
Client Assessment and Referral (CAR) Review

June 2008



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Client Assessment and Referral (CAR) Review
July 2008
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Executive Summary

Client Assessment and Referral (CAR) supports the criminal, family (including care) and civil law in-house practices of Legal Aid with Legal Aid's vision "to ensure that people who are economically and socially disadvantaged can understand, protect and enforce their legal rights and interests".

CAR is a unique unit comprising a number of highly qualified and experienced professionals trained in the social sciences. It is recommended in this report that the name 'Client Assessment and Referral' be renamed as 'social work' or a name determined by the CAR Review Implementation Committee, to assist with identification and reflect more accurately service delivery.

Each of the consultant's positions is allocated a consultancy role in a defined practice area within Legal Aid. The review recommends that this relationship be more dynamically linked with each practice area by physically locating each consultant into the law practice. The vision being that the consultant will be an essential member of the team, immersed in the practice culture. Consultants however, will continue to be supervised and supported by the manager of CAR.

Internal and external stakeholders regard the quality of reports and assessments prepared by CAR consultants highly, particularly the case plans. The Legal Aid clients referred to CAR are often people who have a mental illness, developmental disability or brain injury. Most are socially and economically isolated. The skills of the CAR consultant in uncovering history, relating it to behaviour and providing options for solicitors and courts cannot be underestimated. At present, CAR is unable to meet the demand for reports. This review has made some recommendations which aim to focus service delivery more strategically. This includes collaboration between Directors of Practice areas and the manager of CAR, to establish eligibility guidelines for reports.

An accessible and up to date information and referral data base is essential for a legal aid practice. The data base needs to provide information which is both state wide and multi-jurisdictional. To maintain such a data base is resource intensive, particularly if the objective is to provide an effective and reliable tool for solicitors. The report recommends that the CAR Referral Matrix be discontinued and in its place Legal Aid participate in HSNet, a free information and referral data base available to government and non government human service providers. The current position responsible for maintaining the data base is then freed up to provide more face to face contact and direct advocacy for clients.

Direct advocacy (also known as 'warm handling' or 'active referrals') will be available to clients who require assistance with negotiating with the referral agency or some other assistance to complete the referral. A protocol for access to Direct Advocacy is to be determined by Practice Directors and the manager of CAR.

The report recommends the establishment of three additional positions, and an extension of one of the part-time civil positions to full-time. At present the unit is comprised of four consultants who are allocated as follows:

- Criminal Law (Head Office)
- Family Law litigation (Head Office)
- Family Law care (Penrith)
- Civil Law – the position is shared between two part-time consultants, one located in the Mental Health Advocacy Service at Burwood, the other at Head Office

Two of the recommended new positions are client specific. The first is an advocate/consultant's position specifically allocated to clients who suffer from a mental illness, developmental disability or brain injury who require support and direct advocacy to link them to mental health services, accommodation, Centrelink and other agencies which ultimately will assist the client with achieving the legal outcome for which Legal Aid has been granted. This recommendation was also made in the Review of the NSW Legal Aid Commission's Mental Health Advocacy Service. The link between mental illness, homelessness and incarceration is well documented. Many Legal Aid clients fall into this category. It is recommended that this position either be located at Burwood Legal Aid Office within the Mental Health Advocacy unit or in the CAR unit in Head Office.

The second client specific position is a designated Aboriginal consultant's position to be located in the CAR unit at Head Office. It is recommended that the position will work with Aboriginal clients and their communities, Director of Aboriginal Services and Directors of Family, Crime and the Civil Law practices to explore ways of best meeting the needs of Aboriginal clients, to establish relationships with Aboriginal communities and their support services and work on strategies which will assist Aboriginal client's legal outcomes. This recommendation may need to be considered in light of Chris Cuneen's recommendations.

The third position is the establishment of a Children's Court consultant's position. The position will have a mixed practice of care and protection and children's crime. A recommendation to establish a social work position for the children's court is also made in the report 'Hotline to Hothouse' a review of the Children's Legal Service. This review however is recommending that care and protection and children's crime share the position. The options available in locating the position are as follows: firstly, locating the position at both the Parramatta Children's Court complex within the Children's Legal Service and within the care practice at the Parramatta Legal Aid Office. The second alternative is to locate the position with the CAR unit at Head Office.

The review also recommends that the two Family Law consultants share a mixed care and family law practice. The care consultants position at Penrith Legal Aid would therefore be relocated to Parramatta Family Law. The Head Office Family Law consultant would be located within the Family Law Division in Head Office.

At present CAR services are only available to clients who are represented by in-house solicitors. This policy is historical but not equitable. To offer CAR services to legally aid clients represented by private solicitors is a resource issue. However, the Legal Aid Corporate Plan does not differentiate services on the basis of representation. This report

has made recommendations increasing CAR services, in particular, the provision of a mental health advocate/consultant and the redirection of role for the referral position. The private solicitors consulted in this review, stressed how difficult and time consuming it was to locate services for clients, an activity, which is not reimbursed. Therefore, it is recommended that the following CAR services be extended to private solicitors:

- Access to an up-to-date Internet referral database
- Subject to the protocol settled for the in-house practice, and subject to conflict, access to the referral officer and the mental health consultant through the Grants Division.
- In care and protection matters, subject to the protocols settled for the in-house practice, and subject to conflict, the Aboriginal Legal Service care and protection solicitors to have access to care consultants for reports and direct advocacy.

Finally, the review also looks at the relationships between CAR, its clients and external stakeholders and recommends that the role of the Manager of CAR be augmented to include a whole of government approach to the delivery of services. The new upgraded role would be responsible for proactively engaging with government departments and non-government departments with the aim of encouraging partnerships linking services more directly to Legal Aid clients.

Terms of Reference

1. An analysis of current and proposed service delivery strategies and resourcing implications.
2. Identify how relationships with key stakeholders (internal/external) can be improved to enhance service delivery.
3. Staff development needs.
4. Future best practice strategies and performance measures.
5. Structural, locational and reporting requirements.
6. Support issues and security requirements of staff.

Review Consultation Committee

- Steve O'Connor, Deputy CEO Legal
- Judith Walker, Director Family Law
- Danielle Castles, Manager Client Assessment and Referral
- Paul Hayes, Deputy Director Criminal
- Monique Hitter, Director Civil Law
- Matt Turner (Regional representative) civil law, Wollongong

Conduct of the Review and Methodology

Bill Grant, the CEO Legal Aid New South Wales, commissioned the review of the Client Assessment and Referral Unit. Michelle Crowther, previously a senior solicitor at Legal Aid and now a private consultant, was appointed to undertake the review.

The reviewer consulted in-house Family, Care and Protection, Civil and Criminal Directors, Regional Program Coordinators and solicitors both in Head Office and in regional offices. A list of who was consulted can be found in *Appendix A*. Each of the in-house solicitors was asked a standard set of questions. In addition, the consultants and referral officer in CAR were extensively interviewed with a standard set of questions (*Appendix B*). Focus groups in both the Grants Division and Strategic Policy and Planning were also conducted.

External stakeholders including: the Office of the Director of Public Prosecutions, Magistrates, Department of Corrective Services, the Aboriginal Legal Service, private solicitors and the manager of HSNet were consulted.

The report is based on the distillation of opinions and ideas expressed by people consulted in this review.

Summary of Recommendations

Location and Structure and Communication

Recommendation 1: That the name 'Client Assessment and Referral' be renamed as 'social work' or a name determined by the CAR Review Implementation Committee, to assist with identification and reflect more accurately service delivery.

Recommendation 2: CAR is presently located in Legal Services with the manager reporting to the Deputy CEO Legal. It is recommended that this reporting relationship continue. However, the manager of CAR is to be appropriately graded to reflect the increase in responsibility.

Recommendation 3: Legal Aid should expand the role of the manager of CAR to include a 'whole of government' approach to the delivery of services. The new position would be responsible for pro-actively engaging with government departments and non government departments to link services more directly and strategically to legal aid clients. The Department of Housing and DADHC are two obvious examples. It is anticipated that the position will initiate and collaborate on proposals seeking funding and/or access to services.

Recommendation 4: There is a clear need to link each CAR consultant more dynamically with each practice area thus ensuring a more relevant and strategic delivery of service to clients. It is recommended that consultants be physically located in the defined practice area. (See recommendations under analysis of service delivery: civil, care, family crime.)

Recommendation 5: CAR manager to establish formal and regular meetings with the Regional Program Coordinators, senior solicitors in practice areas and CAR consultants.

Recommendation 6: That Directors of Family, Crime and Civil, senior solicitors from practice areas, manager CAR and consultants form a working party to establish the following:

- Protocol for access to Direct Advocacy encompassing Legal Aid Priority groups, disadvantage and social exclusion.
- Eligibility guidelines for reports encompassing:
 - I. Priority clients in context of practice areas
 - II. Cost benefit in context of legal outcome

III. Alternative reports

IV. Access to justice

Recommendation 7: Once these guidelines and protocols are agreed upon; they should be distributed actively through the organisation by induction, promotion at staff meetings, News on the internet home page, email and pamphlets.

Recommendation 8: That the manager of CAR consult with Directors of Practice Areas and Regional Program Coordinators before implementing changes to service delivery.

Clients

Aboriginal

Recommendation 9: Establishment of a designated Aboriginal consultant position to be located with CAR at Head Office to work with Aboriginal clients and their communities, Director of Aboriginal Services and Directors of Family, Crime and Civil to explore ways of best meeting the needs of Aboriginal clients, to establish relationships with Aboriginal communities and their support services and work on strategies which will assist Aboriginal clients' legal outcomes. This recommendation to be considered in light of Chris Cuneens' recommendations.

Mental Health

Recommendation 10: Establishment of an advocate/consultant's position specifically allocated to clients of Legal Aid who suffer from a mental illness, developmental disability or brain injury who require support and direct advocacy to link them to mental health services, accommodation, Centrelink and other agencies which ultimately will assist the client with achieving the legal outcome for which Legal Aid has been granted.

Recommendation 11: The position is ideally suited to be located within the Mental Health Advocacy Service (MHAS), because of the established networks that service has established. Alternatively, the position can also be located in Head Office, and linked with the general direct advocacy position.

Service Delivery

Civil

Recommendation 12: There is a role for the civil consultant to actively work with the Civil RPC and solicitors to identify types of clients and matters which require an element of case management. Such factors as priority client group, difficult clients or clients who fall within the disadvantaged guidelines are relevant.

Recommendation 13: CAR manager, civil consultant and the RPC to develop protocols for civil solicitors accessing the civil CAR consultant during civil advice clinics and with minor assistance.

Recommendation 14: The part-time civil law consultants to be extended to a full-time position.

Recommendation 15: Civil Law consultant to be located within the civil law practice area at Head Office.

Recommendation 16: Establishment of a civil law appointment diary in CASES.

Recommendation 17: Establish formal and regular meetings with civil Regional Program Coordinators, Solicitors, CAR Manager and consultants.

Prisoner's Legal Service Civil Law

Recommendation 18: That the manager of CAR convene a working party inviting the PLS civil solicitor, civil consultant, the manager of the Cooperative Legal Service Delivery Program, and civil solicitor of Community Legal Education to work on strategies to assist prisoners with financial debt.

Family Law

Recommendation 19: The establishment of a Children's Court consultant's position. The position will have a mixed practice of care and protection and children's crime. A recommendation to establish a social work position for the children's court is also made in the report 'Hotline to Hothouse' a review of the Children's Legal Service. This review however is recommending that care and protection and children's crime share the position. The options available in locating the position are as follows: firstly, locating the position at both the Parramatta Children's Court complex within the Children's Legal Service and within the care practice at the Parramatta Legal Aid Office. The second alternative is to locate the position with the CAR unit at Head Office.

Recommendation 20: There is a clear need to link the care and family law consultant more dynamically with care and family law area thus ensuring a more relevant and strategic delivery of service to clients. It is recommended that the care position at Penrith be relocated to Family Law in Parramatta to provide consultancy services to family law and care and protection at Parramatta.

Recommendation 21: There is a role for the care consultant to actively work with the senior solicitor care and protection to identify and prioritise types of clients and matters which require an element of case management.

The care solicitor is responsible for the overall supervision and management of the client's case.

Recommendation 22: The Family Law consultant located in CAR at Head Office to be relocated into the Family Law practice in Head Office and to provide consultancy services to family law and care and protection state-wide.

Recommendation 23: Establishment of a care and family law intranet appointment diary in CASES.

Recommendation 24: Flexibility of family law and care consultants to prepare reports for either jurisdiction when the referral is from a country regional office. This would increase the profile of consultants in regional offices as they would be seen more frequently.

Recommendation 25: CAR consultants are best placed to analyse current literature and provide MCLE to solicitors.

Recommendation 26: Establish formal and regular meetings with family Regional Program Co-ordinators, Solicitors, CAR manager and consultants.

Recommendation 27: Allow ALS care solicitor's access to care consultant.

Criminal Law

Recommendation 28: There is a clear need to link the criminal law consultant more dynamically with the criminal law area thus ensuring a more relevant and strategic delivery of service to clients. It is recommended that the criminal law position be relocated to Criminal Law in Head Office and continue to provide a state wide service.

