

Quarterly Highlights Report – June to September 2017

This newsletter summarises the activities of the NSW Legal Assistance Forum (NLAF) during the period June to September 2017 including reports to the NLAF Plenary meeting held in September.

Working Group Reports

Fines and Traffic Law Working Group

a) Access to Birth Certificates for Aboriginal and disadvantaged community members

For almost five years, NLAF has been working to find a coordinated approach to overcome the difficulties in obtaining birth certificates for members of Aboriginal and disadvantaged communities. For this reason, NLAF is very pleased to hear of the Attorney General's recent announcement of the ongoing outreach program for disadvantaged communities, providing free birth certificates for Aboriginal and disadvantaged community members. The NSW Registry of Births Deaths & Marriages has increased the cost of birth certificates by \$1, in addition to usual fee increases, to fund free birth certificates for all who cannot afford it. It is anticipated that the increased revenue will fund up to 6000 birth certificates, as well as two full time positions to assist with the implementation of the outreach program. We look forward to receiving more details about this program, which are currently being worked out by the Premier's Implementation Unit.

b) Bicycle Fines and Young People

The increased penalties for offences committed by cyclists, introduced by the *Road Rules 2014* with effect from 1 March 2016, have significantly impacted on juveniles. As well as increased penalty notice amounts, figures from the Office of State Revenue (now Revenue NSW) suggest that there has been an increase in police enforcement, leading to a significant increase in the issue of penalty notices for cycling-related offences. There is no differential between fines for children and adults. This particularly affects young people from rural and regional areas who ride bikes without helmets, yet face the same penalties as adults. Moreover, children and young people generally lack the capacity to pay substantial fines, and fines are not an effective deterrent for children and young people. NLAF wrote to the then Minister for Roads, Maritime and Freight, the Honourable Duncan Gay, on this topic last year, and intends to write to the current Minister, the Honourable Melinda Pavey, about this issue again.

c) Drug driving testing

NLAF members discussed the issue of drug driving, which is a significant issue that the Roads Maritime Service (RMS) is currently considering. In 2015 the NSW government announced it would significantly increase the number of roadside drug tests conducted, with the target to triple "Mobile Drug Testing to 97,000 tests each year by 2017" (Transport for NSW media release 1 December 2015, transport.nsw.gov.au/newsroom/media-releases/newdrug-driving-campaign-launched-mdt-theres-no-escapingit). Since this announcement, the level of police enforcement for drug driving has substantially increased, resulting in concerns about the flow on impact on the workload of the criminal justice system.

The BOCSAR report *Recent Trends in Arrests for Drug Driving* (March 2017, bocsar.nsw.gov.au/Documents/BB/Report-2017-Recent-Trends-in-Arrests-for-Drug-Driving-BB125.pdf) points out that questions have arisen about the appropriateness of drug driving legislation which does not require impairment. Unlike drink-driving, there is no statutory drug concentration threshold governing the offence of drug driving. NLAF will continue to monitor this emerging issue and report on any developments in due course.

Prisoners Forum

a) AVL Project Presentation

Peter Sharp, Manager of Video Conferencing at Corrective Services NSW, spoke about the Just Connect AVL Consolidation Project, which will replace VCSS and is designed to streamline and improve AVL operations. Just Connect is to be deployed in three releases, which will include inmate and solicitor access, friends and family access, and courts and other tribunals.

b) The Miranda Project

Deidre Hyslop, Miranda Project Director, provided an overview and update on the Miranda Project, which aims to provide diversionary options for women at risk of incarceration. A pilot has commenced in four locations namely: Bathurst, Penrith, Leichardt and Kings Cross. The Miranda Project has been receiving referrals from all over the state, and the project has now begun setting up a new model drop-in centre at 21 Queen St, Sydney.

c) Community Restorative Centre

Alex Faraguna, Telephone Information and Referral Service Worker, Community Restorative Centre (CRC), provided an overview of the work CRC undertakes in relation to post-release support services. CRC provide post-release support to hundreds of people who are released from prison each year, and engage with inmates three months prior to release, to assist with casework, counselling, financial assistance, and assistance with family video visits.

