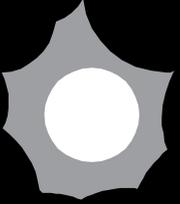
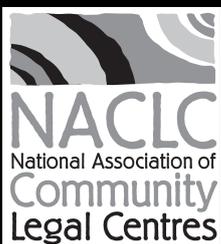
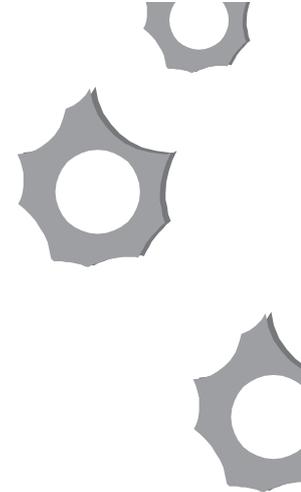


# JUSTICE HIJACKED



**NATIONAL COMMUNITY  
LEGAL CENTRES CONFERENCE  
ADELAIDE 2004**  
**29 AUGUST - 1 SEPTEMBER 2004**  
**STAMFORD GRAND, ADELAIDE**

# NATIONAL COMMUNITY LEGAL CENTRES CONFERENCE 2004



## SUNDAY 29 AUGUST 2004

4.00 – 6.00  
BALLROOM LOBBY

### Registration & Information Desk

5.00  
BALLROOM 1

### National Association of Community Legal Centres – Annual General Meeting

6.00 – 8.00  
BALLROOM 1

### Welcome Reception

#### WELCOME ADDRESSES

- **Liz O'Brien**, Convenor, National Association of Community Legal Centres
- **Josie Agius**
- **Michael Atkinson**, South Australian Attorney General

## MONDAY 30 AUGUST 2004

### PLENARY SESSIONS BALLROOMS 1 & 2

8.00

### Registration & Information Desk

9.00

**Liz O'Brien**, Convenor, NACLC will introduce the representative of the traditional owners –

### Indigenous Welcome to Land

**Josie Agius**

### Response to Welcome to Land

**Dianne Gray**, Convenor, National Network of Indigenous Legal Services

### CLC Update and Launch of the NACLC Justice Election Policy and Campaign

**Liz O'Brien**, Convenor, NACLC

10.00 – 11.00

## KEYNOTE PRESENTATIONS

### JUSTICE HIJACKED – SESSION ONE

1. **Hon Justice Ted Mullighan**, Judge of the Supreme Court SA

2. 'Aboriginal until proven innocent'

**Sharon Payne**, Director, NAALAS NT

The title of this paper refers not only to the all too familiar assumptions about the criminality of Aboriginal people; it also refers to the institutional bias against Aboriginal organisations and agencies. It refers to the constant need to prove that we are as good as everyone else, that we operate honestly, and efficiently and effectively, the underlying hypothesis that to be Aboriginal is to be guilty.

After all the struggles and battling that Aboriginal people and our supporter have endured for at least thirty years, we find that nothing has changed. There has been no enlightenment, no maturation or progress and nothing to show for the years of blood, sweat and tears that marked even the smallest victory. ATSIC has been slowly bled to death over the past eight years, literally death by a thousand (funding) cuts and Aboriginal Legal Services are being sent to tender on the flimsiest of pretexts.

It is the latter that I want to explore in this paper – the simplistic message that somehow the poorest funded organisations, those with staff who work hours of unpaid overtime each week and agonise over the fate of their clients, are not giving value for money. Even more simple minded is the assumption that somehow tendering will provide this 'value for money'. Indeed I would argue that tender processes merely point to who can produce the best tender document, not give the best service.

3. **Megan Davis**, Research Fellow and Acting Director of research at Jumbunna Indigenous House of learning, UTS based at the Law school.

Questions and Comments - Open to the floor

11.00– 11.30

**MORNING TEA**

11.30 – 1.00

## CONCURRENT SESSIONS 1 – 8

### Session 1

BALLROOM 1

#### **Plight of Refugees in Australia**

**Presented by: Refugee Advocacy Service South Australia**

RASSA provides legal advice and representation to refugees and asylum seekers who are detained.

Have we treated refugees in a fair, humanitarian way by detaining women and children in remote regions of Australia or has our approach breached fundamental rights? This session will look at the plight of refugees in Australia, from asylum seekers to TPVs-how the laws have changed and how the government's approach has softened.

### Session 2

BALLROOM 2

#### **Silencing Dissent and the Three Mischiefs**

**Richard Denniss**, Deputy Director, Australia Institute and **Michael Raper**, President, Welfare Rights Network

NGOs play a central role in the operation of a modern democracy. In addition to providing a voice for individuals that might otherwise be neglected in public debate NGOs play an important role in the collection, collation and distribution of the information necessary to inform individuals, the media, and even governments themselves about important policy issues. This paper presents the results of a survey of NGOs conducted by The Australia Institute. The results show that many NGOs are constrained by governments in their efforts to engage in public debate. These constraints may be explicit, in the form of contractual obligations that prevent NGO from publicly criticising governments or implicit. A large number of respondents stated that it was simply unwise to 'bite the hand the at feeds them'.

### Session 3

BALLROOM 3

#### **Access to Justice – the National Network of Indigenous Women's Legal Services Inc. Response to the Final Report**

**Dianne Gray, Leanne Miller and Winsome Matthews**

The National Network of Indigenous Women's Legal Services will facilitate and present a workshop presentation in response to the Final Report – Legal Aid and Access to Justice. It will be presented by Members of the Network.

### Session 4

BALLROOM 4

#### **A Sound Response to Family Violence. What constitutes a sound response and where does the impetus for reform come from?**

*Family violence reforms in Victoria and Western Australia*

**Joanna Fletcher**, Law Reform & Policy Lawyer, Women's Legal Service Vic. & **Lea Anderson**, Coordinator, Women's Law Centre WA

Comparing and contrasting proposed family violence reforms in Victoria and Western Australia. Recent reform proposals in both states, have been driven by strong family violence sector lobbying, police leadership and policy support from government. The Western Australian proposals include significant changes to the substantive law but, against a recent background of high rates of domestic homicides in that state, do they go far enough? The Victorian proposals to date focus on systems change but how much can this achieve without increased financial commitment from government? A discussion of the strengths and weaknesses of the impetus for reform in each state and what this has meant for the substance of the proposed reforms. What can be learned from the Victorian and Western Australian experiences for family violence law reform nationwide. Workshop presentation & group discussion.

### Session 5

BALLROOM 5

#### **Burn-out Prevention for Activists and Community Workers**

**Holly Hammond & Tarna Bulman**, Community Legal Centres Association WA

This interactive and creative workshop will be a time-out from the hurly burly of the conference. It will be an opportunity for us to reflect on our practices and share strategies for nurturing and pacing ourselves while we work for social change. We will look at issues like: our motivations to over-work; what inspires and affirms us in our work/activism; how to achieve greater balance in our lives; and ways to detect, address and prevent burn-out. Each participant will leave the workshop with their own customised burn-out prevention kit.

### Session 6

Colley Room 1

#### **Social Security Debt**

**Mark Leahy**, Manager, Welfare Rights Centre (SA) and other members of the Network will conduct the workshop.

Please join members of the National Welfare Rights Network Inc as they guide you through the increasingly complex maze of social security debt. What is social security debt – who does it affect? How is it recovered? What can be done to prevent debt? When can debts be reduced, waived or written off? Experienced members of the Network will provide you with answers to these questions and more! The workshop will also provide you with an insight into the current issues facing those in debt and give you ideas as to ways in each you can contribute to the Network's debt prevention campaign.

## Session 7

APARTMENT 2

### Legal Issues in Schooling

**Louise Goodchild**, National Children's & Youth Law Centre

**Gabrielle McKinnon**, Children's Legal Service, Marrickville Legal Centre NSW

The National Children's and Youth Law Centre is Australia's only national community legal centre, dedicated to the interests and human rights of children and young people in Australia. The vast majority of the NCYLC advocacy and casework arises from the concerns of young people about issues at school and in the education system. Marrickville Legal Centre also provides a specialist children's legal service for people under 18.

A common area of complaint received by the NCYLC and Marrickville Legal Centre from children and young people concern issues of school bullying and issues related to disciplinary decisions made by educational institutions, particularly in relation to suspensions and expulsions.