Recommendation 29: The Criminal Training Officer to arrange in consultation with Manager CAR, CRIS officer and consultants training in requirements of S.32 applications.

Recommendation 30: Implementation of regular meetings between CAR and Criminal Law Division sections.

Recommendation 31: Establish formal and regular meetings with criminal Regional Program Coordinators, Solicitors, CAR manager and consultants.

Prisoners Legal Service

Recommendation 32: CAR to meet regularly with PLS solicitors and establish priorities in delivery of service to the PLS.

Recommendation 33: Collaboration with Probation and Parole and PLS regarding referral and advocacy for prisoners appearing before the Parole Authority who require post release services. CAR in consultation with the PLS establish criteria for eligibility of parolees, for example, parole as opposed to court release, reasonable prospects of success but for lack of service, mentally ill, dual diagnosis.

Recommendation 34: Assist PLS Family Law solicitor CARE case plans.

Children's Court

Recommendation 35: Establishment of a specialist Children's Court consultant's position. See *Recommendation 19*.

CRIS Database

Recommendation 36: Legal Aid needs to ensure that the referral information is up to date, and accessible. This is currently a resource issue. It is recommended that legal Aid either improve the CRIS referral matrix by making the matrix more accessible and providing a greater range of services with information which assists solicitors. This will necessitate employing more CRIS officers. Alternatively, at no cost, Legal Aid participates in Servicelink.

If the proposal to participate in Servicelink is adopted the following steps are required:

- An implementation working party comprising IT, CAR, Grants, and regional Program Coordinators to be established.
- Promotion and training strategies to be implemented to assist access to in-house and assigned legal aid solicitors.

Client Assessment and Referral In-house

Developmental and Rotational Opportunities

Recommendation 37: Facilitate discussions with CAR consultants and management to explore rotation and secondment opportunities.

OH&S

Recommendation 38: CAR manager to liaise with Director Crime regarding implementation of MOU with the Department of Corrective Services.

Recommendation 39: It is timely to engage OH&S consultant to look at home visit guidelines and practices.

Training

Recommendation 40: The criminal law training officer, Family and Civil Regional Program Coordinators to facilitate training of CAR consultants in report writing, the rules of evidence and cross examination.

Recommendation 41: CAR to Coordinate with Training and Development training of solicitors and CAR consultants in: Australian Association of Social Workers Code of Ethics, privilege and confidentiality, expert witnesses.

Recommendation 42: Attendance by CAR consultants at training sessions organised by Training and Development which assist in service delivery to clients.

Extending Client Assessment and Referral to Private solicitors

Recommendation 43: Private practitioners to be provided with access to an up-to-date Internet referral database.

Recommendation 44: Subject to the protocol settled for the in-house practice, and subject to conflict, private solicitors on a grant of Legal Aid to have access to the CRIS and mental health referral officers through the Grants Division.

Recommendation 45: In care matters subject to the protocols settled for the in-house practice, the ALS care solicitors to have access to care consultants for reports and direct advocacy (subject to conflict).

Key Stakeholders

Recommendation 46: That Legal Aid liaise with Department of Housing and DADOC with the aim of establishing a cooperative relationship to work on strategies to assist Legal Aid clients.

1. Summary of Client Assessment and Referral

Client Assessment and Referral (CAR) provides services to in-house legal aid solicitors to assist legally aided clients achieve the best legal outcome.

Social workers have been employed at Legal Aid since 1981. At that time, the primary focus was in supporting solicitors and liaising with the community to assist prisoners and disabled clients. Since that time CAR has undergone many changes culminating in 2002 with the establishment of the Client Assessment and Referral Unit.

CAR supports the criminal, family (including care) and civil jurisdictions of Legal Aid with Legal Aid's vision "to ensure that people who are economically and socially disadvantaged can understand, protect and enforce their legal rights and interests".

The unit is organisationally located within Legal Services with the manager of the unit directly reporting to the Deputy CEO Legal. Previously the unit was located within Regional and Community Services.

Most of the unit including the manager of the unit is located in Head Office on level 14 (a floor which does not house any of the legal practices except ADR). Two of the consultants are located in Legal Aid's specialist services: one is located at the Burwood regional office within the Mental Health Advocacy Service (MHAS) and another consultant is located at Penrith, servicing the Family Law state wide (care) practice.

The unit comprises:

- Manager clerk grade 9/10
- Four Client Assessment and Referral Consultants clerk grade 6/8 positions although there are five consultants as two are working part time in an approved job share arrangement
- Community Liaison and Referrals Officer clerk grade 5/6
- Administrative Assistant clerk grade 1/2

Each of the consultant's positions has been allocated a consultancy role in a defined practice area within Legal Aid. These are:

- Criminal law – (full-time, Head Office)
- Family Law – litigation (full-time, Head Office)
- Family Law – care (Full time Penrith)
- Civil Law – generalist (part time Head Office)
- Civil Law – Mental Health Advocacy Service (part-time Burwood Regional Office)

The consultant’s role is to provide clinical expertise and professional skills in the management of legally aided clients with socio-legal needs.¹ They act in a consultancy role providing the following services to each of the practice areas:

Civil Law

- Psychosocial assessments in tenancy, consumer, immigration, and Centrelink matters
- Affidavits
- Victims compensation assessments
- Lifestyle assessments (Veterans Advocacy Service)
- Assess merit of all legal aid applications from clients wishing to vary Mental Health Review Tribunal, guardianship and protected estates orders

Criminal Law

- Psychosocial reports for sentencing matters in children’s, local and district courts
- S.32 of the Mental Health (Criminal Procedure) Act case reports

Family Law

- Children’s Views reports
- Psychosocial assessments of parents
- Accommodation reports
- Assessing compliance with orders, advising on expert reports for cross examination

Consultants

Consultants provide a state wide service for clients of in-house solicitors. Clients can be interviewed in regional country and metropolitan Legal Aid offices. Arrangements can also be made for clients in country gaols to be transferred to a Sydney gaol if necessary and in some cases home visits are arranged for clients where it is considered advantageous to the client’s legal outcome.²

Table 1: Number of Referrals from regional and Head Office

Referred from	2005	2006	2007	Grand Total
Head Office	75	91	109	275
Wollongong	38	44	21	103
Burwood	1	35	42	78
Penrith	15	16	22	53

¹ Position Description, Legal Aid New South Wales, Client Assessment and Referral Officer.

² LA Office report on referrals from regional, metropolitan offices and Head office.

Referred from	2005	2006	2007	Grand Total
Parramatta	11	7	31	49
Campbelltown	15	11	13	39
Newcastle	6	9	12	27
Lismore	12	5	9	26
Liverpool	3	12	5	20
Dubbo	9	3	5	17
Gosford	4	1	12	17
Orange	4	3	5	12
Coffs Harbour	–	4	1	5
Fairfield	3	2	–	5
Manly	1	3	1	5
Bankstown	2	2	–	4
Wagga Wagga	2	–	1	3
Nowra	–	–	2	2
Other	1	1	–	2
Sutherland	–	1	1	2
Tamworth	1	–	1	2
Grand Total	203	250	293	746

The CAR unit is not available to legally aided clients represented by a private solicitor.

Referrals can be made by memo, email, pro forma referral form or telephone. However a file is not created until relevant paperwork is received. CAR Files are only created when a report is requested.

The table below outlines the number of files/reports recorded on LAO³ by practice area in 2005, 2006 and 2007.⁴

Table 2: Social Work files created (by referred date) – Number of files

Law type	2005	2006	2007	Grand Total
Civil Law	29	59	82	170
Criminal Law	138	166	148	452
Family Law	36	25	63	124
Grand Total	203	250	293	746

Each of the consultants is qualified in one of the social science degrees, principally social work. In addition, most consultants are in the process of or have acquired other

³ Legal Aid Office report, April 2008.

⁴ LA Office report on social work files created by practice area.

relevant tertiary qualifications and gained years of experience working in such diverse areas as: mental health, drug and alcohol, youth work, family counselling and care and protection.

The consultants are bound by the Code of Ethics determined by membership of their professional body, for example, the Australian Association of Social Workers. In addition, they are subject to The Expert Witness Code of Conduct in Schedule 7 of the Uniform Civil Procedure Rules 2005. CAR has also produced a Procedures Manual⁵ which provides a comprehensive set of business rules and guidelines for the unit.

Community Liaison and Referrals Officer

The Community Liaison and Referrals Officer is located in Head Office and provides assistance to all practice areas in Head Office and regional offices. The focus of the position is primarily to provide an initial assessment of clients socio-legal needs and to offer referral information and advice by telephone to legal aid solicitors across NSW. The position also envisages situations where it is appropriate for face-to-face assessments of clients.⁶

The referrals officer is also responsible for maintaining a referral data base of human service agencies and non government organisations which is accessible via the Legal Aid intranet and internet.⁷ That data base is called the Referrals Matrix and contains a directory of human service agencies. The link asks users to nominate a region in NSW and category.

LA Office records the number of CAR telephone information sessions. However there is no other information recorded.

Table 3: Information services provided by CARS

Law type	Commonwealth / State		2005	2006	2007	Grand Total
	Commonwealth	State				
Criminal	Commonwealth		76	125	265	466
		State	283	254	–	537
<i>Criminal Total</i>			359	379	265	1,003
Family	Commonwealth		16	119	121	256
		State	80	–	–	80
<i>Family Total</i>			96	119	121	336
Civil	Commonwealth		35	18	91	144
		State	244	135	–	379
<i>Civil Total</i>			279	153	91	523
Grand Total			734	651	477	1,862

⁵ Client Assessment and Referral Unit Procedure Manual.

⁶ Position Description, Legal Aid New South Wales, Community Referral Liaison Officer.

⁷ Referrals matrix on the internet through the *For Legal Practitioners* link.

More detailed information on CRIS is manually recorded by the CAR administrative assistant. This situation will change with the introduction of CASES on the 1 September 2008, as CASES will take over the recording of Duty and Advice. CAR has been working with the CASES implementation team to ensure that CAR can record information about all of the work they do.

A Community Referral Information Service email survey was conducted in 2007.⁸ One hundred respondents (solicitors) participated. Interestingly, the majority of users of CRIS were from regional offices (61%) and practiced in criminal law (58%). Significantly, 71.5% of respondents to the survey rarely or never used the referrals matrix.

It is not known what percentage of referrals is for clients on a formal grant of aid.

Clients

Legal Aid clients are people who are economically and socially disadvantaged. The clients referred to CAR for assessment and referral are often clients who have slipped through the cracks in the welfare system and are at most disadvantage.

In 2007, Legal Aid developed priority client groups targeting the elderly, the homeless, clients with a mental illness and Aboriginal clients and their communities.⁹

The next chapter looks at each practice area's need for CAR services for clients with a focus on priority clients.

⁸ CAR survey Information supplied by Manager CAR.

⁹ Legal Aid Corporate Plan 2007–2008.

2. Analysis of Service Delivery

This chapter analyses service delivery by practice area.

Civil Law Division

The Civil Law Division provides representation to eligible people in accordance with Legal Aid policies and guidelines. Legal aid may also be available for an additional range of civil law matters if the applicant is at special disadvantage as set out in the civil law policy.

Civil Law also provides advice and minor assistance to the community at Legal Aid offices where there is a civil solicitor employed. The program has expanded significantly over recent years offering civil law services from Head Office and 14 Regional Legal Aid Offices.

In addition, the Division offers specialist Civil Law services including: the Mental Health Advocacy Service (located at Burwood), Veterans Advocacy Service (Head Office), the Coronial Inquest Unit (Head Office), and more recently the Older Persons Legal and Education Unit (Head Office) and the Homeless Persons Unit. The Division also offers a Civil Law Aboriginal Legal Service Outreach Service. This advice service is provided at six ALS offices pursuant to the Legal Aid / ALS Protocol entered into in February 2006. At the time of this review, Dora Dimos is writing a separate review on the Aboriginal Outreach Service.

CAR currently allocates the Civil Law program with two part-time consultants. One is attached and located at the Mental Health Advocacy Service in Burwood and works three days a week (see below MHAS). The other position is located in Head Office and provides a service to the general civil law program and other specialist civil law programs three days a week.

Demand/Need

Types of matters

The most common types of matters currently referred by the civil solicitors to the CAR Civil Law generalist consultant are in the areas of: Housing, Disability, Social Security, Consumer Protection, Refugee/Migration (domestic violence) and Victim's Compensation. In addition, Veteran's lifestyle assessments are referred by the Veterans Advocacy Service (See *Veterans Advocacy Service* on page 29).

The following table shows the types of matters referred by civil law division to CAR in 2005, 2006, and 2007.¹⁰

¹⁰ LA Office Report 8 April 2008.

