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# KINGSFORD LEGAL CENTRE

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## **Annual Report 1994**

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THE UNIVERSITY OF  
NEW SOUTH WALES



**KINGSFORD LEGAL CENTRE**

**OUR PURPOSE:**

**Legal Assistance for our Community  
A Learning Centre for Students of Law and Social Work**

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# The Centre's Objectives

**K**ingsford Legal Centre is a community legal centre and a centre for clinical legal education. In a major organisational review in 1990/91, the Centre analysed and confirmed its purpose and objectives. They have been reconsidered and refined at bi-annual policy days since.

The Centre's principal *teaching* objectives are:

- to teach students to learn independently;
  - to increase cooperation and contact between social work and law students;
  - to foster an appreciation of law as an institution, and a critical appreciation of the place of law in the social order;
  - to develop individual student responsibility;
  - to give students the opportunity to understand aspects of legal practice, legal reasoning, legal skills and to examine law in context;
- to give attention to individual student needs with regard to their capability, knowledge and skill.

The Centre's principal *community service* objectives are:

- to comply with and to fulfil to the fullest extent possible the objectives and evaluative criteria set for community legal centres both by Legal Aid and Family Services Section of the Commonwealth Attorney General's Department and by the Legal Aid Commission of New South Wales;
- to encourage and develop cooperative referral and working arrangements between the Centre and other community organisations;
- to engage in community legal education, law reform and community development while extending legal students' clinical experience.

# **T**he Centre's Staff

**Simon Rice** has been the Centre's director since 1989. He is a tenured lecturer in the Faculty of Law, and principal solicitor of the practice. For the second half of the year Simon was on academic study leave, pursuing his research interest in legal aid and legal services.

Solicitors **Paul Batley** and **John Godwin** have been with the Centre since 1990 and 1991 respectively. Between them they manage the bulk of the Centre's legal caseload, and with **Mick Hillman** they take responsibility for developing and supervising the Centre's community projects. An integral part of managing the caseload is the supervision and education of law students. While Simon was on study leave Paul and John were together the acting directors of the Centre.

**Zoe Matis** has been a staff member of the Centre since 1985, and the Centre's administrator since 1990. In early 1994 Zoe took maternity leave for the birth of her son George.

**Kym Bedford** and **Graciela Buzy** are the Centre's full time legal secretaries. Kym is responsible for maintaining the Centre's client records and database, and providing administrative support to the director. Graciela manages the volunteer lawyer roster, and interprets for our many Spanish speaking clients. For the eight months that Zoe was on maternity leave Kym was acting administrator of the Centre.

**Anne-Marie Winkle** has worked regularly with the Centre providing relief administrative support. For eight months

Anne-Marie was engaged by the Centre as a legal secretary while Kym was acting Administrator at the Centre.

**Mick Hillman** continues as the lecturer from the School of Social Work who is the clinical supervisor of social work students on placement at the Centre. Towards the end of 1994 it became apparent that funding cuts in the School of Social Work would result in the clinical supervision position being discontinued. This issue is discussed later in this Annual Report.

**Julian Livingstone** worked as our librarian during the first half of the year. Our current librarian is a law student, **Jason Parry**.

**Louise Blazejowska** worked at the Centre as Simon's locum for the second six months of the year. Louise was on secondment from Redfern Legal Centre, and we are grateful to RLC for releasing Louise for this period. Louise had previously worked at the Centre as a locum, and as an employed solicitor.

**Niall Connolly** had worked as a student at Redfern Legal Centre and recently graduated from College of Law. Niall was a locum for John for three weeks at the Centre.

As part of our continuing arrangement with the law firm Freehill Hollingdale & Page, Sue Roberts, Murray Gan, Robert Dick and Michelle Wright were seconded to the Centre for consecutive periods of three months.

# M<sub>a</sub>nagement

The Centre is managed by the director, in consultation with the Centre's staff, with the senior administrative officer and the Head of School at the Law School, and with the Law School's Curriculum and Teaching Committee. The Centre's staff meet weekly.

The **Kingsford Legal Centre Advisory Committee** is a committee of the Law School. It ensures that the Centre is able to consult with its local community, and enables the local community, through various service providers who are represented on the Committee, to give guidance and direction to the Centre.