The Legal Issues in Education workshop will focus specifically on these issues that effect children in their schooling & consider the legal strategies for challenging and improving decision making in education practice. The workshop will also address the increasing concern regarding disability discrimination in schools and current legal interventions in this area.

### BBS Training

**Vicki Harding**, National Association of CLCs

This session will cover the basics of using the BBS - which is all you need to know really: it's that easy! The session will be ideal for new CLC workers or those who haven't set up the BBS on their computer yet. Topics covered include: installation, setting up an account, emailing, conferences and folders, using the calendar, setting up lists and private chatting.

### LUNCH

## CONCURRENT SESSIONS 9 – 16

### Panel Discussion: Will the Real CLC Please Stand Up!

**Panel:** **Bill Mitchell** (Townsville/QAILS) **Merran Lawler** (Central Coast NSW) **Lea Anderson** WA

**Moderator:** **Liz O'Brien**

Delegates at the Queensland Association of Independent Legal Services (QAILS) conference in 2004 identified a number of key issues around what makes a CLC. These discussion points range from the mundane to the highly controversial. The panel will introduce these points as means of initiating discussion.

### Kumarangk (Hindmarsh Island)

**Ngarrindjeri Treaty Heartland 1995 – Unfinished Business - 2004**

**Dr Doreen Kartinyeri, Veronica Brodie, Sandra Saunders, Tom Trevorrow**

The conference will be attended by four senior members of the Ngarrindjeri Nation accompanied by Ngarrindjeri community members in support. The speakers will talk about the Effect and Trauma of the 1995 Royal Commission on the Ngarrindjeri People, Family Connections, Importance of Acknowledgement and Protection of Indigenous Cultural Heritage from development, Ngarrindjeri Mi:minis Perspective on Justice for Black Women, Highjacking of Justice that refutes Indigenous Spirituality and Connection to Country, the Von Doussa Judgement, Unfinished Business, Access to Kumarangk, The Cultural Importance of Ngarrindjeri Lands and Waters highlighting the health of the Coorong, Rivers and Lakes important to the future on the Ngarrindjeri Nation, Lack of funds and Building an international First Nations forum on Indigenous Self-Determination and treaties between First Nations in the Pacific Rim.

### Phuong – Folk Devil or Political Assassin

**Gill Boehringer**, Senior Lecturer in Law, Macquarie University

Justice has been hi-jacked in many Australian criminal cases. In some, wrongful convictions have been exposed. In the case of Phuong Ngo it has not. Ngo is in jail for life, convicted of "Australia's first political assassination". He was charged with murder, by joint enterprise, of John Newman, MLA for Cabramatta, the "heroin capital of Australia" and "Little Saigon" as the media characterized it for years before, and after, the killing. As the alleged "master mind", Phuong became the "folk devil" of a media fed "moral panic".

The murder conviction followed highly publicized coroner's and committal hearings and three trials during which the prosecution story was crafted into differing versions. There were dodgy tactics by the prosecution, police investigators and the State Crime Commission. Strangely, no one else charged with joint enterprise to murder was convicted. Thus the shooter remains at large.

Many respected Vietnamese-Australians remain unconvinced of Phuong's guilt, but fear the consequences of challenging the State over what they see as a frame-up of a member of their community. Some believe that it was because the community felt so vulnerable that Ngo was an "easy target" and little support could be mobilized to protect him. My paper details the hi-jacking and emphasizes the importance of grass roots vigilance and support for minority defendants.

## Session 8

IT/HINDMARSH ROOM

1.00 – 2.00

BALLROOM LOBBY

2.00 – 3.30

## Session 9

BALLROOM 1

## Session 10

BALLROOM 2

## Session 11

BALLROOM 3

## Session 12

BALLROOM 4

### What Can Go Wrong? Professional Indemnity Insurance Basics

This session will be run by members of the national PII committee. The committee is made up of a representative from each state/territory and a rep from NACLC.

Please join the national PII committee to talk about some risk management issues relevant to our sector. What sort of claims have centres made? What are the most common notifications and how can we prevent these things from happening in our centre? We will also be happy to answer your questions about the NACLC PII Scheme and the particulars of our current policy.

This session will be ideal for Coordinators and Principal Solicitors who are new to the sector and for any centre employee or volunteer who is interested in learning more about running an effective legal service.

## Session 13

BALLROOM 5

### Beyond Justice: Two Examples of the Law Challenging Disability Rights

**Jonathon Goodfellow**, Coordinator / Community Legal Educator, Disability Discrimination Legal Service

This session presents two law reform campaigns being undertaken by the Disability Discrimination Legal Service (Vic) and our community allies:

#### 1. Instituting Drug User Discrimination: The relationship between prohibition and the Disability Discrimination Amendment Bill 2004 (Cth)

This brief presentation will examine the recent use of progressive laws as a means of the further oppression of drug users within the community, within the broader context of the continued failure of prohibition and its enforcement. It will also explore some of the steps needed to reform the manner in which the civil and criminal justice systems continue to persecute drug users in contemporary Australian society.

#### 2. Sexual Offences and Disability

This workshop presents the findings of the Sexual Offences Project, which examined the experiences of victim/survivors of sexual assault with cognitive impairment and was conducted by the Disability Discrimination Legal Service Victoria (DDLS) throughout 2002 and 2003. The project found victim/survivors with disabilities often are:

- not believed when they report offences;
- not considered reliable witnesses;
- not considered capable of participating in the justice process;
- removed from their homes;
- placed at even greater risk as a result;
- fearful and withdraw into social isolation, and they are
- Beyond Belief, Beyond Justice

## Session 14

COLLEY ROOM 1

### The Use of Isolation Cells with Juvenile Offenders in Detention

**Travis Flinn**, Psychologist, Illawarra Legal Centre

Australia continues to use isolation cells as a means of punishment for juveniles in detention despite being signed to United Nation Conventions strongly suggesting we do not and will not. This brief discussion paper looks into the use of isolation cells on juveniles in detention and the possible effects of this on both the individual and the system. An argument is made that the use of isolation cells as punishment for juveniles does not assist the operation, security or safety of the centre and does not assist in the rehabilitation or behaviour management of the juvenile. Further observations are made highlighting the perceived increase in self-harming behaviours evident in isolation cells.

The purpose of the paper is to raise awareness and discussion around the issue with a longer term aim of having Juvenile Justice Departments revisit the use of isolation cells and their utility in the management of detention centres and the rehabilitation of juvenile offenders.

## Session 15

APARTMENT 2



### **Public Housing: the Politics of Law and Order, Removal of Rights and Responses through Litigation**

**Nick Eastman**, Litigation Solicitor, Tenants' Union of NSW

**Jenny Watson**, Tenants' Advocate, Central Coast Tenants' Advice & Advocacy Service.

This session will outline the changes to residential tenancy legislation in New South Wales that increase the levels of behavioural control on public tenants. This two-part session will analyse the changes and their effects, the situation for other state and territory housing authorities and responses through litigation.

#### **1. Guilty until Proven Innocent – Jenny Watson**

**Part 1** of this session will review NSW's recent amendments to landlord and tenant law directed only at the tenants of the State's Department of Housing. The *Residential Tenancies (Public Housing) Amendment Bill 2004* provide for unilateral imposition of a 'fixed-term' to public tenancies, introduces compulsory "Acceptable Behaviour Agreements", and reverses the onus of proof in certain eviction matters before the State's tenancy tribunal.

#### **2. Whose Obligation? Public Housing Reform and Litigating Rights – Nick Eastman**

**Part 2** of this session reviews how reduction to the levels of Commonwealth funding for housing, the inevitable reduction of stock and the increase of demand, work to develop government's attitude of public housing as a privilege. A paper will be presented that looks at how the heightened legislative controls of public housing have eroded rights and imposed further obligations, and the possibility of litigating rights in the face of negative legislation through the use of administrative, human rights, anti-discrimination and international law.

## Session 16

IT/HINDMARSH  
ROOM

### **Overview of CLSIS Version 4**

**Justin Finighan**

CLSIS 4 includes many enhancements and new features implemented in response to feedback from centres during the first 6 months of use. The precise content of this workshop will depend upon how far the rollout of CLSIS Version 4 has proceeded. If CLSIS 4 is still to be released, then this workshop will provide a general overview of changes and new features for Version 4. If the rollout of the new version has been substantially completed, then this workshop will provide an opportunity to raise issues encountered in the new version, and discuss future development directions.