Table 4: Civil law matters referred by civil law division to CAR

Matter type	2005	2006	2007	Grand Total
Financial Management	1	26	28	55
Guardianship	–	8	11	19
Veterans Matters - Other	7	4	8	19
Assessment Appeal	2	4	5	11
Mental Health Other	1	4	2	7
Other Matters Miscellaneous - State	3	1	2	6
Victims Compensation	–	1	5	6
Other Civil Matter - State	3	1	1	5
Assessment Matter - Initial Action	–	4	–	4
Ejectment	1	1	1	3
Social Security - Administrative Law	1	1	1	3
Disability Support Pension	2	–	–	2
Immigration	–	1	1	2
Immigration Contract	1	–	1	2
Landlord And Tenant	2	–	–	2
Money Owed By Applicant	–	–	2	2
Other Civil Matter - Commonwealth	1	1	–	2
Social Security Overpayments	–	–	2	2
Appeal To Refugee Review Tribunal	1	–	–	1
Application For Permanent Residence	1	–	–	1
Application For Refugee Status	1	–	–	1
Banking Contracts	–	–	1	1
Civil Commitment	–	–	1	1
Community Treatment	–	–	1	1
Consumer Debt	–	–	1	1
Credit Act / Consumer Credit Code	–	–	1	1
Discrimination / Equal Opportunity - Commonwealth	–	–	1	1
Discrimination / Equal Opportunity - State	–	–	1	1
Forensic Patient	–	1	–	1
Government Departments / Instrumentalities (Civil Law)	–	–	1	1
Mortgage Contracts	–	–	1	1
Personal Injury	1	–	–	1
Phone/Counter Enquiry General Law State	–	–	1	1
Racial Discrimination - State	–	–	1	1
Title Disputes	–	1	–	1
Wrongful Arrest	–	–	1	1
Civil Law Total	29	59	82	170

Client Support

Consultations with solicitors indicate that often the Civil Law client presents with a number of legal and social problems. The clients are often people who have ended up with legal problems because of their limited social/personal/intellectual, generational capacity to avoid or resolve the issue. Compounding these problems is the lateness in approach to Legal Aid for assistance. In the report 'Pathways to Justice: the role of non-legal services' the Law and Justice study found that:

Only a small proportion of disadvantaged people with legal problems go to a lawyer or legal service for help. People are far more likely to seek advice from family and friends, or a broad range of non-legal services including doctors, accountants, teachers, homeless people's services, government organisations, social workers and youth workers. To improve people's access to justice and legal service provision, it is essential to recognise that non-legal services are often the first point of contact for many people with legal needs and to facilitate this as an effective pathway to legal assistance.

There are a number of good reasons why disadvantaged people in particular turn to non-legal services for assistance including familiarity with the service, convenience and not knowing where else to go. In some cases, disadvantaged people prioritise their non-legal needs over their legal needs and it may be a non-legal worker who tells them the problem they face is a legal one or has a legal implication.

For clients with more complex needs, it may be appropriate for non-legal and legal services to be coordinated to a larger extent, for example through the establishment of service hubs.

One solicitor said 'There is a need sometimes in civil law for a combined legal and pastoral approach to resolving a clients legal issue. Sometimes the client is incapable of doing the necessary tasks required to help themselves. The solicitor cannot as they are not qualified and do not have the time'.¹¹

The current Director Civil Law stated, 'I would like CAR more integrated into the practice. I would like the social worker imbedded into the culture of civil law and to therefore be able where appropriate to provide input into the preparation of client's cases'. This opinion was also echoed by the current Civil Law Regional Program Coordinator (RPC), 'It would be great if there was a designated Civil Law consultant. One person available would be very useful. They could be the responsible contact person inside and out of the organisation'.

One solicitor said 'The reality is I do a lot of counselling! Recently I spent 40 minutes counselling a client to accept a psychiatric report that had been prepared. Had I not done this it would have been a waste of the \$1000 it cost for the report. If the client didn't come around I would have referred her to Pam Verrender (civil consultant). I often need to counsel clients to accept settlement and this takes a lot of time'.

There is a role for the civil consultant to actively work with the Civil RPC and solicitors to identify types of clients and matters which require active case management.

¹¹ Law and Justice Foundation "Pathways to Justice: the role of non-legal services 2007". <http://www.lawfoundation.net.au/ljf/app/F9A72C0F0DC74008CA25730C002E674F.html>.

For example, such factors as priority client group, difficult clients or clients who fall within the disadvantaged guidelines.

Referrals

Clients are often referred to services by a number of professional agencies including Legal Aid. The civil solicitors expressed the need for a referral service which provides more than a name and phone number to the client. One solicitor stated, “When I refer a client I don’t have time to follow up and see whether the client actually made it to the service or whether that service helped the client. There is an expectation that the other agency will take that responsibility”.

Advice and Minor Assistance

Feedback from a number of solicitors highlighted the need for CAR support in matters which do not involve a grant of Legal Aid, for example, in Advice sessions and where minor assistance is given. Often what is required is some advocacy or negotiation on the client’s behalf which avoids commencing some action requiring a grant of aid.

One particular example is a client who came to Legal Aid with a complicated range of financial and accommodation issues with a threat of eviction and a loss of personal possessions if the client failed to do certain things. The client needed practical assistance which could not be provided by the civil solicitor.

The RPC is concerned that a percentage of civil solicitors are disproportionately allocating their time to clients who require minor assistance which is in effect ‘social work’. Whilst recognising that the work itself assisted the clients achieve a better outcome and avoided litigation she questioned whether the work in fact should be done by the social worker or a paralegal thus leaving the solicitor to focus on litigation files.

This issue of CAR providing assistance to civil law solicitors during advice sessions and with minor assistance was raised at the last CAR planning day in August 2005. It is recommended that this be followed up.

Reports

The RPC stated that the main issue for Civil Law at the moment is housing and following that is State Debt recovery waivers. Psychosocial and Background reports prepared by CAR are invaluable for these types of matters. Other solicitors consulted also highlighted the need for these types of reports. The reports provide the agency or tribunal with often compelling history and social context which in many matters would otherwise not be available.

Feedback

The feedback from civil solicitors regarding the quality of the assessments and reports prepared by the civil consultant, was extremely positive. A frequent comment was “We just need more Pam Verrenders!”

Recommendations

Recommendation 12: There is a role for the civil consultant to actively work with the Civil RPC and solicitors to identify types of clients and matters which require an element of case management. Such factors as priority client group, difficult clients or clients who fall within the disadvantaged guidelines are relevant.

Recommendation 13: CAR manager, civil consultant and the RPC to develop protocols for civil solicitors accessing the civil CAR consultant during civil advice clinics and with minor assistance.

Direct Advocacy/CRIS

See recommendations in chapter 3. *Summary of Issues, Community Referral and Liaison Officer.*

Specialist Services

Veterans Advocacy Service

Veterans Advocacy Service (VAS) is a specialist legal service funded entirely by the Commonwealth and offered to veterans and their dependants whose legal issues fall under the *Veterans Entitlement Act 1986* (Commonwealth). The service is located within Head Office but provision is made for one of the advocates to travel to regional centres across NSW offering advice and education sessions.

Reports

CAR consultants provide “Lifestyle Assessments” for matters before the AAT, Federal Court, and the Veteran’s Review Board. Usually the consultant interviews the client and family/care givers in the client’s home. The home visit serves two purposes. It enables the consultant to witness first hand the impact the service-related injury has on lifestyle in areas such as mobility, personal relations, domestic abilities, recreational and pain issues. Secondly, the consultant’s visits to the family home offers expert verification for the client’s claim.

Feedback from VAS advocates is that the courts have placed great weight on these reports. The reports have contributed significantly to the outcome of the matter achieving either an early settlement, or the court finding in favour of the veteran.

Paul Jones, Senior Advocate for VAS believes that CAR provides approximately 20 reports a year. “This has saved Legal Aid a lot of money as a report completed by an external consultant would cost between \$3,000 and \$4,000.” Furthermore the only other field of expertise available to provide this type of report would be an Occupational Therapist whose expertise may not be as highly regarded or as persuasive as a social worker.

CAR is also prepared to do home visits for veterans who do not live in Sydney. Given that 55% of VAS clients are over 75 years- this service is invaluable.

Support and Referral

Because the Department of Veterans Affairs offers adequate support services to its clients there has been little need for VAS to use CRIS.

According to the VAS senior solicitor, communication is good between VAS and CAR.

Mental Health Advocacy Service

The Mental Health Advocacy Service (MHAS) is a specialist advocacy service located within the Civil Law Division at Burwood Regional Office. The MHAS provides advocacy in Mental Health Act matters and Guardianship Tribunal matters across New South Wales. The MHAS also coordinates the provision of mental health duty services throughout New South Wales.

For clients outside the metropolitan area, services are provided by some regional offices (Wollongong, Coffs Harbour, Lismore, Tamworth, and Newcastle) in duty matters and hearings at hospitals. Private practitioners supplement services.

The MHAS employs several Legal Officers. The CAR consultant works within the MHAS. This position is part-time, three days a week and is located at Burwood.

The Senior Solicitor of the MHAS indicated that the demand for social work services by MHAS solicitors is confined to the assessment of merit in applications for revocation of protected estate and financial management orders. The social worker works with the MHAS team receiving referrals from the advocates directly. Referrals do not usually come from regional offices. The social worker coordinates the information and referrals required to assess the advocate's application/matter. The MHAS team works because the social worker is physically located in the office. She delivers a great service within a tight time frame.

The MHAS social worker did not think there was a demand for client support within the framework of the MHAS. Clients are subject to orders under the Mental Health Act, thus receiving support from the health providers attached to the hospital or community health centres. The social worker is occasionally asked to provide an assessment or opinion which does not fall within the above category. This would represent about 10% of matters.

John Feneley who reviewed the MHAS in 2006¹² opined that there was a role in the MHAS for a social work/paralegal advocate to provide a broader range of advocacy services to clients subject to orders under the Mental Health Act which would complement the services provided by the solicitors in MHAS. This recommendation has been implemented.

At the time of consultation the Senior Solicitor MHAS, observed that there was an anticipated increase in the work load of the MHAS as Legal Aid had amended its policy regarding representation for people who are subject to Continuing or Community Treatment orders. It was unknown at the time whether the part-time CAR consultant position would be required to be increased to a full-time position.

¹² John Feneley, Review of the NSW Legal Aid Commission's Mental Health Advocacy Service May 2006.

Support for mentally ill clients not covered by the MHAS

The MHAS does not provide advocacy or support services to Legal Aid clients who present to Legal Aid with a primary legal issue (which is either a civil, criminal or family law problem) but who also suffer from a mental illness or disability and are not subject to an order under the Mental Health Act. Legal Aid solicitors representing these clients are required to act as both solicitor and social worker in an attempt to resolve the legal issue, often assisting the clients to navigate health, housing and the social security system.

The Law and Justice Foundation stated in its report¹³ that people with a mental illness often experience one or more of the following legal issues:

- Legal issues relating to mental illness specifically, such as those falling under the Mental Health Act 1990 (NSW) and adult guardianship issues
- Discrimination in relation to employment, education and insurance
- Housing issues, including problems relating to Department of Housing, private rental and boarding house accommodation
- Social security issues, including eligibility, breaching, social security debt and prosecution for fraud
- Consumer issues, such as credit card debt and banking issues, mobile phone and other contractual debt
- Domestic violence and victim of crime issues
- Family law and care and protection issues

The same report also listed a number of barriers which excluded mentally ill clients from accessing the legal system. These include:

- A lack of awareness of their legal rights, whereby individuals do not realize that their problem has a legal element and potential remedy
- Being disorganized, which may make it difficult for people to prioritize their legal problem and keep appointments with legal service providers
- Being overwhelmed, and therefore too frightened, or lacking the motivation, to seek legal assistance
- Being mistrustful of, or frightened of, divulging personal information to legal service providers. This may prevent the service provider from adequately assisting the client
- Difficult behaviour. Some people with a mental illness may exhibit difficult behaviour, making it challenging for service providers to assist them
- Communication problems, which can hinder a solicitor in assisting their client effectively

¹³ Law and Justice Foundation report “On the edge of justice: the legal needs of people with a mental illness in NSW” 2006, Emily McCarron, Abigail Gray & Sam Ardasinsk.

- Lack of mental health care and treatment, the absence of which, it was noted, resulted in the exacerbation of the above barriers

Many solicitors consulted for this review from all practice areas expressed the need for a more accessible referral and support service to assist clients with a mental illness, developmental disability or brain injury. This view was also highlighted in the review of the MHAS¹⁴ where it was noted that, ‘A broader issue for the Commission is meeting the service needs of the high percentage of people experiencing mental illness, and similar disabilities, appearing in NSW criminal courts every day’. We know from a 2003 study that “almost half of reception (46%) and over one-third (38%) of sentenced inmates have suffered a mental disorder (psychosis, affective disorder, or anxiety disorder) in the previous twelve months’.¹⁵

Recommendations

Recommendation 10: Establishment of an advocate/consultant’s position specifically allocated to clients of Legal Aid who suffer from a mental illness, developmental disability or brain injury who require support and direct advocacy to link them to mental health services, accommodation, Centrelink and other agencies which ultimately will assist the client with achieving the legal outcome for which Legal Aid has been granted.

Recommendation 11: The position is ideally suited to be located within the Mental Health Advocacy Service (MHAS), because of the established networks that service has established. Alternatively, the position can also be located in Head Office, and linked with the general direct advocacy position.

