

Aboriginal people and the law, lore and treaty

VALS ICLR Presentation

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Acknowledgement of Country

Artwork by Dixon Patten, a proud Gunnai, Yorta Yorta, Gunditjmara, Dhudhuroa man.



Today we will cover

- Setting the scene
 - Aboriginal people and the law
 - The Royal Commission into Aboriginal Deaths In Custody
 - Coronial Inquests
 - About VALS
- Promising practice
 - First Nations Cultural Capability Project
 - Aboriginal Community Justice Reports
- Treaty
 - Treaty in Victoria
 - Justice Treaty



Setting the Scene



Aboriginal People and the Law

- 65,000 years of history
- 230+ languages
- Indigenous legal systems (lore) pre-existed the imposition and invasion of British Common Law
- Aboriginal peoples are the most overincarcerated people in the world
- Treaty provides an opportunity to reset the relationship, based on a recognition of sovereignty and Aboriginal peoples as a polity



The Royal Commission into Aboriginal Deaths in Custody

- Established in 1987, the Commission examined 99 Aboriginal deaths in custody
- Examined overrepresentation of Aboriginal people in the criminal legal system
- Comprehensive investigation into deep injustices experienced by Aboriginal people as a result of colonisation
- Overrepresentation directly linked to removal from family as a child, and forced removal policies.
- 339 broad and damning recommendations were delivered in Final report



Coronial Inquests

- VALS Wirraway Prison and Police Accountability Program and our Civil and Human Rights Practice undertake Coronial Inquests.
- Coronial Inquests are a culturally unsafe process for families. The investigations are not independent
- Need to lessen the campaigning load, cultural burden, grief and economic burden on families
- Need to develop protocols and processes for media and campaigning
- Lack of accountability in implementing coronial recommendations by government departments
- Need for systemic racism, unconscious bias and cultural awareness training



About the Victorian Aboriginal Legal Service



Promising Practice



First Nations Cultural Capability Project

- VALS in partnership with Victorian Legal Aid and the Law Institute of Victoria are developing a First Nations Cultural Capability Framework.
- Recognition for the need for this framework came from the Coronial Inquest into the passing of Veronica Nelson.
- Framework provides the foundation for delivering improved experiences for First Nations people seeking legal support and assistance.
- Cultural Capability Training for Barristers



Aboriginal Community Justice Reports

- VALS is delivering this project in partnership with the Australian Institute of Judicial Administration, UTS and Griffith University.
- Based on the Gladue Reports
- Strengths based approach to establish alternatives to incarceration that are community based and healing focussed
- Aims to reduce overincarceration of Aboriginal peoples and
- Improve sentencing processes and outcomes



Treaty



Treaty in Victoria

- **Role of FPAV, the Treaty Authority and Self-Determination Fund**
- FPAV is the independent and democratically elected body to represent Traditional Owners of Country and all Aboriginal and Torres Strait Islander peoples in Victoria.
- The Treaty Authority will assist parties to resolve any disputes that may arise along the way in a safe, inclusive and flexible way.
- The Self-Determination Fund will support mob to prepare for and negotiate treaties, while also empowering mob to build capacity, wealth and prosperity.



Justice Treaty

- Justice Treaty will set a new foundation to transform the legal system
- It will be designed, led and controlled by communities, and founded by Aboriginal Lore, Traditions and Culture.
- It represents a transformative change, with the devolution of power to community, to ACCOs.
- It will also encompass urgent reforms that are needed in the current legal system and institutions



Questions?