3.30 – 4.00

### **AFTERNOON TEA**

4.00 – 5.30

## **CONCURRENT SESSIONS 17- 24**

## Session 17

BALLROOM 1

### **Discrimination and Women - Where are we today?**

**Pat McDonough**, NSW Working Women's Centre, **Sandra Dann**, SA Working Women's Centre

In spite of the numerous laws and protections legislated for women to (a) be safe in their workplace; (b) complete their pregnancies in the workplace without harassment; (c) return to work after their pregnancies in their original positions, or to return to work part time; and (d) work free of sexual harassment, our observations reveal that to a large extent these laws are not working for a whole range of women. So where do we go from here?

## Session 18

BALLROOM 2

### **Who is our Community? – Children and Young People at the Centre of our Community (legal centre) practice Presenters from NYAN**

**Anna Radonic** (Principal Lawyer) and **Naomi Brown** (Advocacy and Human Rights Officer), Youthlaw (Victoria), **Louise Paulsen** - Logan CLC (Queensland)

Making our CLCs more accessible and appropriate to children and young people in conformity with their rights under the Convention on the Rights of the Child.

This workshop proposes to explore the ways that specialist and generalist CLCs can give practical effect to the rights of children and young people to access the services, and participate in the activities, of CLCs.

Meaningful and appropriate access and participation of young people in CLC activities will be explored through casework practices, community legal education and community development initiatives, law and policy reform initiatives and CLC governance, membership and management.

This will be an interactive workshop, with an emphasis on group sharing of initiatives in different contexts, strategies for generalist CLCs to engage youth specialist CLCs as resources and ideas for CLCs to incorporate in their own organisational practices.

## Session 19

BALLROOM 3

### Innovative CLE Projects

Presenters - NSW CLEW Group

This will be a workshop-style session showcasing 3-4 different CLE projects by different CLCs around Australia. The workshop hopes to encourage CLCs to think-outside-the-box when designing community legal education programmes. This will be followed by a discussion where participants will be invited to share the 'success stories' and 'failures' in delivery of innovative CLE.

#### Learning Objectives:

1. Discussing theoretical aspects of proactive CLE and community development.
2. How to use a "community development" model when designing CLE.
3. Providing practical tips on conceptualizing innovative CLE strategies.
4. Writing initial funding pitch and locating non-traditional funding sources.
5. Ensuring that the project can be replicated.

## Session 20

BALLROOM 4

### The National Human Rights Campaign on Women Prisoners

**Debbie Kilroy**, Sisters Inside Qld, **Amanda George**, Deakin University/Western Suburbs Legal Service Vic.

Across Australia women's prison activists have put in discrimination complaints to their respective Equal Opportunity and Anti Discrimination bodies with a view to getting systemic Inquiries into the conditions of women in Prison, as has been done in Canada. Using the legal system in this way has dangers and unintended consequence, particularly for the organizations involved. The process and progress of the complaints will be discussed.

## Session 21

BALLROOM 5

### Civil Compensation for Sexual Assault & Domestic Violence in Relation to Indigenous Victims

**Dora Walford**, Centre Manager, **Ida Lawrance**, Solicitor, **Jenny Wong**, Solicitor, Walgett Violence Prevention Unit

Sexual assault allegations usually have as their evidence the victim's version of events and the defendant's denial. Forensic evidence is quickly lost and is often inconclusive even if a victim reports the assault immediately. The Walgett Violence Prevention Service works with victims of sexual assault usually months, and not uncommonly years, after the actual assault. For lawyers this poses an incredible challenge when helping clients seek civil compensation.

The best evidence available is a criminal conviction whether by trial or guilty plea. Given that only 10% of sexual assaults are reported and a portion of these prosecuted, the majority of clients will not have such a conclusive case. It becomes the lawyer's task to establish that the assault occurred to the requisite civil standard – on balance of probability.

This presentation will look at this standard in the context of proceedings before a Tribunal where written evidence is required and the application will be determined solely upon the documentation before the assessor on the date of determination.

Given that domestic violence usually occurs in the context of a family relationship, there are strong incentives not to report the violence to hospitals and police. This is particular so in Indigenous communities given poor police community relations and the fear of repercussion as a result of reporting. There are often difficulties establishing that an act of violence has occurred if there are no physical injuries present at the time of reporting or no medical records documenting injury. This presentation will look at the issues surrounding DV in context of applying for Victim's Compensation.

## Session 22

COLLEY ROOM 1

### Litigation Economic, Social and Cultural Rights

**Facilitator: Anna Cody**, Kingsford Legal Centre, NSW

**Presenters: Nick Eastman**, Tenants Union of NSW

**Cassandra Goldie**, Housing Rights & Evictions, VIC

**Katrina Ironside**, Human Rights WA

**Mark Parnell**, Environmental Defenders Office, SA

This will be a workshop-style session showcasing 3-5 different CLCs from around Australia and the casework that they do to promote economic, social and cultural (ESC) rights. The session hopes to encourage CLCs to consider the relevance of a human rights framework to the casework that they do. The session would particularly like to highlight ESC rights, as provided for by the International Covenant on Economic, Social and Cultural Rights. The session hopes to encourage a discussion on the current state of protection available under Australian law for ESC rights, and to analyse:

- What have we been able to achieve within the current legal system?
- What are the challenges posed by the current legal system?
- What rights have been left unprotected?
- What are the limitations of litigation as a strategy for the promotion of ESC rights? (For example, do cases create specific legal remedies only for individual groups, or do they form part of an overall strategy of policy reform?)
- How does the issue of resources affect litigation that seeks to promote ESC rights? Does this kind of litigation place courts in the position of having to make policy decisions regarding budgetary priorities?

**Justice Equals Fairness – A Moral Paradigm of Justice for Lawyers Working for the Poor and Disadvantaged****Karen Koerner** LLB GDLP

As lawyers working for the disadvantaged, those in power must be made to justify their conduct in regard to the powerless. In the current climate of antipathy to the poor, criminals, terrorists, refugees, & government funded legal services, it is easy to equate justice with vengeance. Retribution is becoming eminently respectable along with the coarsening of public moral sensibility.

It is not easy to convince the public that there is redeeming value in every human life or to think about the human condition, its equality and reciprocity, or that everything can be reduced to the human equation. In criminal law, most accused do not have a solid defence but still need a lawyer – if only to drive a decent bargain. We as lawyers “know” how to seek justice within the rules of the system.

But do we? What is justice? Can there be justice without fairness? Is there a moral component to justice? What moral itinerary should we follow?

I propose a two-part ***Moral Paradigm Of Justice where Justice Equals Fairness***

**1ST PART**

Access to competent legal representation, and fairness in the law's application

**2ND PART**

Justice (fairness) is found in an integrative approach. Historically, law & legal principles have a moral base. They give legal order to social relations. As lawyers we must consider and integrate these three parts:

1. Strict law – politics, positivism
2. Natural law or what ought to be - morality, reason & conscience
3. History - historical context where law is a manifestation of historically developing factors and circumstances of a people, society or a person

Law fails and justice is hijacked if a strict application of law is made without considering how the person came to be facing the law or how it might affect the person in need. We cannot practice law without social consciousness, moral discernment, and without considering the historical context. We must synthesise the three parts.

**BBS Training****Vicki Harding**, Manager NACLC

Topics covered include: installation, setting up an account, emailing, conferences and folders, using the calendar, setting up lists and private chatting.

## Conference Close

**RRR Pro Bono Event**

To be held at: Minter Ellison, 1 King William Street, Adelaide  
Please note their building closes at 6pm



# TUESDAY 31 AUGUST 2004

## PLENARY SESSIONS BALLROOMS 1 & 2

8.30

BALLROOM FOYER

**Informal Chat – come and meet with Nicola Roxon MP**

9.00

**Nicola Roxon MP** Shadow Attorney General & Shadow Minister for Women will address the conference

## JUSTICE HIJACKED - SESSION TWO

9.30

**1. Stephen Kenny**, Director, Camatta Lempens, Solicitors, Adelaide - David Hicks' Australian lawyer

**2. Vicki Sentas**, Coordinator, UTS Community Law Centre; *Security is fear: the Rise of the Terror Laws*

With 18 separate pieces of so called national security and anti terrorism legislation in Australia, the war on terror is now the new law and order. The impact on Muslim and Arabic communities in particular, means the war on terror is a war on human rights, with racial and religious profiling as its weapons of mass discrimination. Whilst systemic racism is not new, the redeployment of the definition of terrorism to suit the agenda of government erodes political freedom beyond recognition. How do we organize against the war on terror beyond merely trying to roll back legislative creep?