Direct Advocacy/CRIS

See recommendations in chapter 3. *Summary of Issues, Community Referral and Liaison Officer.*

Prisoners Legal Service (PLS) Civil Law Solicitor

As a consequence of the PLS review¹⁶ a new solicitor position has been created in the civil law division and seconded to the PLS. The role of this position primarily focuses on outreach, continuing legal education and advice and minor assistance, with some litigation.

Although the position is relatively new, the solicitor in that position has observed the majority of prisoners seen by him are in financial distress. Debts owed to the State Debt Recovery Service for unpaid fines are not paid and consequently the client’s license is cancelled. Driving unlicensed attracts additional fines and potentially disqualification of license.

¹⁴ Review MHAS 2006.

¹⁵ Butler T, Allnut S. “Mental Illness Among NSW Prisoners. NSW”, Corrective Service. 2003.

¹⁶ Prisoners Legal Service Review, September 2006.

At a recent outreach attended by the civil law solicitor at Cessnock Correctional Centre, there were 20 prisoners seeking financial counselling regarding their debt to the State Debt Recovery Service. Each of these prisoners was seeking assistance prior to their release from custody.

Recommendation

Recommendation 18: That the manager of CAR convene a working party inviting the PLS civil solicitor, civil consultant, the manager of the Cooperative Legal Service Delivery Program, and civil solicitor of Community Legal Education to work on strategies to assist prisoners with financial debt.

Homeless Persons Legal Service

Legal Aid’s civil law division has been conducting a homeless outreach service at Parramatta through the Homeless Persons Legal Service (HPLS). The clinic is conducted by in-house civil solicitors primarily from the Parramatta civil law practice.

There is scope for CAR to become involved, particularly once the recommended Mental Health advocate/consultant’s position commences.

Aboriginal Clients and their Communities

Aboriginal people are one of the priority client groups targeted by Legal Aid in the current corporate plan. During the course of this review the Aboriginal Legal Service (ALS) has informed its civil law and family law solicitors that their positions will no longer be funded.¹⁷ The cessation of these positions will create further pressure on the civil law program. The ALS positions were not only supported by the Aboriginal field officers and offered a service to areas in NSW not covered by Legal Aid. (See chapter 2. *Analysis of Service Delivery, Aboriginal Clients.*)

¹⁷ Solicitor Civil law Dubbo ALS.

Older Persons

Recently Legal Aid has established the Older Persons Legal and Education unit. It is anticipated that this new unit will add further pressure on the civil consultant to provide services.

Recommendations

Recommendation 9: Establishment of a designated Aboriginal consultant position to be located with CAR at Head Office to work with Aboriginal clients and their communities, Director of Aboriginal Services and Directors of Family, Crime and Civil to explore ways of best meeting the needs of Aboriginal clients, to establish relationships with Aboriginal communities and their support services and work on strategies which will assist Aboriginal clients' legal outcomes. This recommendation to be considered in light of Chris Cuneens' recommendations.

Recommendation 14: The part-time civil law consultants to be extended to a full-time position.

Recommendation 15: Civil Law consultant to be located within the civil law practice area at Head Office.

Recommendation 17: Establish formal and regular meetings with civil Regional Program Coordinators, Solicitors, CAR Manager and consultants.

Recommendation 16: Establishment of a civil law appointment diary in CASES.

Direct Advocacy/CRIS

See recommendations in chapter 3. *Summary of Issues, Community Referral and Liaison Officer.*

Family Law Division

The Family Law Division provides advice and representation to clients in family law, de facto relationship, care and protection and child support matters. The Division delivers a range of community legal education services, including divorce classes at Head Office and in most regional offices.¹⁸

The table below shows the number of CAR files created for Family Law.¹⁹

Table 5: Number of CAR files created for Family Law

Matter type	2005	2006	2007	Grand Total
Children - Spend Time with Child	–	9	17	26
Contact	17	5	–	22
Children - Living Arrangements for Child	–	5	13	18
Final Care Orders	1	–	14	15
Residence	7	4	–	11
Interim Care Application	–	–	6	6
Separate Representation for Children in Need of Care	5	–	1	6
Application To Vary/Rescind	–	–	5	5
Other Family Law Matters	3	2	–	5
Variation/Rescission	–	–	3	3
Appearances On Instructions	1	–	1	2
Appearances As Separate Representative (Care)	1	–	–	1
Assessment Order	–	–	1	1
Divorce	–	–	1	1
Emergency Care And Protection Order / Extend Ecpo	1	–	–	1
Separate Representation	–	–	1	1
Family Law Total	36	25	63	124

¹⁸ Home page intranet Family Law.

¹⁹ LA Office report 8 April 2008.

The table below records Family Law matter outcomes for 2005, 2006, and 2007.²⁰

Table 6: Number of CAR files created for Family Law

	Work Outcome	2005	2006	2007	Grand Total
Commonwealth	Prepare Court Report	11	6	19	36
	Other	6	9	5	20
	Partial Resolution At Interim	4	4	–	8
	Final Resolution At Interim	6	6	8	20
<i>Commonwealth Total</i>		27	25	32	84
State	Prepare Court Report	1	–	22	23
	Other	3	–	5	8
	Referral	3	–	–	3
	Advice To Solicitor	1	–	2	3
	Final Resolution At Interim	1	–	2	3
<i>State Total</i>		9	–	31	40

Care and Protection

The Legal Aid Children's Legal Service (CLS) was originally established to provide representation in care and protection proceedings. It was a pilot scheme with a solicitor and social worker. The Family Law section acted for the parent/s and CLS for children.

Legal Aid now provides a state wide care service using a combination of in-house solicitors and private solicitors (solicitors appointed to the care and protection panel). In-house there are 15 allocated care positions across the state and with additional care work being done within Family Law positions held both in Head Office and regional offices.

The Director of the Family Law Division is responsible for Legal Aid's state-wide in-house care practice, however the care practice is managed by the Solicitor in Charge of care and protection who is located at Parramatta three days each week and Head Office the remaining two days. Since the establishment of the Parramatta Children's Court complex, five in-house care solicitors are now located at Parramatta. Head Office employs two, although family lawyers at Head Office also do care and protection work.

In addition, Legal Aid funds three care solicitor positions in the Aboriginal Legal Service (ALS) at Wagga Wagga, Grafton, and Tamworth/Armidale.

²⁰ LA Office report 8 April 2008.

Demand/Need

As stated in the Report of The Review of Care and Protection Program²¹ and the Submission on behalf of Legal Aid New South Wales (LANSW) to the Special Commission of Inquiry into Child Protection Services²² clients involved in the NSW care and protection system are socially and economically disadvantaged and “comprise the core of Legal Aid’s client focus”.

Clients in the care system are usually under enormous pressure because of the care proceedings. Almost invariably, those proceedings have been commenced by DoCs because the client’s social, behavioural, intellectual, mental illness or drug or alcohol dependency. Legal Aid’s submission to the Special Commission of Inquiry into Child Protection Services stated:

‘Our experiences and a review of LANSW participation in care matters before the Children’s Court show:

- An increasing number of families involved in the care and protection system who are (or should be) involved with a large number of agencies ranging from the local to the Commonwealth level
- An increasing number of families who have involvement in the care and protection system on an intergenerational level
- A significant and increasing overrepresentation of Aboriginal children and families within the care and protection system
- An increasing number of care matters in which the proposed outcome for very young children is placement in long term out-of-home care; and
- An unacceptably high percentage of children in long term out-of-home care for whom instability due to multiple placements is a reality’²³

CAR has allocated one care and protection consultant to the care practice. The position is located at the Penrith Legal Aid office however offers a state wide service.

The senior solicitor care and protection indicated that not all matters in care require a social worker. However, there is a need for social workers in the following care matters:

1. In cases where the in-house solicitor is acting for the parent.

The reason for this is that Department of Community Services (DoCs) see themselves as the case worker for the child. They tell the parent/s that they must do certain things if they are to keep their children. For example, attend courses, go to rehabilitation, leave the boyfriend/husband, and find more suitable accommodation.

²¹ Review of the Care and Protection Program of the Legal Aid Commission, August 2006.

²² The Submission on behalf of Legal Aid New South Wales (LANSW) to the Special Commission of Inquiry into Child Protection Services.

²³ Submission on behalf of Legal Aid New South Wales (LANSW) to the Special Commission of Inquiry into Child Protection Services, p.22.

Unfortunately DoCs do nothing to assist these parents achieve these goals. Therefore a social worker is needed to:

- Assist the solicitor canvass service options for the client and where appropriate, assist clients into those options.
- Provide an independent assessment of the options put forward by DoCs and give evidence in court if necessary
- Psychosocial reports and assessments (often the psychosocial report written by CAR for the parent is the parent's only report)
- Limited reports on issues such as accommodation are also very helpful

2. When in-house solicitors provide assistance to children.

- In complicated matters the social worker may be required to assist the solicitor with advice (A number of solicitors in regional offices indicated their gratitude for the assistance provided in this way by the care consultant)
- In some matters assistance may be required with interviewing the child
- In some instances a social worker is required to prepare a child's wishes report which will often be the only evidence of the children's wishes before the court (the court must approve reports for children.)
- Providing evidence to the court of the various service options available

Feedback

It was generally agreed that there was no equivalent external service provider who could provide the level of service which is given by the in-house CAR consultant. However, because care is a state-wide service the consistency and timeliness of service delivery is compromised by the allocation of only one consultant. This is particularly so for regional offices. Care matters are commenced and completed within a tight time frame which means the consultant needs to be available to meet these dead lines.

Reports

Reports have been occasionally objected to by DoCs, however in most instances cited by the care solicitors DoCs retracted their objection.

Some of the issues raised by DoCs in relation to the reports have been:

- Allegation of expert shopping
- Breach of confidentiality

If there is a dispute over the expert report, the consultant is called to give evidence.

Care solicitors stated that the reports have been very helpful in a number of ways. Firstly, the report assists the care solicitor with cross examination of DoCs officers on the contents of their reports. Secondly, the reports are very persuasive because the

recommended case plans are practical and provide appropriate local referrals to services in the area where the family reside.

Referral and Direct Advocacy

Feedback

Surprisingly, a number of solicitors in regional offices had either not used CAR or had not known they existed. However, for those that did use CAR they were very appreciative of the case plans prepared by the consultant and with the assistance provided in actually placing the client in the facilities. It was generally agreed that solicitors regularly require assistance from CAR to source and organise therapeutic counselling, psychologists and psychiatrists. There are some services not offered at all in the country, for example, eating disorders and disability housing.

As one solicitor said “We spend hours trying to find out what resources are available”.

Clients need a non legal advocate sometimes to make contact with services. As another solicitor indicated “We often hear from the client that they tried to make contact and were unsuccessful. It would be good if a third person was able to confirm this.”

The benefit of having a CAR consultant immersed in the care practice was highlighted by a Newcastle solicitor who commented on the experience the Newcastle Office had when the care consultant attended Newcastle office one day each week:

“When the care worker was physically located in the Newcastle office one day a week it was really good. We discussed cases, got advice, used her to test merit and in one instance she was able to advise on tactics having read the docs file and was able to point out flaws in my approach.”

It is extremely difficult in country regional areas to obtain local services which can fulfil the role of CAR. Many professionals who work in the region do work for DoCs and may feel compromised if cross-examined by Legal Aid solicitors. Having the care consultant actually attend the regional Office is very important because clients often have to travel extensive distances (for example from Armidale to Newcastle).

Unfortunately because there is only one care consultant for all of NSW, it can be very difficult to obtain an appointment. It was suggested and supported by a number of regional offices that CAR could implement two changes to its service delivery strategies which would improve access for regional offices. The first is to establish an appointment diary for CAR’s consultants (similar to the advocates) in CASES. Thus when the regional office solicitor requires a report/case plan they can see when the consultant is next scheduled to attend that office. Secondly, it was suggested that CAR consultants could be more flexible. For example the care consultant seeing a family law client.

Very few people use the CRIS service in regional offices for care (Newcastle, Gosford, Dubbo, and Lismore). Instead they use their own referrals data base. There were many reasons for this some of which include: the current CRIS data base is not up to date or does not have relevant local area information. Some offices have established strong relationships with referral agencies and prefer to use the personal contact already established.

Aboriginal Clients

The Aboriginal Legal Service NSW/ACT Limited (ALS) is unable to meet Family Law and care and protection demand due to insufficient funding [Research Proposal by Professor Chris Cuneen “Senate Legal and Constitutional References Committee, Legal aid access to justice, June 2004 Canberra, at 5] Recognising this, Legal Aid has funded three care positions within ALS however, as there is “A significant and increasing overrepresentation of Aboriginal children and families within the care and protection system”²⁴ these positions do not go anywhere to meet the need of Aboriginal clients with care matters.

The causes of this overrepresentation is explained in, ‘Bringing them Home’, a report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, April 1997:

“There is also a general recognition that the underlying causes of the overrepresentation of Indigenous children in welfare systems include the inter-generational effects of previous separations from family and culture, poor socio-economic status and systemic racism in the broader society. These causes combine to produce cultural differences between welfare departments and Indigenous communities, substance abuse, violence, poor nutrition, alienation from social institutions including the education system, family services and the criminal justice system, limited and poor housing options and a loss of hope, particularly among younger people.”

