

# IWJF NEWSLETTER

1<sup>st</sup> Edition  
March 2004

The Victorian Aboriginal Legal Service initiated the Indigenous Women's Justice Forum (IWJF).

IWJF is funded by the Regional Aboriginal Advisory Committee Community Initiative program (CIP) which is administered by the Department of Justice.

The aim of the forum to provide an opportunity for indigenous women to discuss justice issues that affect indigenous women and their communities. The forum also invites key mainstream organisations to network with indigenous women to help improve service provision to the indigenous community.

I have been the Project Worker on the IWJF since May last year and have held 3 forums in that time. The main focus of the past forums has been Family Violence due to the release of the Women's Safety Strategy last year. I have played a part in the strategy by sitting on the Reduce Violence against Women in the Workplace Steering Committee. In which I represent the Federation of Community Legal Services Violence Against women and Children working group.

*Melissa Morgan - Indigenous Women's Justice Forum Project Worker*

## **SPECIAL THANKS**

Special thanks Catie Pitman and Jan Muir for the support they have given me and the IWJF even after their departure from VALS.

I would also like to commend Jan on her role in coordinating the DHS Indigenous Family Taskforce, the final report has been published and was released in December 2003.

**The next IWJF is on Friday 26<sup>th</sup> March 2004 at VACSAL –  
171 Smith Street Fitzroy from 9.30am – 2.00pm.  
RSVP Melissa Morgan on 9419 3888 or [mmorgan@vals.org.au](mailto:mmorgan@vals.org.au)**

## **Law Reform Commission review on Defences to Homicide**

VALS recently made a submission to the Victorian Law Reform Commission's (VLRC) *Defences to Homicide Options Paper*. The VLRC were particularly interested in looking into the access women who kill their partners after being the victims of domestic violence have to the defences of provocation and self defence. There is concern that women who kill violent partners to protect their lives and the lives of their children are currently not able, or have great difficulty establishing a defence to the charge of murder. VALS has expressed its concern at fundamental changes to the defences to murder as these changes would disproportionately affect Aboriginal people. VALS has no objections to minor changes to the law that increase women's access to the defence.

VALS recommended that the defence of provocation should be retained. Provocation recognises a hierarchy of culpability in killing. Abolishing provocation would result in longer prison sentences; this would have a negative effect on Aboriginal people who are over represented in the criminal justice system. This overrepresentation can be understood in terms of Aboriginal disadvantage.

VALS advocated that the test for self defence in Victoria is simple and broad in scope and for this reason it works effectively. However, one of the options provided for in the VLRC's paper is changing the law to recognise self defence in cases where the threat of harm does not fall into the traditional categories of what constitutes imminently life threatening; this would reflect women's experience of domestic violence where violence has often been occurring over a period of time. Justice Philips the former Chief Justice of the Victorian Supreme Court advocated that "the last attack or threat should be dealt with as simply a component of the sum total of conduct directed against the accused by the deceased so that the accused is regarded as defending herself against the accumulation, the sum total, of the deceased's violence and abuse". VALS agreed with this reform option in the case of self defence and provocation.

To read the VALS submission log on to our web site at [www.vals.org.au](http://www.vals.org.au)

## **Department of Human Services – The Child Protection Outcomes Project**

Department of Human Services (DHS) recently asked for submissions regarding the report *Protecting Children: The Child Protection Outcomes Project*. The report was commissioned by DHS to look at changes to child protection laws in Victoria. The response by the Indigenous community to the report was overwhelming. Indigenous organisations from across the state attended the meetings held at the Aboriginal Advancement League. The community expressed their disappointment during the meetings at the way in which Indigenous issues relating to child protection were effectively relegated to the "too hard basket". Those who attended the meetings also made it clear to DHS that they found it unacceptable that there had been no consultation with the community before the report was released.

VACCA took the lead in coordinating the responses of the various Indigenous community agencies and services. While each submission focused on the experiences of their particular organisation a key recommendation which came out in almost all the submissions was that the emphasis in child protection practice be shifted to early prevention. The consensus at the meetings held at the Advancement League was for strengthening services and support for Indigenous families at all stages, rather than only making services and support available when situations had reached crisis point. DHS is currently studying the submissions.