**3. John North**, Partner, North & Badgery Member, Law Council of Australia's Access to Justice Committee

9.00 - 10.30

IT/HINDMARSH

### Access Databases for Beginners

**Justin Finighan**

Need to setup a database for volunteers, training, appointments, referral contacts etc etc? Learn the basics of setting up simple database using Microsoft Access (or any other database system). This workshop will cover basic database design principles, tackle some of the terminology – tables, fields, data types, relational databases, authority lists and give you the opportunity to create a simple database in Microsoft Access

ROOM

10.30 - 11.00

### MORNING TEA

11.00 - 12.30

## CONCURRENT SESSIONS 1 – 8

Session 1

BALLROOM 1

**Presenters:** **Annette Bain**, Pro Bono coordinator, Freehills, **Anne Cregan**, Sydney Pro Bono coordinator, Blake Dawson Waldron, **Michelle Hannon**, Pro Bono coordinator, Gilbert + Tobin, **David Hillard**, Pro Bono Director, Clayton Utz

### 1. Introduction to Pro Bono Programs

This workshop is aimed at people who are new to CLCs or who have had little contact with pro bono programs.

It offers the absolute basics about:

- what is pro bono;
- how do you contact a pro bono program at a firm;
- what types of assistance are available;
- examples of working partnerships, what to expect etc.

### 2. Pro Bono Forum

This is a panel discussion, with about 6 to 8 people from firms pro bono programs and from CLCs to discuss issues that have arisen in the course of pro bono partnerships, eg:

- evaluation - what has worked, what has not;
- challenges to pro bono relationships;
- whose role is it - Legal Aid, CLCs, law firms;
- issues raised by the group

## Session 2

BALLROOM 2

### Collection and Enforcement of Child Support

**Dolores Schneider**, Director Legal Services, Child Support Agency,

**Julie James**, National Improvement Officer, National Debt Team

CSA encourages parents to take control of their financial responsibilities to their children wherever possible and appropriate in accordance with the legislation. Many assessments made by the Registrar under the Assessment Act are never registered for collection. Other cases may begin registered for collection and then move to private collect. Over 51% of cases are now, in fact, private collect. However, there will always be a proportion of cases where it is necessary for the Registrar to enforce liabilities registered for collection. Where enforcement is necessary, the CSA can utilise the powers entrusted to it under the Child Support (Registration and Collection) Act.

Of recent times, however, there have been some developments about which practitioners should be aware. The Inquiry by the House of Representatives Standing Committee on Family and Community Affairs resulted in some recommendations to increase those powers. At the same time, in accordance with the Budget measures of 2003, the CSA is focussing on enforcement. This session will briefly cover the current enforcement powers and then look at the recent developments.

#### 1. Maralinga Presentation

The National Network of Indigenous Women's Legal Services Inc will facilitate a workshop presentation on Maralinga.

**Speakers:** **Mrs Laile Lennon** and **Dr Archie Barton** including speakers from the **Irati Wanti** Presentation below.

#### 2. Irati Wanti Presentation

**Speakers:** **Eileen Kampakuta Brown**, **Eileen Unkari Crombie**, **Emily Munyungka Austin**

##### **"We say NO radioactive waste dump in our ngura – in our country."**

The Kupa Piti Kungka Tjuta are a council of Senior Aboriginal Women based in Coober Pedy, South Australia. Comprising senior women from the South Australian desert, the Kungka Tjuta came together in the early 90's with a commitment to pass on their traditional cultural knowledge and look after their country. "We are the women who are fighting to keep the culture going."

The Kungka Tjuta spearhead a national environmental campaign in opposition to the proposed radioactive waste dump. Their campaign is called Irati Wanti, 'the poison leave it'. To the Kungka Tjuta their country is not a remote wasteland, suitable for the dumping of highly dangerous nuclear waste: "Never mind our country is the desert... that's where we belong."

##### **"The smoke caught us"**

During the 1950's and 60's the British Government tested atomic bombs in the South Australian desert at Emu Junction and Maralinga. 'Totem 1' sent a dense radioactive cloud; The Black Mist, far beyond the testing range. The nuclear fallout 'spread right through' over 250kms northwest to Wallatina and down to Coober Pedy. The Black Mist caused immediate and long-term sickness and death amongst Aboriginal and non-Aboriginal communities, including members of the Kupa Piti Kungka Tjuta and their families.

**SAME COUNTRY. SAME PEOPLE. SAME POISON. ENOUGH IS ENOUGH.**

## Session 4

BALLROOM 4

### 1. Australia's First Bill of Rights: The ACT Human Rights Act 2004

**Jane Hearn**, ACT Government Human Rights Adviser

The ACT Human Rights Act 2004 is the first Bill of Rights in Australia and follows 2 years of consultation. It incorporates into Australian law for the first time fundamental civil and political rights enshrined in the International Covenant on Civil and Political Rights (ICCPR) and empowers the Supreme Court to issue a Declaration of Incompatibility. The Act is based on an interpretive model, it does not provide an independent cause of action against a public authority and nor economic, social and cultural rights been included. Nevertheless, the legislation has received significant support from proponents of Bills of Rights while opponents criticize the new law as a 'criminal's charter' that will erode the sovereignty of the Legislative Assembly. In June this year the Liberal Opposition introduced a bill for a Charter of Responsibilities as an antidote to the individualism the HRA is said to promote. The *Human Rights Act 2004* adopts the UK dialogue model and assigns new roles to each arm of government. It draws on the *New Zealand Bill of Rights Act 1990* and the *UK Human Rights Act 1998* but is more than a simple hybrid. How will this first Australian Bill of Rights operate and what is its likely impact? This paper discusses the significance of the new law; the mechanisms established under the Act in light of the experience of New Zealand and the UK and suggest where the ACT law is likely to have its major impact.

### 2. John Harley South Australian Public Advocate on SA Bill of Rights

John will comment on Jan's paper and put forth some of the contrary arguments that have been expressed by other authors together with his aspect of protecting the rights of people with disabilities.

## Session 5

COLLEY ROOM 1

### **Muzzling the Community: Experiences in Environmental Law**

**Chair: Tom Cowen**, Principal Solicitor, Environmental Defenders Office, Northern Territory

**Mark Parnell**, Principal Solicitor, Environmental Defenders Office, South Australia;

**Jeff Smith**, Director, Environmental Defenders Office, New South Wales;

**Su Robertson**, Principal Solicitor, Environment Defenders Office, Victoria.

This session will explore the way that Governments:

use special legislation to move away from/dispense with hard fought public participation provisions, precisely where its most important, intervene when public participation does not give them the result they want, and the way that such intervention muddies the separation of powers.

#### **1. EDO Litigation Restriction - Mark Parnell.**

Commonwealth government funds are not allowed to be used by any EDO to run any form of litigation, nor to raise funds for litigation. This special provision in EDO Service Agreements originates from a high profile case run by environmentalists represented by the EDO in NSW against a powerful developer. This is the story of how this all came about.

#### **2. A Waste of Time? - Jeff Smith**

Jeff will discuss a NSW case where two self-represented litigants took on a waste giant in the Land and Environment Court and won. The government enacted subsequent legislation to negate the positive effect of this win.

#### **3. EDOs, CLCs and Social Change - Su Robertson**

Su will use recent Victorian casework to highlight the nexus between notions of social and economic justice and public interest Planning and Environment litigation.



