

REPORT FROM COMMITTEE OF MANAGEMENT

On behalf of West Heidelberg Community Legal Service, we are pleased to present the Annual Report for 2003/2004.

The Legal Service has always championed the rights of the community and gives priority to persons on low incomes, who are marginalised or have difficulty in navigating the legal system. The Legal Service has remained true to its objectives since its conception and works closely with the community and local services to break down barriers that prevent those from pursuing their rights and achieving a just outcome. This year, a greater effort was undertaken to develop networks with other agencies and services in an effort to improve the relationship between our community's needs and access to services.

With this in mind, the Legal Service is delighted to be part of the redevelopment of Banyule Community Health Service's West Heidelberg site. During redevelopment, the legal service will relocate to temporary premises in the local area with other health service providers. Although relocation may result in some disruption to services, the Legal Service will maintain its position at the Health Centre and we believe that the community will benefit greatly from access to improved facilities in the future.

We are grateful to our committee, staff members and La Trobe University who continue to demonstrate a strong commitment both to the Legal Service and our community.

Bernie Geary
Chairperson

Denis Swift
Treasurer

RIDING A MOTORISED SCOOTER MAY LEAD TO PROSECUTION

The Legal Service defended Mr W who was charged with several offences relating to riding his small, motorised scooter on the Darebin Creek Bike Path. Mr W was charged with using an unregistered motorcycle on a road related area; using a motorcycle on a road related area that does not comply with standards for registration; driving a motorcycle on a path; and failure to wear an approved motor bike helmet, whilst riding a motorcycle on a road related area. The case was of significant public interest as the law was unclear as to whether these scooters were defined under law as a bicycle or motorcycle. Manufacturers and retailers do not warn purchasers of any requirement to be registered and the law does not specifically state that motorised scooters should be registered with Vic Roads. The engineer's report provided with the scooter when purchased by Mr W stated that the scooter could be ridden legally without registration. The Magistrate, however, found that under statutory definition, the scooter had a power output that required it to be registered. The Magistrate found that she had no option but to find Mr W guilty of all four charges but imposed no penalty or conviction. Regrettably Mr W has purchased a scooter that he cannot use in a public place.

LAW REFORM ACTIVITIES

2003/2004 Submissions

- Child custody arrangements in the event of family separation
- Current legal aid and justice arrangements
- Children in institutional care
- Review of legislation governing the Victorian legal profession
- 'Productivity reductions' in the area of human services
- Indexation of fees and fines
- Proposed Charities Bill
- Legal aid fees for summary criminal matters
- Police corruption
- PERIN
- Police complaints
- JPET

Forums and Working Groups

- Prisoners' stakeholders
- PERIN
- Professional Indemnity Insurance

Roundtable Consultations

- PERIN Court
- Review of Legal Practice Act (Victoria)
- Juvenile Justice

Student Law Reform Reports and Discussion Papers

- Eastwood S, Brnovic S & Cash D, 'Working together to break the cycle: a discussion of current treatment and sentencing initiatives for drug-dependent young people in Victoria', Aug 2003.
- Monaghan J, Somers A, Crowe F & another student, 'To Breach or not to breach: confidentiality and the care and protection of children', Sept 2003.
- Caruso D, Wright C, Intagliata A & Meek T, "He that goes a borrowing goes a sorrowing": A report into youth debt", Jan 2004
- Adkins G, Commons R & Marcou T, 'The Crimes (Family Violence) Act 1987: a review of intervention orders', Feb 2004
- Pickering K, Farrugia D, Egan B & Brueckner D, 'Mentally Ill Offenders and the Criminal Justice System' (to be published)
- Lim S, Matta L & Hnativ T, 'The PERIN Court: A Discussion Paper' (to be published)

LAW REFORM ACTIVITIES

Extract from 'A Review of Intervention Orders'

Over the last twenty years there has been an increasing awareness of the prevalence of domestic violence within Australia. This awareness was brought to the forefront with the findings of the 1977 Royal Commission on Human Relationships. The Royal Commission found that domestic violence is one of the most widespread and under-reported crimes in Australia. These findings led to legislative reforms throughout Australia.

... [In 1987, Parliament introduced the Crimes (Family Violence) Act. It was a preventative and remedial legislative response to domestic violence.] ...

During their clinical placement at the West Heidelberg Community Legal Service, the authors recognized family violence as a recurring problem confronting the community of West Heidelberg. The recent terms of reference given to the Victorian Law Reform Commission were seen as the ideal opportunity to evaluate the Act and some of the issues surrounding its operation that are pertinent to not only the West Heidelberg community but also, Victoria as a whole but this report has a broader aim which is to highlight the issues to ensure educational, social and if necessary legal reform.

This Report consists of three chapters that respectively:

- Analyse family violence as a substantive community issue in order to evaluate the role of the Act in the broader attempt to eliminate family violence. This includes a consideration of legislative features in selected Australian jurisdictions other than Victoria.
- The second chapter looks at the procedures involved in applying for intervention orders and the shortcomings faced by complainants in relation to those orders.
- Examine the specific problems faced by minority groups in the community accessing intervention orders. This includes discussion about non-English speaking, indigenous, disabled and male and female victims.