This gap in service delivery by the ALS is currently being met by in-house legal aid and assigned solicitors. This of course presents a number of difficulties for solicitors representing Aboriginal clients. It was said by a number of solicitors that it would be preferable for ALS solicitors to do care work as the clients themselves would prefer it. Clients attend court expecting an ALS solicitor. Furthermore, non ALS solicitors do not have the same level of access to the Aboriginal communities as ALS solicitors.

The Children and Young Persons (Care and Protection) Act 1998 Act specifically enshrines the principles of Aboriginal and Torres Strait Islanders’ culture and traditions in determining placement of children. Without the assistance of an Aboriginal field officer or Aboriginal liaison officers, outcomes for care clients is compromised as information from both the client and the community which can assist the client’s case is not easily accessible. One solicitor from a large regional office said, ‘We find it difficult to access their identity and culture which we need to do when preparing their cases for court. We are supposed to adduce evidence about the effect of separation. It is very difficult to get anyone with qualifications or interest to do this type of work. We need to go into Aboriginal communities to gather evidence for affidavits. We cannot do this without their help’.

In 2007 Aboriginal clients represented 12.2 % of Legal Aid clients seeking advice and/or representation in care matters.²⁵ The Aboriginal Justice Service Delivery Plan (AJSDP) 2009 target is 13.5%. In response to an ever increasing need in Campbelltown a designated Aboriginal Legal Aid family law and care position was created and located

²⁴ Submission on behalf of Legal Aid New South Wales (LANSW) to the Special Commission of Inquiry into Child Protection, 2008.

²⁵ Legal Aid NSW Aboriginal Justice Service Delivery Plan (AJSDP).

at the Campbelltown regional office. Unfortunately this position is not currently supported by an Aboriginal field or liaison officer or similar position. The need for such a position was explained by the supervising family law solicitor:

“These clients need heaps of support. The position holder would be able to liaise with community groups and service providers.

One problem particular to Aboriginal clients is trying to find carers for children to enable clients to attend legal and other appointments. An Aboriginal case worker could assist with this. They would know all service providers and therefore could negotiate on their behalf. One client for example had been preparing her case for 2 years. She had 6 kids and needed them to be looked after so she could attend her appointment. We asked CAR for help but they said it was outside guidelines. Another woman who lived in Mt Druitt and who had never been to Sydney, needed someone to help her. She got the wrong train and missed the appointment.

We cannot give a proper service unless we go the extra distance. The new family law/care position was created to assist clients who have both family law and care proceedings. The idea is to assist clients whose children are involved in CARE proceedings with the Family Law options. This position can work if we have support from local Aboriginal communities.”

At present there is only one allocated care position for the care state wide practice. It is not possible for this position to provide the level of support identified above. Additional position/s are necessary, however, the job description and location of such positions should be determined in consultation with the ALS and Director Family Law and Senior Solicitor care and protection. At least one of those positions should be located at the Children’s Court Parramatta. In addition this report is recommending the establishment of a designated Aboriginal CAR consultant. This position can work with the Director of Aboriginal Services, ALS, Strategic Policy and Planning (SP&P) and the Legal Aid Practice areas to establish priorities of service delivery. The 2008 Corporate Plan identifies service delivery to Aboriginal people as one of Legal Aid’s priority areas.

Recommendations

Recommendation 9: Establishment of a designated Aboriginal consultant position to be located with CAR at Head Office to work with Aboriginal clients and their communities, Director of Aboriginal Services and Directors of Family, Crime and Civil to explore ways of best meeting the needs of Aboriginal clients, to establish relationships with Aboriginal communities and their support services and work on strategies which will assist Aboriginal clients’ legal outcomes. This recommendation to be considered in light of Chris Cuneens’ recommendations.

Recommendation 19: The establishment of a Children’s Court consultant’s position. The position will have a mixed practice of care and protection and children’s crime. A recommendation to establish a social work position for the children’s court is also made in the report ‘Hotline to Hothouse’ a review of the Children’s Legal Service. This review however is recommending that care and protection and children’s crime share the position. The options available in locating the position are as follows: firstly, locating the position at both the Parramatta Children’s Court complex within the Children’s Legal Service and within the care practice at the Parramatta Legal Aid Office. The second alternative is to locate the position with the CAR unit at Head Office.

Recommendation 20: There is a clear need to link the care and family law consultant more dynamically with care and family law area thus ensuring a more relevant and strategic delivery of service to clients. It is recommended that the care position at Penrith be relocated to Family Law in Parramatta to provide consultancy services to family law and care and protection at Parramatta.

Recommendation 21: There is a role for the care consultant to actively work with the senior solicitor care and protection to identify and prioritise types of clients and matters which require an element of case management.

The care solicitor is responsible for the overall supervision and management of the client’s case.

Recommendation 22: The Family Law consultant located in CAR at Head Office to be relocated into the Family Law practice in Head Office and to provide consultancy services to family law and care and protection state-wide.

Recommendation 26: Establish formal and regular meetings with family Regional Program Co-ordinators, Solicitors, CAR manager and consultants.

Recommendation 23: Establishment of a care and family law intranet appointment diary in CASES.

Recommendation 24: Flexibility of family law and care consultants to prepare reports for either jurisdiction when the referral is from a country regional office. This would increase the profile of consultants in regional offices as they would be seen more frequently.

Recommendation 27: Allow ALS care solicitor’s access to care consultant.

Recommendation 25: CAR consultants are best placed to analyse current literature and provide MCLE to solicitors.

Direct Advocacy/CRIS

See recommendations in chapter 3. *Summary of Issues, Community Referral and Liaison Officer.*

Family Law

There is one CAR consultant allocated to Commonwealth Family Law. This position is located in Head Office although the service is offered state wide.

Demand/need

The Family Law Division has used CAR primarily for Children’s views reports in situations where Legal Aid is acting for the child and where the solicitor thinks a report may resolve the matter. The family consultant also provides accommodation reports and assessments reports.

Generally, children’s views reports are not requested if the matter is complicated as an external expert report would be obtained in this situation. Requests for reports are limited to matters where the report will move the matter forward, and when the child’s voice needs to be heard. The CAR consultant is able to provide these reports within the necessary time frame.

The introduction of the Children’s Cases Program in the Family Court has led to a drop in the number of requests for reports from CAR. The changes were intended to create a less adversarial system for litigants. Instead of relying on litigants expert reports the idea was to use experts from the court panel. When these changes were first introduced there was a tight time frame and the CAR reports could not be produced in time. Two major changes have since occurred:

- Most matters are now conducted in the Federal Magistrates Court with only 30% in the Family Court. What is left in the Family Court is very complex. The Federal Magistrates Court does not have access to counsellors.
- Court delays are affecting both courts. To obtain a hearing in the Federal Magistrates Court can take up to 10 months.
- Reports from the panel can often be inadequate in terms of providing up to date information on services available in the local area where the client lives.

There is now more scope to use CARS for children’s view reports. The CAR report offers an opportunity of early intervention.

CRIS/Direct Advocacy

Family Law needs a referral service which is reliable and up-to-date. The information on the data base needs to include services available across New South Wales. As one solicitor said, “It really needs to be a live data base providing information like current parenting courses”.

Family lawyers find themselves busy doing a lot of liaising with agencies and their social workers. There are a number of clients who need the input of an in-house social worker to assist the solicitor work out case plans.

Feedback

Solicitors thought the reports provided by the family law consultant were fantastic and extremely helpful although there were some concerns expressed about delay.

It was generally thought that the CAR consultant needed to be more aligned to the Family Law Division.

Recommendations

See recommendations Care and protection

Direct Advocacy/CRIS

See recommendations in chapter 3. *Summary of Issues, Community Referral and Liaison Officer.*

Criminal Law Division

The services provided by the Criminal Law Division are succinctly described in the Legal Aid NSW 2006 -2007 Annual Report Profile as: ‘The Criminal Law Division provides a full range of services in all criminal courts from its Sydney Central Office and 19 regional offices.’²⁶

These services include representation in all jurisdictions (subject to Legal Aid policies and guidelines) from the Local Court to the High Court. The Division also provides information, advice, minor assistance, community legal education and input into law reform initiatives’.

Head Office is divided into

- Inner City Local Courts
- Indictable
- Committals
- Children’s Legal Service (2 ½ positions)
- Indictable Appeals
- Advocates

Parramatta is divided into

- Local court
- Committal
- Indictable
- Children’s Legal Service (seven positions including the Solicitor in Charge)

²⁶ Legal Aid NSW Annual Report 2006–2007, p.22.

- Prisoners Legal Service
- Drug Court

Campbelltown is divided into

- Local Court
- Children’s court (1 position also shared with the ALS)
- Indictable

All other regional offices provide representation in the Local Court, and in Country regional offices representation is also provided in the District and Supreme Courts.

CAR has allocated one full time consultant to the Criminal Law Division. The position is located in Head Office and provides services to local court and committal and indictable practices state-wide and the Children’s Legal Service.

The following table shows the number of files/reports provided by CAR to the Criminal Law Division.²⁷

Table 7: Number of files/reports provided by CAR to the Criminal Law Division

	Total
Assault	32
Commonwealth Matters	18
Criminal Miscellaneous	7
Driving/Traffic	3
Drug Offences	8
Environmental and Property Damage Offences	6
Fraud/Deception	10
Homicide and Related	3
Justice Offences	6
Other Offences Versus Person	4
Phone/Counter Enquiry Criminal Law	2
PLS Matters	4
Public Order Offences	3
Robbery/Extortion	8
Sexual Assault	2
Theft/Burglary BES	32
Criminal Law Total	148

The Table below is a LA Office record of matter outcomes recorded in LA Office for 2005, 2006, and 2007²⁸ for Criminal Law.

²⁷ LA Office report, 8 April 2008.

²⁸ LA Office matter outcome report, 8 April 2008.

Table 8: Criminal law matter outcomes recorded in LA Office

Commonwealth / State	Outcome	2005	2006	2007	Grand Total
Commonwealth	Prepare Court Report	3	3	5	11
	Section 32	–	–	1	1
	Reduced Custodial Sentence	2	1	–	3
	Section 9 - Good Behaviour Bond	1	2	5	8
	Other	1	2	1	4
	Suspended Sentence	4	6	4	14
	CSO	1	3	1	5
	Periodic Detention	–	1	1	2
<i>Commonwealth Total</i>		12	18	18	48
State	Prepare Court Report	40	35	51	126
	Section 32	30	25	30	85
	Reduced Custodial Sentence	15	24	13	52
	Section 9 - Good Behaviour Bond	14	20	12	46
	Other	13	29	4	46
	Suspended Sentence	7	4	7	18
	CSO	1	5	1	7
	Periodic Detention	2	2	6	10
	Section 10 - Dismissed And/Or Conditional Discharge	1	3	1	5
	Referral	–	1	2	3
	Section 11 - Defer Sentence For Rehab/Intervention Program	2	–	1	3
	Advice To Solicitor	–	–	1	1
	Partial Resolution At Interim	1	–	–	1
	Parole Granted	–	–	1	1
<i>State Total</i>		126	148	130	404
Grand Total		138	166	148	452

Demand/Need

The Director of the Division stated the priorities for Crime from CAR are:

- Client support. “There could be a better balance between providing reports and providing support for clients. Currently the focus is on report writing and very little assistance in the form of field work. For example, assisting with referrals for bail court or the Prisoners Legal Service. Obviously one consultant cannot do it all, covering all requests and all courts. Therefore requests need to be prioritised and the consultant needs to work together with other service providers.”

- Local court issues: assist in developing case plans in S. 32 matters
- Indictable crime: psychosocial/background reports, particularly where client is not mentally ill and therefore would not have a psychological or psychiatric report prepared.

Client support/Client Referral Information Service

Most solicitors consulted viewed client support in terms of providing a reliable referral and client support service. Very rarely was it seen to be necessary to have a consultant actually attend court with the client.

The senior solicitor from Inner City Local Court stated that for his section, “Solicitors in ICLC need to refer clients to services, (especially rehabilitation services) all the time. Each court has a different referral matrix and solicitors rotate from court to court requiring them to learn afresh appropriate referral agencies. Relationships with people in these agencies take time to build. There is a need to have someone from CAR assist in this regard. The assistance required is usually requested on the day. CAR does not assist in this way. A computer referral base is of no assistance to solicitors at court unless there is access to the computer”.

Solicitors in the Criminal Law Division represent clients who have a multitude of social and legal issues. The workload in the local court is high volume and the combination of workload, complex client issues and the legal issue puts pressure on solicitors to provide an all in one service. Many do their own referrals, counsel their clients and prepare the case for court. However, as one solicitor said, “Sometimes we do not have enough time to refer clients to services”.

Feedback

A constant theme in the consultations was a need for the following referral service:

- An up to date referral data base that contained information that is not city centric and is easier to navigate.
- A referrals person who does more than provide a telephone number.

Many solicitors expressed their disappointment with the ‘utter randomness’ of the CRIS service. The solicitor needs assistance to find the appropriate agency, and assistance with the referral to that agency which sometimes might involve some level of non-legal advocacy. Obtaining an appointment is sometimes very difficult for clients. Tension is unnecessarily created because the boundaries of CRIS have not been defined and advertised and consequently when CRIS does not provide the level of service needed, the solicitor is not inclined to try again.