Groups reporting to NLAF

Cooperative Legal Services Delivery (CLSD) Program operated by Legal Aid NSW

a) Financial hardship including fines, VRO, gambling and Local Council debt

- Distinct pockets of high fines debt in some Aboriginal communities.
- Victims Restitution Orders (VRO) impact: not uncommon to see vulnerable people with \$30,000+ VRO debt.
- Poker machine expenditure in regional NSW is very high in regional and remote NSW
- Delay noted for EDR schemes in financial services.
- Local Council rates debt: some Local Councils are quick to litigate rather than negotiate hardship plans.

b) ADVOs

- 'What's your Plan' initiative for Aboriginal defendants in Local Courts getting mixed feedback: note BOCSAR evaluation of trial underway.

- Urgent need for diversion and support services for DV offenders, including AOD rehabilitation and anger management.
- Lack of consistency in relation to whether person/s in need of protection needs to attend Court.

c) Criminal justice issues generally

- Perception of “differential” policing practices for Aboriginal people
- Under-use/no use of *Young Offender’s Act* warnings, cautions and conferences and Circle Sentencing
- Need more local and sustained cultural awareness training for Courts, Police and solicitors.
- Concerns about rising prison population, more prisons being built when it’s clear that prison is not working for serial reoffenders, their families and their communities. Alternatives to prison needed.
- Need for MERIT, AOD diversions and AOD services noted across regional and remote NSW

d) Aboriginal communities: disproportionate impacts of legislative regimes, initiatives/programs and systems

- Working with Children checks: interim bars for up to 12 months for historic charges that have been quashed.
- School retention, suspensions and expulsions: Aboriginal communities, noting kids in OOHC.
- People on WDOs overwhelmed by massive VRO debts and WDO agencies not willing or lack capacity to assist.
- Consumer issues: some families have up to 3 funeral insurance products (3 too many).
- Relative poor access to driving programs and traffic offender programs in regional and remote areas.
- Loss of ALS Field Officers impacting on access to civil and family services, especially on outreach.
- Identity documents and flow on criminal justice system impact, for example charges for drive never-licensed.

e) Prisoners, through-care and support on release (ongoing)

- Repatriation issues
- Housing (loss of tenancies & classifications) and fines/court debts are amongst most significant issues inmates face when exiting prison.
- Through-care and portability of mental health plans, medications.

f) Housing

- Tenants are not accessing legal advice and services in a timely way, including not turning up at NCAT (in person or by phone).
- Housing NSW divesting stock to Community housing is causing disquiet.
- Prison to homelessness (need induction on housing status and later through-care to assure housing)

g) School suspensions, expulsions and retention

- Aboriginal kids over-represented in suspension, expulsion and retention statistics across regional and remote NSW.
- Kids in OOHC missing substantial periods of school.

More information about the Cooperative Legal Service Delivery Program and the location of/contacts for regional networks can be found at: <http://www.legalaid.nsw.gov.au/what-we-do/community-partnerships/cooperative-legal-services-delivery-clsd-program>.

Justice Connect

The Digital Innovation Community of Practice met in September and October. Justice Connect will bring any issues arising from the Community of Practice to NLAF. If anyone is interested in joining the Community of Practice, please contact Justice Connect for more information.

Law Society NSW

Upcoming events for the Thought Leadership Series: “Human Rights in Uncharted Territory” and “Mind the Gap – Advancing Indigenous Justice”. Details and booking online:

<http://www.lawsociety.com.au/ForSolicitors/advocacy/thoughtleadership/index.htm>

Public Interest Advocacy Centre

PIAC is supporting an event on *Structured Negotiation and the quest for equal access in the digital age: lessons from the US disability rights movement* at Ashhurst on 14 November 2017. Details and registration online:

<https://www.eventbrite.com.au/e/structured-negotiation-lessons-from-the-us-disability-rights-movement-tickets-37592246421>

NLAF Website (nlaf.org.au)

Quarterly working group reports tabled at the NLAF meetings and NLAF Highlight Reports are posted on our website. In addition the NLAF News page is updated weekly with links to NLAF member updates and news items.

Lillian Leigh
NLAF Project Manager
October 2017