## Session 6

APARTMENT 1

### **Let's Get Real: Women's Domestic Violence Court Assistance**

**Lyndal Gowland and Dixie Gordon**, Coordinators, WDVCS Refern Legal Centre

**Pam Lorimer**, Coordinator, Hunter WDVCS

The Women's Domestic Violence Court Assistance Scheme (WDVCAS) Network is a state-wide network of 33 Women's Domestic Violence Court Assistance Schemes set up to provide women and their children with support, advocacy, referral and information and to facilitate their access to legal representation. The Redfern DVCAS operates out of the Downing Centre Local Court and the Redfern Local Court The WDVCS Network is funded by Legal Aid.

This presentation outlines the role of the Domestic Violence Court Assistance Scheme, challenges facing the Scheme and our clients, such as an increase in vexatious cross-claims, the difficulty in obtaining exclusion orders, and the increased use of restorative justice practices in Courts, primarily the use of mediation in relationships where there has been domestic violence. Such a response, is inappropriate and dangerous. This concern prompted submissions to the NSW Law Reform Commission by the WDVCS Network and Redfern Legal Centre earlier this year.

## Session 7

APARTMENT 2

### **An Introduction to the work of the Communications Law Centre**

**Elizabeth Beal**, Director, Victoria & Principal Solicitor, and **Chris Atmore**, Policy Researcher

Oz NetLaw Internet Legal Practice

The session aims to:

- outline what the CLC can offer in terms of specialist knowledge to assist community lawyers and workers develop a broader understanding of the key legal considerations that arise with Internet use.
- give an overview of the work the CLC is doing in the area of telecommunications law and policy, with a focus on our most recent project which examined the experiences of consumers with a disability that might affect their judgment or understanding, who entered a telecommunications contract and were treated unfairly in the contractual process, or as a result of the contract itself.



## Session 8

IT/HINDMARSH  
ROOM

### **Using the Internet for Legal Research**

**Di Thompson**, Librarian, Legal Services Commission of SA

This hands-on training session will introduce participants to free legal resources on the Internet. Discover the best web sites To access for legislation, judgments, journal and newspaper articles, reports and other materials required for effective legal research. Find out how search engines work, why your searches may fail and the most efficient ways to locate information on the Internet.

12.30 – 1.30

**LUNCH**

**Session 9**  
 BALLROOM 1

**Being Positive about Planning for the Future – Directions, Strategic Planning and Creative Examples from CLCs**

**Robin Inglis**, Victorian Aboriginal Legal Service, **Rachna Muddagouni**, Fitzroy Legal Service Vic.

**Directions:**

Directions would be a brief overview of the NALCLC paper done by James McDougall and the Doing Justice paper and some comments about the anti NGO and anti human rights policy flavour

**Strategic Planning**

This would be a brief outline of some of the ways centres and state federation try to respond to and get ahead of the policy agenda eg. some examples of policies and processes. We will also highlight some policies from Community health and other sectors. We will then suggest some key questions that centres might consider about how they try to set directions and implement them.

**Creative Examples**

This will identify some positive examples of things that centres have achieved and link these back to some key questions which might inform direction setting in the future.

**Session 10**  
 BALLROOM 2

**Centrelink & Marriage like Relationships**

**John Stannard**, Principal Solicitor, Brisbane Welfare Rights Centre Inc, **Dale Nelson**, Researcher, Victorian Welfare Rights Unit and **Lorna Hallahan**, community worker & Adelaide-based relationships guru will comment on the presentations.

This session is a look at what happens to the most vulnerable people in situations of financial or emotional poverty (including domestic violence and homelessness), who rely on Centrelink for financial security, and who are caught up in Centrelink debts and prosecution. This is not a criminal law advice session, so much as an excursion into the traps and pitfalls that may affect a person in contact with your Centre. Its also an unforgettable ride with women living under Centrelink's interpretation of marriage-like relationship.

There is a definition of "couple" in the Social Security Act which requires Centrelink staff make a set of fairly subjective decisions. It is designed to save the tax dollar. Centrelink officers are also responsible for recovering debts and investigations into whether persons should be prosecuted, creating something of a conflict of interest in their daily lives as they help people access beneficial payments.

Welfare Rights Centres around Australia are funded to assist people with administrative debts. However, this often brings workers into contact with people who have to defend criminal charges.

This session will workshop some recent, extreme cases. Dale is the editor of "Blood from Stone" a 2004 publication on dealing with Centrelink issues. John and Dale admit to over twenty years experience in the area between them.

**Session 11**  
 BALLROOM 3

**Family Law Amendment Act 2004 – New era in dealing with relationship debt?**

**Catherine Carney**, Principal Solicitor, Womens Legal Services NSW, **Trish Mundy**, Principal Solicitor, Shoalcoast Community Legal Centre

The *Family Law Amendment Act 2003* came into effect on 29 March 2004. The Act deals with such things as registration of parenting plans, enforcement of parenting orders and the use of electronic technology in the family court. However, the most significant provisions, due to commence operation in (*to check the date*), concern relationship debt and the courts power to bind third party creditors in property matters.

These amendments mean that the Court will have wide powers to make orders "where necessary or appropriate" which alter the rights, liabilities or property interests of a third party in relation to the marriage, including family, friends and financial institutions. For example, the court could make orders which:

- direct a creditor to substitute one party's name on a loan for the other;
- direct a creditor that the parties will be liable for different proportions of the debt owed;
- direct a company to register a transfer of shared from one party to another.

These are significant amendments which will require solicitors and CLC's to understand and consider the relevance of family law provisions when advising on relationship debt and property matters.

## Session 12

BALLROOM 4

### Financial Management for CLC Workers

**Jane Cipants**, Illawarra Legal Centre NSW

Financial management in CLC's is often a difficult area. Centres are under an obligation to meet certain legal and service agreement requirements. There are differences in the way Centres undertake their financial management, but there are also many areas where we can all benefit from discussing the financial requirements placed upon us. This session aims to discuss financial issues such as: service agreements; Funding; Accountability; and surpluses.

## Session 13

BALLROOM 5

### Human Rights Lawyering for People Experiencing Financial and Social Disadvantage

**Phil Lynch**, Coordinator, PILCH Homeless Persons' Legal Clinic,

**Polly Porteous**, Director, Combined Community Legal Centres' Group (NSW)

Phil recently wrote an article on using human rights law as a framework for lawyering for financially and socially disadvantaged people. "Human rights lawyering", according to Deena Hurwitz, involves three key steps. First, clients' legal issues are considered and described in human rights terms. Second, remedies and redress for the wrongs suffered are formulated using human rights tools of accountability and having regard to human rights obligations of implementation and realisation. Third, strategies are developed and services are delivered in the context of key features of human rights advocacy, including accountability, transparency, non-discrimination, involvement of the persons affected, and respect for human dignity.

The article principally examines this third step of human rights lawyering and attempts to shift the discussion from how to use human rights law in homeless legal practice, to how to adopt a human rights approach to such practice. Within a human rights paradigm, the article considers the duty to treat clients with dignity and respect, the importance of asking clients what they want and listening and giving primacy to their answers, holistic approaches to assist clients with their non-legal needs, the role of lawyers in client empowerment and community development, and strategies to promote the meaningful participation of people experiencing homelessness in law reform work, policy advocacy and public education.

## Session 14

COLLEY ROOM 1

### "Not Seen and Not Heard." Legal and Social Exclusion of Young People

**Louise Paulsen**, Principal Solicitor, Logan Youth Legal Service Qld.

**Kelly Bunyon**, Central Community Legal Service SA

Is the old adage that "young people should be seen and not heard" still applicable in modern Australia or do we believe that young people should not even be seen? The debates surrounding law and order issues, the use of public space and community safety, rarely seem to include the opinions of young people. However, calls for increased monitoring and regulation of behaviour in public space often impact negatively on them as a group.

This workshop will present snapshots of some recent policy and legislative "initiatives" in a number of States that essentially operate to criminalise the behaviour of young people and exclude them from public life. We will also discuss some strategies and campaigns that CLC's are adopting to try and combat these trends.

## Session 15

APARTMENT 1

### Why is SA the only State without a Tenants Advice and Advocacy Service?

**Bryan Hughes**, Sector Development Officer, Shelter SA



For over 10 years Shelter SA and others in the housing sector have been advocating for the establishment of an independent, non-government Tenants' Advice and Advocacy Service to assist *all* renters. Such a service is vitally important and is urgently needed to assist all tenants to obtain and sustain their tenancies. South Australia is the only state in Australia that does not have such a service, and Shelter SA believes that renters in SA deserve a better deal.