Inconsistency of service delivery is one of the main reasons stated by solicitors for why they stop using it.

Surprisingly, a number of solicitors consulted did not know CRIS existed, and for those that did, they did not use it. This finding is consistent with a Community Referral Information Service e-mail Survey conducted in 2007. One hundred Legal Aid staff members responded when asked:

“How often do you use the CRIS Community Referrals Database?” 52% of respondents said “rarely” and 19.5% responded “never”.

Not surprisingly, when asked in the same survey “How could CRIS or the Community Referrals Database better assist you?” the answers were:

- Database needs to be updated
- More direct advocacy for clients
- Clearer information about service- more promotion
- Shorter time for report preparation

Some solicitors stated that the introduction of MERIT and the mental health clinical liaison nurse at a number of local courts has had the effect of reducing the need for those types of referrals at those courts. However, for clients who fall outside the catchment of these services, assistance is required, particularly with homelessness.

Recommendations:

Direct Advocacy/CRIS

See recommendations in chapter 3. *Summary of Issues, Community Referral and Liaison Officer.*

There is a clear need to link the criminal law consultant more dynamically with the criminal law area thus ensuring a more relevant and strategic delivery of service to clients. It is recommended that the criminal law position be relocated to Criminal Law in Head Office and continue to provide a state wide service.

Reports

The demand for reports for the Criminal Law Division can be broadly divided into two categories; firstly S.32 case plan reports and secondly, background/psychosocial reports for sentence matters.

1. s.32 Case Plan reports

Before an order can be made under s.32 of the Mental Health (Criminal Procedure) Act can be made it is essential that the local court solicitor include in the evidentiary material to be placed before the Magistrate, a treatment plan. The treatment plan is an essential component of the s.32 application. Without it, the application will fail. *Perry V Forbes*.²⁹ The plan needs to address treatment of the illness in order to allay the concern of the magistrate that the client will not re-offend.

Unfortunately not all Psychiatric or Psychological reports include treatment plans for the client. The reports usually provide a diagnosis and some describe what should be done to assist the client in the future (thus avoiding re-offending). Often no tangible steps have been taken by the doctor to put those plans into place. Therefore, the local court solicitor must bridge this gap. As Justice Dowd stated in *DPP V Allbon* (2000) NSWSC 896:

“What is required is some sort of plan, or evidence whereby some appropriate person, be it the Public Guardian, or evidence of some available institution, before an order can be made. This, of course, underlines the fact that in our society we do not make proper provisions for people such as the defendant, and busy

²⁹ *Perry V Forbes and Anor* NSWSC 21 May 1993 Smart J unreported.

Magistrates are constantly being placed in a situation of having to deal with impossible cases with inadequate evidence, and in having to deal with matters that society itself has not been adequately prepared to deal with, in terms of appropriate legislation or appropriate institutions.”

The CAR unit is ideally placed to assist local court solicitors with putting together a treatment plan. As one solicitor said “Often times the client is borderline s.32 candidate, and a report from CAR fills the bill. Other times when we have a public hospital give a report the treatment plan may seem a little light on and again CAR's fills the bill”.

Feedback

Feedback from solicitors was mixed. Some solicitors thought the standard of report was so high, psychologists and psychiatrists could learn from them.

“We need someone to actually link (our clients) up with the agencies” as well as putting together the treatment plan so it can be placed before the court as an actual alternative. Some local court solicitors felt they did all the social work side of the preparation.

Some solicitors did not know that CAR did this type of work. Others did not use CAR as they did not know consultants visited clients in gaol.

Recommendation

Recommendation 28: There is a clear need to link the criminal law consultant more dynamically with the criminal law area thus ensuring a more relevant and strategic delivery of service to clients. It is recommended that the criminal law position be relocated to Criminal Law in Head Office and continue to provide a state wide service.

Recommendation 29: The Criminal Training Officer to arrange in consultation with Manager CAR, CRIS officer and consultants training in requirements of S.32 applications.

Recommendation 30: Implementation of regular meetings between CAR and Criminal Law Division sections.

Local court and indictable solicitors refer clients to CAR for background and psychosocial reports for sentence matters. A number of solicitors consulted had not used CAR for this purpose. On hearing (other solicitors) praising the value of the reports during these consultations, they stated that they would refer clients for reports in the future.

The feedback from magistrates using the reports has been positive although at first one magistrate, according to one solicitor, questioned the need for such a report. However after explanation and reading the report the magistrate was quite impressed. Another magistrate said that the reports were fantastic, particularly sentencing reports. Their value was so high she occasionally suggested to the duty solicitor that a CAR report be obtained. The types of matters where these reports make a difference is where the client has a mental illness (MERIT is not available at Waverly), homeless clients or clients who have no family and have somehow fallen through the Centrelink loop.

Only one solicitor consulted reported that reports were being challenged by the prosecution. She stated:

“The only times a report has been challenged was by the Commonwealth DPP. I managed to talk the DPP solicitor into allowing the report. The report was absolutely brilliant. The author managed to find out information on the client which I had not. One example is a client who was a young adult in custody who was intellectually disabled. The submissions we made were basically around the contents of the report. We do not have time or expertise to explore these issues.”

Solicitors requested reports for the following reasons:

- I get the report from CAR because there is no other report writer, psychologists or otherwise who can do that level of reporting e.g., trauma clients
- Sometimes I am not sure what the issue is. I don't know whether to obtain an external expert report because the client doesn't seem to be mentally ill, but there is something not quite right. CAR can often identify the problem
- The report fills in the gaps of the client's life and offending behaviour. The reports are very useful because they have succeeded in keeping the client out of gaol
- I really like the way the material is verified. For example if the person claims to be on a carers pension and that is verified by a government department (in DoCs care for example). Alternatively a family member might verify an event in the person's life. This is invaluable because otherwise it is just a claim made by the client. These reports provide detail on background which I would not be able to obtain
- I get the report when there is something special about the client. Some sort of issue. Penalty is a factor I take into account before getting a report
- Magistrates give it a lot of weight
- Some reports are excellent as they enable very detailed and authenticated background material to be placed before the court. The skills of the social worker are unique, e.g., obtaining a family history in affidavit from 86 yr Aunt of client charged with murder
- The report is very useful if you cannot call your client
- It is useful in drawing conclusions between history and offending behaviour

Feedback

Overall solicitors thought the CAR consultant produced a very high standard report. The reports were persuasive due to the level of detail and insight into the client's history and behaviour. Many solicitors stated that the reports were directly responsible for an improved outcome for the client.

However the following concerns were expressed:

- The time frame for reports needed to coincide with the time frame for courts. At present the time lag acts as a deterrent to solicitors to obtain a report
- Sometimes ethical boundaries are overstepped. A couple of examples were given in a focus group of criminal solicitors which tended to show that there was a shortfall in training of consultants in legal principles such as Privilege and evidence. This lack of understanding indicated that there seemed to be some confusion as to what the consultant's role is. The following example demonstrates the point,

“The first is that I had a report on a client who had been charged with a relatively minor offence (failed to register as a sexual offender). The client was in custody and to complicate matters his matters were reported in the paper. The report came back with an opinion that did not relate to the actual charge i.e., the opinion of the author was that the client was still a danger, should get a custodial sentence etc. When I rang the author of the report and informed her I couldn't use the report with that information and I asked her whether she could take that out of the report without compromising the report. She said that she thought P&P should have access to that information and told me that if I didn't use the report in court she would give the report to P&P. I then explained to her the concept of Legal Professional Privilege and also rang her manager to inform her of this.”
- The report referral template needs to be modified by the users of CAR to mirror the template used for external report providers.
- Whether or not the reports were cost effective

Recommendations

Recommendation 31: Establish formal and regular meetings with criminal Regional Program Coordinators, Solicitors, CAR manager and consultants.

Recommendation 6: That Directors of Family, Crime and Civil, senior solicitors from practice areas, manager CAR and consultants form a working party to establish the following:

- Protocol for access to Direct Advocacy encompassing Legal Aid Priority groups, disadvantage and social exclusion.
- Eligibility guidelines for reports encompassing:
 - I. Priority clients in context of practice areas
 - II. Cost benefit in context of legal outcome
 - III. Alternative reports
 - IV. Access to justice

Training

Recommendation 40: The criminal law training officer, Family and Civil Regional Program Coordinators to facilitate training of CAR consultants in report writing, the rules of evidence and cross examination.

Recommendation 41: CAR to Coordinate with Training and Development training of solicitors and CAR consultants in: Australian Association of Social Workers Code of Ethics, privilege and confidentiality, expert witnesses.

Prisoners Legal Service (PLS)

The PLS provides representation in Parole Authority Review Hearings, Visiting Justice Proceedings and Reviews of Segregation Directions. In addition, the service provides advice and minor assistance through its Visiting Advice Service.

The service was comprehensively reviewed in 2006 and in the Report of the Review of the PLS 2006³⁰ the following recommendations were made in relation to CAR:

- Ensure increased usage of the Commission's social workers
- Establish regular liaison between the Commission's social workers and welfare services within gaols

The report also recommended the establishment through secondment to Family and Civil Law positions to be located within PLS. This recommendation has been implemented.

The Solicitor and Acting solicitor in Charge of the PLS indicated that there was limited scope for CAR services for the PLS. This view explains the small number of referrals to CAR. Despite this view, it was conceded that CAR could assist the PLS with:

- Assisting clients who are eligible for Parole and are appearing at the Parole Board but who have not had accommodation or other post release issues arranged (for example Drug and Alcohol services). Although it is Probation and Parole's responsibility to organise this and to do so before the Parole Hearing, this is sometimes not done. The reasons for this are;
 - Short notice of listing - one week
 - The Parole Board requires Probation and Parole to approve accommodation before the hearing
 - There are some really difficult clients to locate. For example, mentally ill, intellectually disabled and clients with a dual diagnosis
 - There is pressure on the Parole Authority to not adjourn matters, thus if accommodation is not secured the Parole Authority is more inclined to refuse parole thus preventing

³⁰ Prisoners Legal Service Review September 2006, p.23.

the client from making another application for 12 months (unless there is a manifest injustice)

- CAR could develop a professional and collaborative relationship with the Department of Corrective Services (DCS), in particular, the Probation and Parole Service to assist clients identified by both organisations as priority clients who require joint assistance to achieve: parole, or whose post release issues are CARE or Family Law issues.

The Manager of CAR has been meeting with some Managers from DCS. One of the issues being discussed is the sharing Legal Aid's CRIS data service. In consultations with the reviewer, DCS raised a number of other possibilities for collaboration. In particular, DCS were interested in the potential collaboration for clients appearing before the Parole Authority.

See Relationships with Key Stakeholders and Analysis of CRIS

- The PLS has limited resources to research and locate programs and services for sex and violent offenders for post release. CAR could undertake this research and make available through its referral service this information.
- The Family Law PLS position was created as a consequence of the Review of the PLS.³¹ The service provided is a state wide. Referrals to the service are made either by Legal Aid solicitors or Welfare Officers from the gaol. Some of the issues identified by the solicitor in this position which CAR can assist with are:
 1. Assistance with putting case plans together for clients who are trying to establish contact with children.
 2. Clients who have had limited contact with their children whilst in custody and who are attempting to re-establish contact. Assistance is required to establish links to community support. This is particularly difficult for Aboriginal clients and clients from remote areas.
 3. Whilst Probation and Parole assist clients released on Parole their assistance does not extend to CARE or Family Law. This is another area where CAR could collaborate with Probation and Parole. Clients with these issues could be identified by DCS and Legal Aid notified.

Recommendations

Recommendation 32: CAR to meet regularly with PLS solicitors and establish priorities in delivery of service to the PLS.

³¹ Prisoners Legal Service Review September 2006, p.23.

Recommendation 33: Collaboration with Probation and Parole and PLS regarding referral and advocacy for prisoners appearing before the Parole Authority who require post release services. CAR in consultation with the PLS establish criteria for eligibility of parolees, for example, parole as opposed to court release, reasonable prospects of success but for lack of service, mentally ill, dual diagnosis.

Recommendation 34: Assist PLS Family Law solicitor CARE case plans.

Children’s Legal Service

The Children’s Legal Service (CLS) provides specialist legal representation to children appearing in the Children’s Court in the Sydney Metropolitan Region. Further, the CLS provides legal representation to children who are committed to the District or Supreme Court for serious indictable offences.

The CLS also provides a state wide telephone advice service through its Youth Hotline to children in police custody and a Visiting Legal Service to children in Juvenile Detention Centres.

In 2008 the administration of the CLS relocated to Parramatta following the establishment at Parramatta of a Parramatta Children’s Court complex. The Solicitor in Charge of CLS, six CLS solicitors and the Youth Drug Court solicitor are now all located at Parramatta. The Youth Hotline will also be relocated to Parramatta.