This Report intends to make informed recommendations to actively contribute to the ongoing attempts to eliminate family violence, and achieve a 'best practice' legal response to family violence in Victoria. It also intends to stimulate debate about some of the recommendations, which may be the subject of some controversy, in the hope that such debate brings about constructive progress in the area of domestic violence.

"The State Government has earmarked Heidelberg as one of four sites for its planned domestic violence diversionary court. ... West Heidelberg Community Legal Service student supervisor and law lecturer Liz Curran lauded the initiative. ... But she said the court's success would depend on adequate resources and publicity, especially for non-English speaking people and police directing at-risk people to the court. "Police are often the first port of call, so they need to pass on information to people on how they can get help," Ms Curran said. She said cultural issues and the ramifications of taking action sometimes stopped victims from seeking help. But she said the barriers could be broken down with the help of skilled staff who understood their concerns."
Extract from article: 'Heidelberg on court short list' Heidelberg Leader, 8 June 2004.

LAW REFORM ACTIVITIES

Extract from 'Report into Youth Debt'

The focus of the report is 'youth debt', specifically in relation to consumer culture, credit cards, mobile phones and motor vehicle accidents. The authors decided to conduct an investigation into these issues after witnessing a number of young clients at the West Heidelberg Community Legal Service and also their peers face financial crises as a result of these issues. The authors jointly felt that there was a pressing need to examine in detail the causes of youth debt, what can be done to extract people from the cycle of debt and most importantly ways that it may be avoided. The report is divided into four parts and examines:

- Consumer culture: an evaluation of consumer culture within Australian society, its relationship with poverty and how this fosters youth debt.
- Mobile phones: an examination into the latest SMS marketing tactics of telecommunication companies and the technology enabling youth to use their mobile phones as credit cards.
- Credit cards: a discussion of how many credit card users are falling into debt from lack of understanding of important terms and conditions of the credit contract and a discussion of the consequences of falling into debt.
- Motor vehicles: a discussion of compulsory third party property damage insurance that is designed to make younger drivers more aware of the implications of a failure to insure and an overview of the problem of non disclosure when motor vehicle policies are insured.

The report concludes with a summary of the recommendations made throughout the discussions.

Articles published in 2003/2004:

- Diamond Valley Leader 'Brakes put on scooter man', 29 October 2003
- Herald-Sun, 'Debt trap claim on mobile deals', 28 January 2004
- Heidelberg Leader, 'Expenses send young to the wall', 10 February 2004
- Diamond Valley Leader, 'Debts sending young to wall', 11 February 2004
- Heidelberg Leader, 'Bash victims silent', 17 February 2004
- Heidelberg Leader, 'Heidelberg on court short list', 8 June 2004

Law reform projects received extensive media coverage during 2003/2004. In particular, the report into youth debt received coverage in relation to mobile phone debt on Channel 7, ABC-TV News and 7:30 Report, Channel 9, and Herald-Sun and local newspapers. Nationwide, eighty radio 'hits' occurred in the first 48 hours following release of the report. The report into Intervention Orders also received local media coverage and it is of note that a specialist domestic violence court was announced in May 2004 for the Heidelberg Court.

COMMUNITY LEGAL EDUCATION

During 2003/2004, a number of community legal education activities were undertaken targeting community members, law students, legal and non-legal service providers. Activities include:

- session on PERIN at state sector conference
- guest lecturer on criminal law at La Trobe University
- facilitated forums on privacy, duty of care and freedom of information with guest speaker from Privacy Victoria
- legal information session for local young girls' group
- guest speaker at Olympic Adult Education community lunch
- legal forum aimed at strengthening relationships with local Somali community
- youth services forum for new service providers in northern region
- local forum on violence against older persons
- written information on various areas of law to community members and local service providers

Clinical Legal Education Program

The clinical legal education program at West Heidelberg offers students of law the opportunity to gain practical experience within a legal setting and contribute to all aspects to the service including supervised casework and advice, community legal education, campaigning and research in law and policy reform. Working from a community legal centre raises opportunities for students to examine the law and legal system in practice and consider and address the systemic issues that they may identify. Ethical practice, teamwork and community service are important aspects of the students learning.

During 2003/2004, students of the clinical legal education program advised on over 140 files. All students attended an eight hour intensive training and orientation session prior to commencing placement. Attendance at the orientation session is a requirement before students can undertake placement and be exposed to clients.

During the first two weeks of clinic, students observe the interview process prior to interviewing clients on their own. Students will see new clients on each clinic day in addition to their follow up appointments. Afternoon sessions are used for follow up work on files and where permitting, law reform projects.

Students have been involved in securing legal aid grants on behalf of clients, briefing of barristers and attending conferences with the client. A number of students have attended court and instructed in criminal law matters.

Liz Curran
Lawyer/Lecturer & Supervisor of Clinical Legal Education Program
La Trobe University

WEST HEIDELBERG COMMUNITY LEGAL SERVICE

West Heidelberg Community Legal Service
will relocate during the redevelopment of
Banyule Community Health Service's
West Heidelberg site.

Please note our new contact details
from 1 October 2004:

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Covering Photograph:
La Trobe University Law Students: Sayuri Piper, Tim Hnativ and Stephen Lim
prepare mail-out of Law Reform Discussion Paper, Semester 1, 2004

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