To read the VALS submission log on to our web site at [www.vals.org](http://www.vals.org)

## **Police Codes of Practice – Building a More Integrated Response to Family Violence in Victoria.**

The Victorian Police are currently working on a *Codes of Practice* regarding Family Violence. The State wide Steering Committee to Reduce Family Violence concluded that developing a number of complementary codes of practice would help create an integrated multi-agency response to Family Violence. The codes are also an attempt to improve police practice and leadership in tackling issues of family violence and are underpinned by the *Women's Safety Strategy*. A working group was set up to develop the new *Codes of Practice*, which consists of 7 members of the Victorian Police.

This new police initiative is welcomed as it is a clear sign that the Victorian Police are making issues of family violence a priority. There is however concerned with the pro arrest aspect of the codes, which will be discussed later in the article.

The *Codes of Practice* aim to create transparency and accountability within the police force in police dealings with family violence incidents and issues. There are a number of ways the police aim to achieve this.

Under the new Codes of Practice the Police must investigate every call they receive in regards to family violence and at the least they must make a referral to a relevant service. When investigating they must treat the scene as any other normal crime scene and assess threats and risk, manage the incident and assess the level of future prosecution.

The codes emphasise a greater level of accountability on the Police's behalf. This accountability will occur at every stage of the police's involvement. The initial incident reports will become more thorough and include such aspects as the:

- level of fear of the aggrieved family member
- the level of actual violence
- history of violence from the perpetrator / premises
- likelihood of the anger escalating
- issues with children
- presence of weapon
- threats of suicide / murder, and
- assessment of vulnerability factors e.g. pregnancy.

The police supervisor must take into account whether the investigation guidelines have been followed, whether there were sufficient grounds for arrest and whether the most appropriate action has been taken. After this the supervisor must consider if the action has resulted in the safety of aggrieved family member, support or referral for the aggrieved family member, investigation of all the circumstances and prosecution has occurred where appropriate.

There is concern with one aspect of the proposed strategy. The police have indicated that the *Codes of Practice* will take a pro-arrest and pro-prosecution approach in cases where police attend an incident of domestic violence and there is clear evidence that a crime has taken place. The police believe that being pro-arrest is one of the keys to the disruption to the cycle of family violence.

## Police Codes of Practice – Building a More Integrated Response to Family Violence in Victoria cont.

While the *Women's Safety Strategy* does not specifically advocate pro arrest the *Strategy* says, "physical and sexual violence against women are crimes which warrant a strong and effective criminal justice response." It appears that the police have made the assumption that a pro arrest policy is "a strong and effective criminal justice response".

The pro arrest policy directly contradicts the recommendations of the Victorian Indigenous Family Violence Taskforce. In the *Victorian Indigenous Family Taskforce Report 2003* it states "the Task force were told on many occasions by community members that they did not want Indigenous perpetrators of family violence to be prosecuted by Police as they feared what would happen if they went to prison".

The Indigenous Family Violence Taskforce advocates a more holistic approach to the problem of family violence including counselling and programs which can be accessed without going through the courts. If the police proceed with a pro arrest policy they are likely to discourage many of the people who may have considered requesting help from police. Given the problematic relationship between police and Indigenous people this is likely to have an even greater affect on Indigenous people than the mainstream.

Prominent family violence researcher Dr. Anna Stewart discussed pro arrest policies at a crime symposium held in Queensland in 2003. She argued that "much early research examining domestic violence perpetrators has treated them as a homogenous group". Stewart explored research which indicates that criminal justice interventions work differently on different groups of perpetrators. Stewart focuses specifically on data that outlines that arrest policies reduce violence among employed people but increases it among unemployed people.

Artist: Wendy Watjera Berick

It has been indicated that arrest could also mean taking the perpetrator to the police station for a 'cooling off' period, depending on the circumstances surrounding the incident. In some cases this would be a more suitable police response to family violence incidents than prosecution.

The codes include 'special considerations' when dealing with people from diverse backgrounds including Indigenous communities. When faced with making a decision regarding an Indigenous person police must take into consideration the underlying issues which the community have to deal with e.g. the past and the relationship with the Police.

The code is currently being finalised and will be presented to the force Commander for approval. If approved all Police members are to attend training workshops and the codes will be implemented in the next 3-5 months.