Specialist Children’s Court solicitors are also located at Head Office (servicing Bidura CC) and Campbelltown (servicing Campbelltown CC for both Legal Aid and ALS clients)

The CLS conducts a broad Community Legal Education (CLE) program through its CLS solicitors and allocated CLE officer. Legal education courses are delivered to schools, intensive language colleges and “last chance” schools. The position also has capacity to deliver CLE through relevant interagency networks.

Demand/Need

The Solicitor in Charge of the CLS indicated that the CLS had the following need for assistance from CAR:

- Psychosocial Reports
- Outreach
- Referral and Direct Advocacy
- Assistance with Case plans

Although some requests for reports were being made by the CLS, a lack of awareness by new CLS solicitors of CAR and what CAR offers meant that CLS were underutilising CAR. The reports written though were regarded highly.

The need for direct advocacy and referral services for children in the criminal justice system is obvious. In the report *From Hotline to Hothouse*³² it was recommended that:

“The current review of CARS should examine whether and if so how social workers based in CARS and CLS solicitors could form closer working relationships similar to those forged in the more holistic legal services for young offenders. Consideration should be given to whether a CARS social worker could be attached to the CLS, with specific responsibility for providing integrated social work services for the CLS clients, and tasked to work closely with the CLS solicitors in appropriate cases. This worker would have skills, experience in, and knowledge about working with troubled children and young people and an extensive understanding, knowledge of, and relationships with welfare and other non-legal services for children and young people. A precedent has already been set by the attachment of a CARS social worker to the Mental Health Advocacy Service in Burwood.”

The position needed to identify more with the CLS culture and to become acquainted with the issues. In particular, it was thought that it would be helpful to establish a relationship with Juvenile Justice, the Coordinators of Children’s Court Assistance Schemes (CCAS), DADHC and other agencies.

At each of the Children’s Courts there is the Children’s Court Assistance Scheme (CCAS). The CCAS is there to assist the child or child’s family at court with.³³

- Information about court
- Emotional support at court
- Advocacy
- Referral to other services (accommodation, education, recreation advocacy, case work, individual support, family support counselling).

No follow up or intervention is done by the CCAS volunteer or supervisor once court has finished. There is a role for an allocated CAR consultant to work with the CCAS workers, CLS solicitors and Juvenile Justice to support children and their families establish links with relevant Human Services at court and afterwards.

³² Recommendation 35 Review of the Children’s Legal Service 2007.

³³ A Guide for support workers Children’s Court Assistance Scheme Macquarie Legal Centre 2nd Edition)The CCAS is administered through Legal Aid and funded from the Law Society’s Public Purpose Fund. Legal Aid funds five (5) Community Legal Centres to co-ordinate the CCAS and train volunteer workers who attend court. There are 6 CCAS’s

- Parramatta, and Bidura, are managed by Macquarie Legal Centre. Macquarie also has an aboriginal position who works mainly at Parramatta
- Newcastle CCAS managed by Hunter CLC
- Campbelltown managed by McCarthur CLC
- Gosford Wyong managed by Central Coast CLC
- Port Kembla managed by Illawarra CLC

Recommendation

Recommendation 19: The establishment of a Children’s Court consultant’s position. The position will have a mixed practice of care and protection and children’s crime. A recommendation to establish a social work position for the children’s court is also made in the report ‘Hotline to Hothouse’ a review of the Children’s Legal Service. This review however is recommending that care and protection and children’s crime share the position. The options available in locating the position are as follows: firstly, locating the position at both the Parramatta Children’s Court complex within the Children’s Legal Service and within the care practice at the Parramatta Legal Aid Office. The second alternative is to locate the position with the CAR unit at Head Office.

3. Summary of Issues

Organisational Structure

Communication

Internal

CAR is located on level 14 in Head Office with the Manager of CAR reporting directly to the Deputy CEO Legal. The 5 consultants and client referral officer are supervised by the manager with regular individual performance meetings and staff meetings.

Each of the consultants is allocated a defined practice area however, neither the manager nor the consultant is formally linked into the practice culture (except for the MHAS consultant who is located within the MHAS and is included in that unit as a valuable member, attending staff meetings etc). Consultants do not meet with Practice Directors to discuss strategies for the program area. Consultants are not included into the practice areas global email address, thus potentially missing out on information relevant to the integrity of their reports. Invitations to staff meetings are uncommon.

The location of the unit on level 14 does not assist integration as no practice area other than ADR is located on that floor. The primary link between CAR and each of the practice areas is the referring solicitors email or memo seeking a report.

There is a need for more formal and regular meetings between the Regional Program Director of Crime, Civil and Family and the manager of CAR. In addition the consultant needs to have more of a physical presence to facilitate a collegiate approach to clients.

External

At present CAR is rarely invited to add value to Legal Aid's submissions on law reform or other social or legislative issues which affect Legal Aid clients. Nor is CAR nominated to represent Legal Aid. For example, many solicitors consulted in this review stated how difficult it was to find accommodation for their clients. Magistrates consulted also expressed concern for the homeless who continue to find themselves in custody. That there is a close relationship between homelessness and imprisonment, and the fact that homeless people are disproportionately represented in the criminal justice

system is not in dispute.³⁴ It is more likely than not that a person will stay on remand rather than bailed if the person is homeless.³⁵

Legal Aid needs to be meeting with the Department of Housing, Homeless Persons and other supportive accommodation services to develop strategies to assist legal aid clients seeking accommodation. The Department of Corrective Services for example has close links with the Department of Housing.

Location of the CAR Unit

CAR is presently located in Legal Services with the manager reporting to the Deputy CEO Legal. It is recommended that the manager position be graded to reflect the increase in responsibility .

Legal Aid should expand the role of the manager of CAR to include a whole of government approach to the delivery of services. The new position would be responsible for proactively engaging with government departments and non government departments to link services more directly and strategically to legal aid clients. The Department of Housing and DADHC are two obvious examples. It is anticipated that the position will initiate and collaborate on proposals seeking funding and/or access to services.

The Office of the Director of Public Prosecutions (ODPP) Witness Assistance Service (WAS) is a specialist unit within ODPP providing referral, information and support for victims of crimes and vulnerable witnesses. Whilst the role of the service is different to Legal Aid's CAR unit, it is in other respects very similar in the way it provides a parallel function of assisting solicitors and "clients" achieve the legal outcome.³⁶

The manager of WAS is located within Head office and is responsible for the state wide service and service delivery from Head Office. The manager reports to the Assistant Solicitor who in turn reports to the executive. There are over 34 WAS positions distributed throughout NSW in DPP regional offices. Newcastle, Sydney-West and Wollongong have a senior WAS officer. In addition, some of those positions are specialised positions including three Aboriginal identified WAS positions.

An integral role of the WAS manager is interagency liaison and relationship with support services.

There is a clear need to link each CAR consultant more dynamically with each practice area thus ensuring a more relevant and strategic delivery of service to clients. It is recommended that consultants be physically located into the defined practice area. (See recommendations under analysis of service delivery: civil, care, family crime).

³⁴ Mr Milloon Kothari, The United Nations Special Rapportuer on adequate housing in Australia.

³⁵ "Being homeless is a complex issue, created by the failure of a variety of service systems. Homeless people and those at risk of becoming homeless are affected by common themes that include social exclusion, an ineffective service system, lack of access to housing that is affordable to people on low incomes and a lack of support and supported accommodation services.

This range of factors means a multi-dimensional integrated response to homelessness is required. A NSW Homelessness Strategy would coordinate key Departmental and NGO partners in the development of an integrated approach to assisting homeless people and those at risk of becoming homeless."

³⁶ Consultation with DPP WAS 31 March 2008.

CAR manager to establish formal and regular meetings with the Regional Program Coordinators, senior solicitors and CAR consultants.

That Client Assessment and Referral (CAR) be renamed by the CAR Review implementation committee.

Provide information on services offered by the unit on the intranet

Training

CAR has an allocated training budget which is used mostly by consultants attending external advanced human service conferences. There are however internal courses co-ordinated by Training and Development which all Legal Aid employees are encouraged to attend including CAR consultants.

CAR reports are expert evidentiary reports. As such it is imperative that consultants are familiar with the rules of evidence, legal professional privilege, and client confidentiality.

Recommendation

Recommendation 40: The criminal law training officer, Family and Civil Regional Program Coordinators to facilitate training of CAR consultants in report writing, the rules of evidence and cross examination.

Reports

All three jurisdictions have strongly recommended that CAR continue to provide reports for the civil, family and criminal law practitioners. The reports are comprehensive, corroborated and professional. Although the issue of conflict has arisen on occasion, in the vast majority of cases conflict is not an issue. Rather, magistrates and judges have welcomed the detail of information contained in the reports and have had regard to the well researched recommendations placed before them.

On average each consultant produces approximately 8 reports a month. The preparation of a report usually involves at least one interview of the client and interviews with family and/or services to corroborate history and set up case plans. The reports address issues which other professional reports do not address and thus fill a worthwhile service to the organisation.

It is difficult to estimate accurately the average cost of producing each report. In 2007 approximately 293 reports were written by CAR.³⁷ Since each of the consultant's job description encompasses more than report writing there would be little advantage in dividing the CAR budget by the number of reports. Legal Aid pays approximately

³⁷ See Table i1, number of Referrals.

\$1,000 for a complex criminal report from a psychiatrist³⁸ and \$1,000 (increasing in scale depending on the number of children) in Family Law. Because the CAR reports involve interviews often at gaols or the clients home and are corroborated the reports would fall into the complex category.

The Australian Association of Social Workers endorsed the following schedule of fees and allowances for providing social work services:³⁹

Table 9: Australian Association of Social Workers – Schedule of fees

Service	Fee
Assessments and Report Writing	\$2,200

If Legal Aid was to outsource reports it could cost Legal Aid an additional \$644,600.

The table below shows 2006-2007 Legal Aid expenditure on psychiatric and psychological reports:⁴⁰

Table 10: Legal Aid expenditure on psychiatric and psychological reports

Psychologist-psychiatrist state	Total: 1,280,765.26	Criminal law: 1,280,765.26	State/Family: 15,997
Psychologist-psychiatrist commonwealth	Total: 623,207.76	Criminal law: 64,207	Family law: 559,000
Psychologist-psychiatrist state	17,949.90		
Psychologist-psychiatrist commonwealth	15,150.00		
Total	1,937,072.92		

Delay in obtaining a report is the most significant reason given for not approaching CAR or following through with the referral.

Recommendation

Recommendation 6: That Directors of Family, Crime and Civil, senior solicitors from practice areas, manager CAR and consultants form a working party to establish the following:

- Protocol for access to Direct Advocacy encompassing Legal Aid Priority groups, disadvantage and social exclusion.

³⁸ Fees payable to Psychiatrists and Psychologists Criminal Law matters – State & Commonwealth Commencement date – 1 December 2007

³⁹ Australian Association of Social Workers Fee Scale
http://www.aasw.asn.au/about/prof_practice/fees.htm.

⁴⁰ Legal Aid Cost element dissection financial year ending 2007.

- Eligibility guidelines for reports encompassing:
 - I. Priority clients in context of practice areas
 - II. Cost benefit in context of legal outcome
 - III. Alternative reports
 - IV. Access to justice

Community Referral and Liaison Officer

The current role of the Community Referral Liaison (CRIS) Officer consists of two parts. Firstly, the officer assesses referred clients socio-legal needs and refers them to appropriate services in the community. The assessment has been conducted mostly by phone although the position description encompasses face to face contact with clients. Often information is enough. However the organisation has voiced in this review the need for direct advocacy in some situations. During the course of this review a new CRIS officer has been appointed and CAR has introduced a protocol for referring solicitors seeking Direct Advocacy⁴¹ for their clients.

Recommendation

(See Recommendations 6, 7, and 8 on page 11.)

Referrals Matrix Database

The Community Referral Liaison Officer is responsible for maintaining the Referrals Matrix Data Base. The Referrals Matrix can be accessed on the internet on the “For Legal Practitioner” site and then through the “Community Referrals” portal. The information contained in the data base was originally obtained through a secondary agency and the currency and relevance of the material is dependant on the CRIS officer maintaining its integrity. This is a tall task for one person who is also responsible for

⁴¹ In order to assist CRIS we ask that solicitors consider, when referring, whether clients may require direct advocacy. When CRIS has direct client contact CRIS will determine whether a client may require direct advocacy, however, if solicitors will consider the checklist below when referring, the client will be flagged for direct advocacy and prioritised accordingly.

- History of agreeing to access services or make referral but not following through
- Client says cannot find service or says that service has rejected their referral
- Intellectual disability is clearly apparent and solicitor is concerned that client will not manage to self refer
- Client is in an ‘at risk’ situation and needs immediate and direct assistance. Such situations would include where a client is suicidal, threatens self harm, appears psychotic or has experienced chronic homelessness

providing telephone and face to face referrals to a state wide multi jurisdiction organisation.

Solicitors often have a paper base referrals directory which they use for the most common referrals. Only a handful of courts have computer access and therefore access to the Referrals Matrix. The information, whilst better than nothing, does not provide sufficient information to satisfy the enquiry.

Legal Aid has an obligation to its clients to ensure that the referral information provided to them is both up-to-date and accurate. This can continue to be provided by the Legal Aid referral matrix however additional resources are required to bring the data base up to an acceptable standard. Alternatively, Legal Aid can participate in the Human Services Network.