Information, Advice and Advocacy services are closely associated with the alleviation of housing stress, dislocation and homelessness that is evident in the community. Such services assist individuals and families to maximise the housing opportunities available to them and to resolve issues that may compromise the quality or security of their housing. The success and continued funding of tenants' advocacy services in all other states demonstrates that everyone – tenants, landlords, and the wider community – benefits from a service that educates tenants about their rights and responsibilities.

In this workshop we will examine what the current state of play is regarding the establishment of a Tenants' Advice and Advocacy Service for SA, and what role Community Legal Centres might have in calling for such a service to be established as a matter of urgency.

## Session 16

APARTMENT 2

### Equal Access to Justice for People with Complex Communication Needs

**Fiona Given**, NSW Disability Discrimination Legal Centre

The court system is a fundamental institution in achieving justice in our society. In Australia, we pride ourselves that our courts are accessible to all citizens through equity programs such as legal aid. However, this belief is based on the understanding that all citizens have sound communication skills, or at the very least are competent verbal communicators, which is not the case.

The accepted definition of complex communication needs is this description provided by Balandin, "some people have complex communication needs associated with a wide range of physical, sensory and environmental causes which restrict/limit their ability to participate independently in society. They and their communication partners may benefit from using AAC methods either temporarily or permanently.

AAC can be defined as approaches and communication systems that make it possible for a person without speech to communicate.

People with complex communication needs rarely appear in court. This is not to say that people with complex communication needs do not encounter situations that some form of legal remedy or redress is required, in fact it is quite the contrary".

This paper will investigate the barriers preventing people with complex communication needs from accessing the court system. It will cover general attitudes and perceptions of disability in society, the pre-trial process, the problems associated when using systems such as Alternative and Augmentative Communication (AAC) and facilitated communication in the court room, litigation procedures, and financial barriers. In conclusion, the paper will consider how people with complex communication needs can achieve better access to justice in the future.

## Session 17

IT/HINDMARSH ROOM

### Protecting Your Computer Systems - Dealing with SPAM and Viruses

**Justin Finighan**

There has been a considerable increase in unsolicited and virus generated email over the last 6 months. This workshop will explain the terminology (SPAM, Viruses, spoofing, masquerading, Trojans etc), what to worry about and what to ignore, anti-virus protection, and email filtering.

3.00 – 3.30

**AFTERNOON TEA**

3.30 – 5.00

## CONCURRENT SESSIONS 18 -26



## Session 18

BALLROOM

### Working with Pro Bono Service Providers – How to work the system & get the services our clients want

**Catherine Carney**, Principal Solicitor, Womens Legal Services NSW, **Annette Bain**, Coordinator, Freehills

Traditionally a high area of need for women and children in NSW is the area of Family Law. This need is especially chronic in rural areas and severely affects our most disadvantaged clients.

There has been a reluctance for Pro Bono Services to get involved in this area. This is for many reasons, some of them very valid and others appear to be related to myths and fear of a messy unknown area of law.

Recently large law firms in Sydney agreed to attend a meeting with representatives of CLC's to discuss the lack of services being provided to our clients. These areas include Domestic Violence, Child Protection and Child Support.

The meeting was positive and a substantial number of the firms have now agreed to look at ways of providing these services. They are open to possibilities and training. The first training sessions have been provided and more are planned. It is a small start but it is an amazing journey from when they refused to consider anything that looked like Family Law matters.



## Session 19

BALLROOM 2

### Legal Theatre (Human Rights Education through forum theatre)

**Visakesa Chandrasekaram**, CLE Coordinator, South West Sydney Legal Centre

#### Introduction:

Participants of the 'Legal Theatre' session will have hands-on experience in using forum theatre techniques for human rights education. The session is designed as a follow up session to the 'Legal Theatre' session held in National CLC Conference in Hobart in 2003. This session also will further explore the practical aspects of innovative CLE, discussed in the 'Innovative CLE Projects' session.

#### Learning Objectives:

- To explore various aspects of 'forum theatre' tradition in delivery of effective and innovative CLE programs.
- To discuss the relevancy of community cultural development practices in the process of conceptualising innovative CLE strategies.
- To create awareness and interests in the CLC sector in Human Rights and Human Rights Education.
- To provide 'hands-on' training to workers of CLC sector in using community theatre techniques in CLE programs.

**1. Justice - Just What?****Tauto Sansbury**, Chairperson of Patpa Warra Yunti Regional Council

The Australian Criminal Justice System has not achieved the objective of bringing fair and just outcomes for Aboriginal people that was prescribed by the 1991 Royal Commission into Aboriginal Deaths in Custody. This is largely because many of the important Royal Commission recommendations have not been implemented and others have been paid little more than lip-service.

Whilst there have been some improvements in South Australia – such as the introduction of Nunga Courts, the provision of interpreters and Aboriginal Justice Officers at courtrooms, and provision of cultural awareness training for police, the Courts Administration Authority and justice portfolio managers – crime statistics clearly indicate that very little has changed for Aboriginal people over the past 13 years. Aboriginal people – men, women and particularly our youth – continue to be grossly over-represented in the South Australian criminal justice system.

For Aboriginal people, the most disappointing aspect is that the important Royal Commission recommendations concerning alternative community-based justice initiatives have not been implemented.

Very little will change for Aboriginal people until such time as justice principles and alternatives - such as imprisonment as a last resort, Aboriginal managed non-custodial options and the adaptation of community service orders - are taken seriously by government and a concerted effort is made to implement these initiatives in close consultation with Aboriginal communities.

**2. A Human Rights Approach****Presented by the Network**

The National Network of Indigenous Women's Legal Services Inc will present a workshop on Human Rights highlighting issues for Indigenous women and their families and communities. Focus will be on responses to Bringing them Home Report, Abolishment of ATSIC, and the anniversary of the 1967 Referendum.

**Access & Equity in Remote Australia****Elisabeth Purser**, Tenancy Advice & Education Worker, **Rosemary van Keppel**, Coordinator Administrator, **Samantha Martella**, Principal Solicitor, **Murray Jones**, Chairperson - Kimberley Community Legal Centre

With the theme of "Justice Hijacked", the Kimberley Community Legal Services have taken that idea and speak from the view that there are limited options for people wanting legal services in Rural, Regional and Remote areas.

The area covered by many RRR Community Legal Centres can seem overwhelming to many people. Kimberley Community Legal Services provide legal services to the whole of the Kimberley region which is located in the top 1/6<sup>th</sup> of Western Australia. The total area is 421,451 square kilometres, which is about twice the size of Victoria, and comprises of six main towns and numerous Aboriginal Communities.

KCLS wish to take you on a journey through the Kimberley region and discuss access and equity issues discovered by the most remote Community Legal Centre in Australia. These issues will include lack of services and conflicts of interest, recruitment difficulties, and accessing communities.

**Cross-Sector Advocacy: Achieving Progressive Public Policy and Social Justice****Presentations: Polly Porteous** (NSW Combined Community Legal Centre Group),**Jonathon Goodfellow** (Disability Discrimination Legal Service Vic), **Helen Dalley** (Disability Discrimination Legal Service NSW)**Phil Lynch** (PILCH Homeless Persons' Legal Clinic)

"The Australian Federal Government recently proposed legislation which would make it lawful to discriminate against illicit drug users in the provision of accommodation, education, employment, health care, and goods and services, among others. The legislation was vigorously opposed by community legal centres, with over 50% of submissions received by a Senate Inquiry into the proposed legislation being either made by, or explicitly endorsing the submissions of, CLCs.

This workshop, entitled "Cross-Sector Advocacy: Achieving Progressive Public Policy and Social Justice", will use the campaign against the Disability Discrimination Amendment Bill 2003 (Cth) as a case study to examine the role and importance of advocacy by, and partnerships between, CLCs and other sectors (such as drug user groups, the medical profession and progressive politicians) to achieve enlightened public policy and social justice. Presentations will be followed by an interactive panel discussion which will aim to develop strategies for further cross-sector campaigning and collaboration in the interests of 'achieving justice'."

