commissioner for Aboriginal and Torres Strait Islander Social Justice Dr William Jonas has been critical of the changes. According to Dr Jonas, "It is possible that these changes will free ATSIC from the often unwarranted attacks on its credibility and allow the Commission to assume a more central role in policy development. The proposed changes of themselves, however, do not seem to provide ATSIC with the necessary leverage and support for this to take place."

Dr Jonas is concerned that the impact of the changes may in fact result in the marginalisation of ATSIC from having any meaningful say over issues that affect Indigenous peoples' daily lives.

Dr Jonas pointed out that although Mr Ruddock explained the changes were introduced for compelling reasons, he had relied largely on the potential for conflicts of interest without providing any evidence of a pattern of proven misconduct.

Senator Aden Ridgeway believes the changes are a retrograde step for ATSIC. "It not only disenfranchises the board but also potentially removes Indigenous communities - through their organisations - from dealing with service delivery in their communities."

The changes have also been criticised for pre-empting the government's own \$700,000 review of ATSIC which is due to report in May.

Bad News for Australian Human Rights

It seems that the Federal Attorney General Daryl Williams does not like criticisms of his government's human rights record. Last month Williams introduced the Australian Human Rights Commission Bill which, if accepted, will diminish the ability of the Human Rights and Equal Opportunity Commission to operate effectively and independently in several ways.

HREOC is an independent body responsible for monitoring Australia's compliance with human rights obligations, including the human rights of Aboriginal and Torres Strait Islander peoples.

With the court's permission, HREOC currently is able to intervene in a court case which involves human rights and discrimination issues. This means that HREOC can appear in court, present evidence, and make submissions like any other party. HREOC has been given this power in recognition of its special competence in submitting legal arguments relevant to the dispute. For example, HREOC intervened in the Yorta Yorta and Murriuwung Gajjorong Native Title cases in the High Court.

The proposed bill requires HREOC to seek the Attorney General's approval before any intervention in Court proceedings. This is at odds with HREOC's role as an independent body. Moreover, to date, the Commonwealth government has been involved in over half the cases in which HREOC has intervened. It is improper for one party in court proceedings to have the power of veto over the participation of other potential parties. The changes would mean the government would be faced with a conflict of interest. The Commonwealth government has recently used the potential for conflict of interest to occur as a basis for stripping ATSIC of powers. The Commonwealth Government appears to be blind to the problem of conflict of interest when it applies to them.

HREOC presently has five portfolio Commissioners which head sections within the organisation: Human Rights; Sex Discrimination; Race Discrimination; Disability Discrimination; and Aboriginal and Torres Strait Islander Social Justice. The present structure allows HREOC to develop close connection with particular communities, and staff to develop greater expertise in dealing with particular types of discrimination. However, the bill proposes replacing the specialist Commissioners with three generic Commissioners whose responsibilities are not clearly identified.

Currently HREOC has the power to make recommendations for compensation when human rights are violated. This is binding on the Commonwealth government. It seems very convenient for the Howard government to seek to remove the Commonwealth's obligation to pay compensation.

Since coming to power, the Howard government has already reduced Hero's ability to function by cutting its budget by more than 40% in real terms.

Many organisations, including VALS, have made submissions regarding the bill. The Senate report is expected on 29 May.

For more information see

http://www.hreoc.gov.au/media_releases/2003/16_03.html

http://www.hreoc.gov.au/media_releases/op_ed/intervenors.html

Newsletter: To include any items in the VALS newsletter, please contact Kate Hairsine on 9419 3888 or khairsine@vals.org.au