The Human Services Network (HSNet)

HSNet is a free, comprehensive, online directory of human services, available to government and non-government human service providers in NSW. NSW Government departments, including Legal Aid have contributed financially to the establishment of Servicelink which is auspiced by the Department of Commerce. Government and non-government organisations (NGOs) they fund, have provided their information for inclusion in ServiceLink. Services listed range from child care facilities, major hospitals, support groups, welfare agencies, aged care services, community transport services and more.

The information contained within the directory includes contact information such as address, web site, email, telephone and fax details and also displays service details including:

- A description of the service provided
- Opening hours and costs
- Maps and geographical coverage details
- Access information (e.g., wheelchair and disabled parking facilities)
- Interpreter services.

Servicelink is easy to access and the information contained is both comprehensive and up to date. Servicelink provides regular training courses to participating organisations.

The link can be made available to in-house and assigned solicitors. However, due to issues of confidentiality, at this stage the link can only be provided to assigned solicitors once their names have been submitted to ServiceLink for inclusion. Therefore, Legal Aid would need to provide details of all of its assigned solicitors so they can be individually provided access.

Recommendation

Recommendation 36: Legal Aid needs to ensure that the referral information is up to date, and accessible. This is currently a resource issue. It is recommended that legal Aid either improve the CRIS referral matrix by making the matrix more accessible and providing a greater range of services with information which assists solicitors. This will necessitate employing more CRIS officers. Alternatively, at no cost, Legal Aid participates in Servicelink.

If the proposal to participate in Servicelink is adopted the following steps are required:

- An implementation working party comprising IT, CAR, Grants, and regional Program Coordinators to be established.
- Promotion and training strategies to be implemented to assist access to in-house and assigned legal aid solicitors.

Rotational and Professional Developmental Opportunities

As noted in the summary of the unit, CAR consultants and management are currently participating in further tertiary education. In addition, the unit has its own training budget thus enabling staff to attend relevant conferences in their field of expertise.

However, the specialised service offered by CAR and its isolated location has limited the opportunities for rotation outside the unit and within the organisation. experience.

It would be beneficial to the unit and Legal Aid for CAR employees to have secondment opportunities to other Departments who have human service units. The Department of Corrective Services (DCS) expressed interest in a secondment proposal.

Recommendation

Recommendation 37: Facilitate discussions with CAR consultants and management to explore rotation and secondment opportunities.

OH&S (Support and Safety Issues)

CAR consultants regularly interview clients who potentially pose a safety risk. Interviews take place in a variety of settings including the office, gaol and in some instances the client's home.

The Procedures manual provides assistance to employees on OH&S in relation to gaol visits and home visits.

Training and Development provide client service focus workshops for Legal Aid staff. Managing aggressive and violent clients, interviewing and dealing with difficult clients

are two such courses offered. T&D have flagged a course for Legal Aid staff visiting gaols. It is recommended staff in CAR attend.

Recommendation

Recommendation 38: CAR manager to liaise with Director Crime regarding implementation of MOU with the Department of Corrective Services.

Recommendation 39: It is timely to engage OH&S consultant to look at home visit guidelines and practices.

Extending Client and Assessment and Referral to Private Solicitors

At present CAR services are limited to in-house solicitors. On some rare occasions reports have been approved for the ALS however, only after the manager of CAR has sought approval from Director of the Criminal Law Division.

With the Law Society's consent, a number of private solicitors across jurisdictions were consulted in this review.⁴² Although the sample was relatively small, most solicitors stated that if the service was available they would greatly appreciate assistance with referrals and would seek reports for clients who "have nowhere to go", or who have a dual diagnosis. Most solicitors thought it would be rare to seek a report however, interestingly one solicitor indicated that he would seek a report when Grants had refused his request for a psychological or psychiatric report. One solicitor had recently made some enquiries seeking a report from private social workers and in the process had discovered that the cost was in the thousands and none of the experts approached were familiar with the forensic format used by CAR.

Solicitors from the Grants Division had not received many requests from private solicitors seeking access to Legal Aid's in-house social workers. This was probably because solicitors do not know CAR exists. The following situations were nominated by Grants as priorities for private solicitors:

- Assistance with direct advocacy for difficult clients.
- Priority clients and clients in remote communities, in particular, Aboriginal clients
- Assistance by civil law applicants who need to address the "special disadvantage" test.
- Women in custody who had children.

It was conceded that it would be difficult to extend CAR services in Family Law and Care matters because of potential conflict.

⁴² Appendix D Questions for private solicitors.

The current guideline restricting access to CAR on the basis of whether the solicitor is in-house or private is historical, but not equitable. There are obviously resource implications if CAR were to be accessible by both in-house and private solicitors. However, the Legal Aid Corporate plan does not differentiate access to services on the basis of representation.

In this report there have been recommendations increasing CAR services. In particular, two such services recommended are the provision of a Mental Health advocate/social worker and an extension of the role of the Client Referral and information Liaison Officer (CRIS) to include direct advocacy. It has also been recommended that the CRIS officer no longer is required to maintain the referrals data matrix.

Private solicitors are rarely reimbursed for the warm handling of clients into services. In some cases this can take hours, sometimes days. No external agency provides this type of direct advocacy. It is therefore recommended that the following services be extended to private solicitors:

Recommendation 43: Private practitioners to be provided with access to an up-to-date Internet referral database.

Recommendation 44: Subject to the protocol settled for the in-house practice, and subject to conflict, private solicitors on a grant of Legal Aid to have access to the CRIS and mental health referral officers through the Grants Division.

Recommendation 45: In care matters subject to the protocols settled for the in-house practice, the ALS care solicitors to have access to care consultants for reports and direct advocacy (subject to conflict).

4. Relationship with Key Stakeholders

Informally CAR interacts with stakeholders in its role as a referring agency. However, there is a need for more strategic collaboration between CAR and the government and non government departments which provide services to Legal Aid clients.

The Department of Corrective Services (DCS) has been discussing with the manager of CAR sharing the CRIS data base. Although this report recommends that Legal Aid adopt the HSNet data as a preferred data base. In the course of this review, managers at DCS agreed that there was potential benefit for both organisations to cooperate. Both organisations agreed that there were difficulties locating suitable accommodation and other post services for difficult clients appearing before the Parole Authority.

The Department of Housing and the Department of Ageing and Disability Home Care services are two pivotal organisations providing housing and supportive housing and services for Legal Aid clients. There is potential in developing a strong relationship with these two key organisations with the aim of improving access to these services for Legal Aid clients.

Courts are increasingly adopting a more holistic approach in the way it deals with some matters. Examples of this can be seen in both the adult and juvenile courts. Conferencing, MERIT, court liaison nurses are some examples. Magistrates consulted at Central, Waverly and Liverpool Local Courts, indicated their enthusiasm for CAR services.⁴³ In particular, they confirmed that there was an overwhelming need for direct advocacy for people who were mentally ill and/or homeless. Reports which provided case plans and solutions for the dispossessed were appreciated.

Recommendation:

That Legal Aid establish a committee involving DCS (including Probation and Parole), PLS and CAR.

That Legal Aid liaise with Department of Housing and DADOC with the aim of establishing a cooperative relationship to work on strategies to assist Legal Aid clients.

⁴³ Appendix C Questions for Magistrates

Appendix A

Consultation

Client Assessment and Referral Unit

Danielle Castles

Graham Ko

Steven Cassar

Gemma Slack-Smith

Sophie Inwald

Pamela Verrender

Pam Soloman

Civil Law Division

Monique Hitter, Director Civil Law

Sarah Burke, A/Regional Programs Coordinator

Paul Jones, Senior Advocate Veterans Advocacy Service

Tim Smith, Senior Solicitor Civil Litigation

Nihal Danis, Senior Solicitor Mental Health Advocacy Service

Matthew Hazzard, Fairfield

Anthony Levin, Civil Litigation Head Office

Geraldine Read, Senior Solicitor Government Law Group

Dora Dimos, Senior Project Officer Civil Law Review

Mattew Turner, Wollongong

Peter McGee, PLS (civil solicitor)

Pat Latham, Dubbo

Pip Martin, A/ Senior solicitor Parramatta

Family Law Division

Judith Walker, Director Family Law

Deborah De Fina, Solicitor in Charge Care and Protection

Jane Costigan, Senior Solicitor Family Law Gosford

Francis Neilson, Solicitor in Charge Parramatta

Norman O’Dowd, Solicitor in Charge Bankstown

Mary Gleeson, Penrith

Allan Scally, Newcastle

Kim O’Rourke, Newcastle

Vivien Carty, Newcastle

Suzannah O’Reilly, Newcastle

Peace Decle, Lismore

Lurline Dillon-Smith, Lismore

Chris Lovell Jones, Lismore

Hazel Manson, Lismore

Ed Tyler, Family Law solicitor PLS

Holly Smith, Dubbo Family

Criminal Law Division

Brian Sandland, Director Crime

Paul Hayes, Deputy Director Crime

Paul Johnson, Solicitor in Charge Inner City Local Court

John Mulder, Solicitor in Charge Newcastle

Tracey Randal, Lismore

William Hutchins, Solicitor in Charge Prisoners Legal Service

Janet Witmer, A/SIC Prisoners Legal Service

Teresa O’Sullivan, Solicitor in Charge Children’s Legal Service

Julie Grix, Indictable Head office

Julianna Crofts, Parramatta

Karen Robinson, A/Solicitor in Charge Dubbo Legal Aid Crime

Focus Groups:

1. Emma Manea, Estelle Hawdon, Narelle Marshall, Brian Sandland, Robyn Clark, Tony Lynch, Di Tipper
2. Stuart Devine and Rebekah Rodger (Grade V Inner City Local Court)
3. Rebecca Neil and Richard Ikaafu

Grants Division

Anita Anderson

Focus Group:

Ann Miller, Steven Doumit, Deirdre Boss-Walker, Erica Coulston, Joy Gimbert, Vaughan Role, Rania Saab.

Strategic Policy & Planning

Richard Funston

Scott Hawkins

Aideen McGarrigle

Louise Blazejowska, Client Services Coordinator

Kirsten Cameron, Coordinator Community Legal Education

Dennie Roach

Jenny Lovric

Kirsten Bowman

Focus Group:

Lyndsay Brooker, John Gaudin, Scott Hawkins,

Cases

Paul Hayes

External

NSW Office of the Director of Public Prosecution: Joanna Phiels and Lee Purches

Aboriginal Legal Service: John McKenzie, Elizabeth Shirlow Dubbo civil law solicitor, Phillip Naden Dubbo field officer

Attorney Generals Department Crime Prevention Unit: Bruce Flaherty

Magistrates: Central: Moore, Bugden

Waverly: Gilmore

Liverpool: Giles, Burdett, Walchrist

Department Of Corrective Services: Barry Bell, Rosemary Caruanna

Private solicitors: Mark Klees & Assoc, Catherine Hunter, Peter Baker, Paul Grant, Pardeep Grewal

HSNet: Marie Callinan, Rosemary Caruanna, Ross Feenan

Appendix B

Questions for CAR Staff

Some formal questions for CARS staff

1. Qualifications
2. How long with LAC
3. Training/ development since employed with LAC
4. Training would like to do in the future
5. Where do you see yourself in five years time
6. What aspect of the job do you like/dislike
7. Are you full time/part time? If part time how many hours do you work?
8. What does your job entail? How would you divide your time in an average week?
9. Are you able to meet the demand?
10. Do you think the LAC solicitors understand what your role is?
11. Do you think the solicitors of the Commission understand what the sections role is?
12. In a perfectly funded organisation what roles do you think a social work section could have in an organisation like LAC?
13. Have you ever been called as an expert witness?
14. If so, did you give evidence in chief? Were you cross examined? How was this?
15. What training have you undertaken regarding giving evidence in court? Was this organised at LAC?
16. Have you ever been asked by solicitors in LAC to either:
 - i) Assist client in attending court
 - ii) Be with client at court
 - iii) Help client with attending appointments, negotiating the welfare system, advocating on their behalf government department/health /bureaucracy
17. If so, have you? Is there a role for this?
18. Have you ever attended or been asked to attend a staff meeting in civil, crime or family jurisdictions? When and why?

19. Would it be helpful for you or the section to be more involved?
20. Do you attend any interagency meetings? If so what are they and how frequently do you attend?
21. Do you receive any feedback from solicitors regarding reports?
22. When asked to prepare reports were you adequately briefed by the solicitor as to the requirements of the law, what was required?
23. What training have you had in preparing reports?

Appendix C

Questions for Magistrates

1. Are you aware Legal Aid had a Client Assessment and Referral Service?
 - a) If so, what context was the service brought to your attention?
 - i) Report
 - ii) Direct Advocacy
 - iii) Referral
2. Have you read a report written by a CAR consultant?
 - a) If so, did the report assist you in determining the outcome of the case?
 - b) Did you have any, or do you see any problems with, Legal Aid using in-house social workers to write psychosocial reports?
3. In putting together bail plans or sentencing case plans duty solicitors are often required to navigate the welfare system to assist their clients outcome. What is your view on this?
4. What does the court want?