## Session 23

COLLEY ROOM 1

### Legal Referral Training for Community Workers and Volunteers – Case Studies

This session will use three case studies to examine referral training for people who are a first port of call for clients with legal problems. These include community legal centre staff and volunteers and community workers. The NSW Legal Referral Forum and draft legal referral competencies will also be discussed. There will be an opportunity for participants to discuss the issues and strategies that they use to address this issue.

#### Introduction

Discussion of the need for effective referral and the NSW Legal Referral Forum

**Sue Scott**, Law and Justice Foundation of NSW

#### Case studies and Discussion

##### Setting the context - the law and legal system

**Sue Walden**, Acting Manager Legal Information Access Centre

##### Training community workers in making referrals to legal organisations

**Gina Vizza**, Principal Solicitor, **Melissa Stubbings**, Indigenous project worker, Hawkesbury/Nepean Community Legal Centre

##### Training (student) volunteers including the development of a legal referral video

**Anna Hartree**, Coordinator, Kingsford Legal Centre



#### Service Without Funding! Can it be Done?

**Sally Smith**, Loddon Campaspe CLC Project, Advocacy and Rights Centre Limited (Loddon Mallee)

**Frances Gibson**, Senior Lecturer, La Trobe University

The Loddon Campaspe Community Legal Centre Project (Central Victoria) has a group of keen people, volunteer solicitors and law students eager to get going with a CLC. We are seeking funding but this may take some time. We would like to talk with Centres who have recently started or who have undertaken work without funding, such as setting up advice services to get ideas about successful programs. We are seeking help from those who are running unfunded services, who have done so in the past or who have ideas as to how to make this work.

“Lack of money is no obstacle. Lack of an idea is an obstacle”. Ken Hakuta

#### Older Women and the Law

**Margaret Small**, Solicitor, Women’s Legal Services NSW

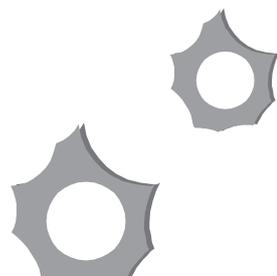
I am a full-time solicitor with Women’s Legal Services New South Wales and I gained my degrees studying as a mature aged student. As I am an older woman with a much older mother, I am very sensitive to the unmet needs of this extremely disadvantaged social group. I propose to present a paper on why I developed my paper “What Every Old Girl Should Know”, which was generally in response to questions asked on our advice line and current social issues. The presentation will include anecdotes, excerpts from my paper and what I see as important relevant legal issues.

#### CLISIS Data Query System (DQS)

**Justin Finighan**

CLISIS 4 includes a new (and long awaited!) ad-hoc reporter, the “DQS”. The DQS is a flexible reporting tool that will allow a wide range of reports to be designed, displayed, printed, or saved for later use. This workshop will provide an overview of the DQS, and look at some simple (and some not-so-simple) reports that can be produced. There is much more to the DQS than can be covered in a single session, and there will be limited opportunities for people to practice using the tool in the tech room for the duration of the conference.

## CONFERENCE DINNER & ENTERTAINMENT



## Session 24

HORIZON LOUNGE

Informal Session

## Session 25

APARTMENT 2

## Session 26

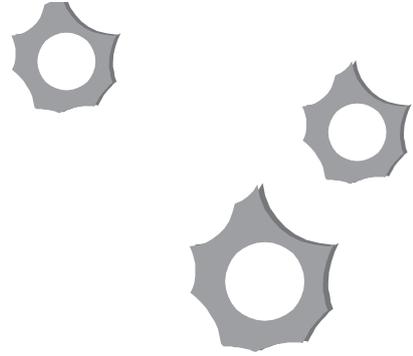
IT/HINDMARSH

ROOM

7.00 – 12.00

BALLROOM 1 & 2

# WEDNESDAY 1 SEPTEMBER 2004



9.00 – 10.30

## CONCURRENT SESSIONS 1 – 6

### Session 1

BALLROOM 1

#### **Co-operative Legal Service Delivery Model NSW Legal Aid Commission**

**Monique Hitter**, Manager Service Delivery, NSW Legal Aid Commission,

**Jane Cipants**, Illawarra Legal Centre, **Anne Cregan**, Pro Bono Coordinator, Blake Dawson Waldron

The legal services sector is increasingly being challenged to improve its response to unmet legal needs in the community. The Legal Aid Commission is piloting a regional service delivery model which aims to provide a framework to encourage greater coordination and cooperation of legal services across the government, community and private sectors.

The aim of this project to improve the range of legal services available in regional areas, and to facilitate greater access to them including pro bono services. It is being piloted in the Central Far West and Northern Rivers regions and will be evaluated to determine whether the initiative can assist in providing greater access to justice particularly to disadvantaged communities.

The pilot has generated much discussion. This session will provide an overview of how the cooperative legal service delivery model operates, and how it will be evaluated. The session will be in the form of a panel from organisations participating in the pilot including Monique Hitter, Legal Aid Commission; Anne Cregan, Blake Dawson Waldron; Richard Davies, Western Aboriginal Legal Service; and Jane Cipants, Chairperson Combined Community Legal Centres Group (NSW). The panel will discuss the experience of participating in the pilot, as well as issues raised by community legal centres and others.

### Session 2

BALLROOM 2

#### **Accessing Pro Bono Legal Services for CLCs and their Clients**

**John Corker**, Director, Australia's National Pro Bono Resource Centre

Provide information to CLCs as to how best to go about accessing pro bono services

Generate discussion about barriers to these relationships (real and perceived)

The format would be:

10 mins at the outset talking about the work of the Centre particularly as it pertains to CLCs.

At least one representative from the 3 State based Public Interest Law Clearing Houses (PILCHs) and ideally one rep from each PILCH talk about their schemes

Highlight maybe two interesting ongoing relationships between CLCs and firms by having the principal solicitor or director of the CLC and the partner of the relevant law firm talk about the history and nature of the relationship, how they have overcome barriers etc. (total 20 mins)

30-40 mins of broad discussion about issues raised.

### Session 3

BALLROOM 3

#### **1. The "Self- represented Litigants (SRL) - A Challenge"**

**Deputy Chief Justice John Faulks** of the Family Court

The Family Court of Australia's "Self- represented Litigants (SRL) – A Challenge" project reported on the first two years of its achievements in December 2002. Since that time a collaborative approach has been established to take the project beyond the limits of what the Court can do itself through a Working Committee with representatives from Attorney General's Department, National Legal Aid, CLCs, the Federal Court, the FMC and the legal profession. This session will address the experiences and learnings for improving the experience of SRLs in the Family Court. The session will also canvass the many initiatives the Court has developed over this time for SRLs including the related current pilot of less adversarial approach to the determination of disputes over children in the Children's Cases Program.

#### **2. Self-Represented Litigants in the Family Court: Who Cares?**

**Helen McGowan and Rebecca Eberle**, Albury/Wodonga Community Legal Service, the Family Court of Australia and Victoria Legal Aid

Our service proposes to facilitate a discussion about Self-Represented Litigants's (SRL's) in the Family Court and what the role of Community Legal Centres should be in assisting them.

SRL's raise a number of challenges for Community Legal Services, support groups, family court staff and other service providers (including mediators). SRL's can be disadvantaged in the preparation of documents, appearing in court, and participation in primary dispute resolution. They face problems associated with a lack of understanding of the legal system and the law, lack of objectivity and power imbalance.

## Session 4

Ballroom 4



### 1. Harnessing Student Power – Clinical Programs

**Graeme Ulbrick**, Principal Solicitor, Macquarie Legal Centre

**Anna Cody**, Director, Kingsford Legal Centre

In 2003 we celebrated our 25th anniversary. As part of those celebrations we discovered a lot about our establishment and the part, a group of lecturers and students from Macquarie University played in it. In forwarding invitations to the university we re established a relationship with the current Dean of that Law school. Subsequent discussions led to an arrangement that we would trial a clinical program. In this session I propose to outline and discuss our experience setting up and running a clinical program within our Community Centre.

### 2. First Stop Legal & Referral Service Becomes Part of ANU Clinical Education Programme

**Cesira Mussato**, Solicitor, Legal Aid Office ACT

First Stop is a free legal and referral service for young people aged 12-25 years in the Canberra region. It was established in December 2002 as a partnership between the Legal Aid Office (ACT), Clayton Utz, the Youth Coalition of the ACT and the ANU Law Students Society. It is staffed by a half time solicitor employed by Legal Aid, Clayton Utz Solicitors on roster and volunteer undergraduate ANU law students.