## **UP COMING EVENTS**

### ***Responding to Sexual Assault Training***

24<sup>th</sup> – 26<sup>th</sup> March at the Aboriginal Family Violence Prevention & Legal Service  
For more information contact Nerida or Gabrielle on 03 9654 3111

### ***Share the Knowledge Expo***

31<sup>st</sup> March 10.00am – 3.00pm Morwell Town Common  
For more information contact Karen Mobourne 0408 102 787

### ***International Women's Day Fair***

8<sup>th</sup> March 12.00 – 5.00pm at Centre for Education and Research in Environmental Strategies, East Brunswick  
For more information contact Nina Vallins or Annie Arnold 9387 2701

### ***No Fear within our families – The National Indigenous Family Violence Conference***

13<sup>th</sup> – 16<sup>th</sup> April 2004 in Brisbane.  
For more information contact Indigenous Convention Specialists & Association on 07 5471 3161 or [indigenousconventions@bigpond.com](mailto:indigenousconventions@bigpond.com)

### ***18<sup>th</sup> World Conference on Health Promotion and Health Education***

26<sup>th</sup> – 29<sup>th</sup> April 2004 at Melbourne Exhibition and Convention Centre.  
For more information go to [www.health2004.com.au](http://www.health2004.com.au)

### ***Justice Forum***

28<sup>th</sup> - 30<sup>th</sup> April 2004 at Echuca venue to confirmed  
For more information contact Department of Justice on 03 9651 6967

### ***Reconciliation Week – Community Justice Awards***

Friday 28<sup>th</sup> May 2004 – 12.00pm - 2.00pm at Queens Hall Parliament House

### ***Home Truths: Stop Sexual Assault and Domestic Violence: A National Challenge***

15<sup>th</sup> – 17<sup>th</sup> September in Melbourne; venue to be announced  
For more information contact Deb Bryant at the Australian Domestic & Family Violence Clearinghouse on 9687 8637

Draft report on Indigenous Sexual Assault Forum will be finalised shortly. For more Information contact Nerida Sutherland at the Aboriginal Family Violence Prevention & Legal Service on 9654 3111. Also check out there website [www.fvpls.org](http://www.fvpls.org)

The Human Rights and Equal Opportunity Commission has published "A statistical overview of Aboriginal and Torres Strait Islander peoples in Australia" on its website. <http://www.humanrights.gov.au/socialjustice/statistics/index.html>

## INTERVENTION ORDERS

The Victorian Aboriginal Legal Service (VALS) offers a range of legal advice and representation on family law issues. VALS will provide advice including phone advice, about taking out an Intervention Order. However VALS does *not* initiate proceedings for intervention orders.

If a client was to approach VALS about applying for an intervention order the family solicitors will provide advice and direct them to their local Magistrates Court to apply for an intervention order or refer them to relevant Intervention programs or Community Legal Centre who can assist them with this process.

There are a number of reasons VALS does not represent clients who are seeking an intervention order, these include:

- Lack of resources  
Resources would simply not cover the cost and time of representing every client who sought an intervention order.
- Unlike other matters, the courts are accustomed to dealing with people who are not legally represented in intervention order matters.

VALS will however assist a client in applying for legal aid if an intervention order has been made against them and they wish to contest this matter. VALS will also appear in court for a client if the applicant is in fear of:

- their safety, or
- their child's safety, or
- a person in their cares safety

And in the circumstances it is not possible or appropriate to refer the client to another service provider.

### Community Legal Centre (CLC) help with Intervention Order Applications at Court

<b>METRO</b>				
Broadmeadows	Friday	9.30-1.00	Flora Culpan – Broadmeadows CLC	9302 3911
Dandenong	Monday & Wednesday	9.30 – 1.00	Huong Nguyen - Springvale Monash CLC	9562 3144
Frankston	Friday	9.30 until finished	Victoria Mullings – Peninsula CLC	9783 3600
Heidelberg	Thursday	9.30-3ish	Bridget Dwyer – Darebin CLC	9489 6321
Melbourne	Monday & Thursday	9.30 until finished	Women's Legal Service	9642 0877
Ringwood	Tuesday & Friday	9 until finished	Julie Mouy - Eastern CLC	9877 5777
Sunshine	Wednesday	9.30 until finished	Belinda Lo – Brimbank CLC	9363 1811
<b>REGIONAL</b>				
Ballarat	Monday, Thursday & Friday	10.00-12.00 1.00-3.00 9.30-10.30	Central Highlands CLC	5331 5999
Mildura	Monday	1.30	Rebecca Boreham - Murray	5023 5966

	Wednesday	9.30	Mallee CLC	
Werribee	Thursday	9.30-1.00	Werribee CLC - Emma Asscher	3741 0198
Wodonga	Thursday	9.30-1.00 or 2.00	Alison Mayers – Albury Wodonga CLC	02 6056 8210
Wangaratta	Friday	9.30-1.00 or 2.00	Alison Mayers – Albury Wodonga CLC	02 6056 8210