In 2003 the Law Students Society put forward an application to the ANU Vice Chancellors Fund. This application was successful and the ANU Law Faculty has received an additional annual amount of \$50,000 to contribute towards First Stop's continued operation in its current form and as the focal point of the ANU's undergraduate clinical legal education. The contribution is now paying rent and other operating expenses.

From 2<sup>nd</sup> Semester 2004, law students who participate in First Stop will also undertake a preparatory and parallel programme focusing on skills development, access to justice, and youth justice issues. The academic in charge of the programme is Judy Harrison. First Stop will continue to provide legal advice and referral services for young people. The Steering Committee is also working to finalise plans to broaden activities into law reform and advocacy on ACT youth justice issues.

### Model Laws Project – Implications for CLCs

**David Bulloch**, Managing Lawyer, Westside Community Lawyers, SA,

together with a speaker from Qld Association of Independent Legal Services

This workshop will develop a national approach to the proposed Model Laws Project with the aim of ensuring that CLC requirements are satisfied.

### Kicking & Screaming Into the Future – From Luddites to Whizkids – the potential of technology to deliver service

**KerryAnn Pankhurst, Catherine Nolan, Pam Buynr** - North and North West Community Legal Service

Community Legal Centres are traditionally run on a shoestring. Using information and communication technology, NNWCLS provides live access and support to staff in three offices and outreach solicitors across half of New South Wales.

In 2002, NNWCLS was a three person, hard copy based, single office. In 2004, NNWCLS auspices multiple services with numerous staff and three offices. We use a centralized computer network that allows all staff to log on to a server located in Armidale. Staff have live, real-time access to a group diary, emails and service databases that underpin our data management, service operations and compliance with PII requirements.

This will be a practical session illustrating the possibilities and pitfalls of dependence on technology.

## Session 5

COLLEY ROOM 1

## Session 6

IT/HINDMARSH ROOM

## AFTERNOON TEA

## CONCURRENT SESSIONS 7 - 12

10.30 – 11.00

11.00 – 12.30

### 'Contact at all costs?' – Can Family Law protect Women and Children from Post-separation Domestic Violence and Sexual Assault?

**Joanna Fletcher**, Law Reform & Policy Lawyer, and **Sarah Vessali**, Principal Lawyer, Women's Legal Service Vic.

Workshop presentation and group discussion. Overview of the key concepts of the *Family Law Act* and court processes in children's matters and why these may continue to place women and children at risk. Opportunities to advocate for women and children, to obtain the best protection possible under the current law. Proposals to change the family law system that threaten to worsen protections from family violence and abuse, including the recommendations of the 'Every Picture Tells a Story' report into child 'custody' arrangements. Opportunities to advocate for positive systemic change to the family law system to increase protections for women and children.

## Session 7

BALLROOM 1

## Session 8

BALLROOM 2

### Hangin' on the Telephone

**Fran Gibson**, Senior Lecturer, La Trobe University Bendigo

All over the world legal aid agencies are turning to the use of telephone and internet based advice services as an enhancement or replacement of in person advice services. Obviously these services have advantages and disadvantages. Whether we like it or not it is clear that these services will continue to be set up particularly for rural and regional clients. It is important that we try and develop an understanding of what styles of services work and which don't. We can then develop guidelines which can be given to funders to ensure they are aware of the measures that can be taken to ensure the service is responsive to client needs.

This workshop will be a discussion of successes and failures in services. Participants will be asked to share their experiences in relation to these services.

## Session 9

BALLROOM 3

### Why Insist on Calling a Rooster a Duck? Access to Federal Unfair Dismissal Laws by Casual Employees with less than 12 months' service: a test case and its aftermath

**Sinead Eastman**, Solicitor/Clinical Supervisor, Employment Law Clinic Kingsford Legal Centre

In 2003 Kingsford Legal Centre's Employment Law Clinic ran a test case that successfully challenged the exclusion from unfair dismissal proceedings of a "casual" employee with less than 12 months' service. For a short while after the decision (*Yasemin S B Cetin v Parkview Hotel t/as Ripon Pty Ltd, PR938639*) it seemed that many previously excluded "casual" employees would now have access the federal unfair dismissal regime. However, like many test case victories, since *Cetin* there have been amendments to the *Workplace Relations Act 1996 (the Act)* and subsequent decisions that again leave "casual" employees in an uncertain and possibly unprotected position under federal law. In this paper I will:

1. Outline the decision in *Cetin* (at first instance and on appeal);
2. Review subsequent amendments to *the Act* and subsequent cases;
3. Consider whether the relevance of the decision in *Cetin* has been eroded or whether there is still scope for arguing its application;
4. Consider the policy implications;
5. Consider the practical implications: how does the exclusion and the treatment of it by the Government and the AIRC impact on an increasingly "casual" workforce?;
6. Opine on the next step: Another test case? Lobbying? A role for the Convention Concerning Termination of Employment at the Initiative of the Employer?



## Session 10

BALLROOM 4

### Identification of Consumer Credit Law

**Kate Allan**, Solicitor, & **Lesley McKenzie**, Principal Solicitor, Consumer Credit Legal Service (Vic)

The workshop will provide an overview of consumer credit law and will focus on the most commonly arising issues in consumer credit cases. It will highlight avenues for resolution, including external dispute resolution schemes and litigation. This session provides an opportunity for community workers to discuss cases arising in their centers and seeks to assist them in their conduct of credit and debt matters.

## Session 11

COLLEY ROOM 1

### Running Effective Meetings

**Malcolm Downes**, Senior Project Officer, SACOSS

This 90 minute presentation and discussion will look at the following:

- the types and purposes of meetings
- the meeting action cycle
- what commonly goes wrong
- facilitative chairing
- using rules of order

## Session 12

IT/HINDMARSH ROOM

### Putting the SA Law Handbook onto the net – the lessons learned

**Di Thompson**, Librarian, George Hatzirodos, Legal Education Officer, Legal Services Commission

The Law Handbook Online is the first (and only) law handbook available for free on the Internet ([www.lawhandbook.sa.gov.au](http://www.lawhandbook.sa.gov.au)). This presentation describes some of the challenges faced by the Project Team in making the transition from hard copy book to Internet website. The presenters will highlight some important factors to consider when setting up a website to provide legal information

12.30 – 1.30

### LUNCH

**NACLC General Meeting and Network Convenors Meeting**

## CLOSING PLENARY

## JUSTICE HIJACKED - SESSION THREE

**Bob Gotterson, QC**, President of the Law Council of Australia introduces -

**Prof Angela Davis** is known internationally for her ongoing work to combat all forms of oppression in the U.S and abroad. Over the years she has been active as a student, teacher, writer, scholar, and activist/organizer. During the last 25 years, Professor Davis has lectured in all 50 United States, as well as in Africa, Europe, the Caribbean, and the former Soviet Union.

Professor Davis' long-standing commitment to prisoners' rights dates back to her involvement in the campaign to free the Soledad Brothers, which led to her own arrest and imprisonment. During her 16-month incarceration, a massive international "Free Angela Davis" campaign was organized, leading to her acquittal in 1972.

**Prof Gina Dent** is Assistant Professor of Women's Studies at UC Santa Cruz having previously taught at Princeton Columbia, and UC Berkeley. Her writings on race, feminism and popular culture led Ebony magazine to name her one of the black leaders of the future in 1996. She also works on African American women and the prison-industrial complex.

2.30

**Online Activist Legal Information and Resources**

**Stan Winford**, Fitzroy Legal Service

The Complete Activist page of the NACLCL website now includes an exciting new reference tool for centres and the general public interested in activist rights. Legal information and resources relevant to the various Australian jurisdictions can now be located by accessing a map of Australia and following the links. One great link is to [activistrights.org.au](http://activistrights.org.au) a comprehensive activist rights site just developed by the Fitzroy Legal Service.

2.40

**Resolutions Arising from Workshops/Networks.**

Resolutions from this plenary are used to inform the NACLCL work plan

3.30

## CLOSE OF CONFERENCE

**Julie Bishop**, Director, National Association of Community Legal Centres





**2004**