In 1994 the Committee's members were:

- **Liz Davis** from Randwick City Council
- **Carol Krikorian** from Botany Family and Childrens Centre
- **Cassie Hatton** from The Shack at Maroubra
- **Julie Spies** from Kooloora Community Centre
- **Rosa Loria** from Botany Multicultural Resource Centre



Christmas Party 1994: (L to R) John Godwin, Yvonne Jones (DDLCL), Mick Hillman and Louise Blazejowska

- **Jill Anderson** and **Anne Cossins** from the Law Faculty of the University of New South Wales
- **Mick Hillman** social worker and **Kym Bedford** from Kingsford Legal Centre

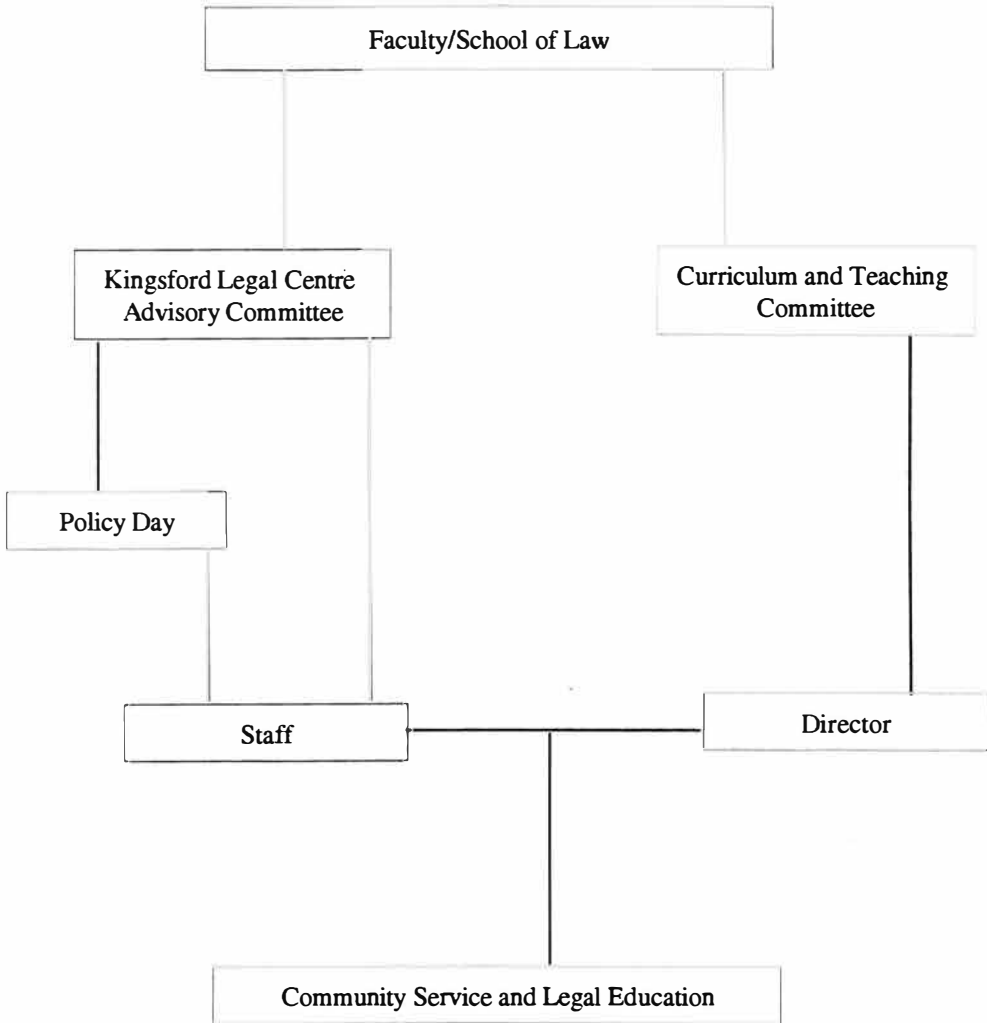
The Committee met four times during 1994. During the year the Committee saw as its objectives to:

- provide comments and feedback on current issues in the community
- discuss topics that may be of interest for law students and social work students who attend the Centre
- coordinate a network among the agencies which assists the Centre in informing the local community of what services are available from the Centre



Staff 1994 (L to R) Top Row: Paul Batley, Anna Cody (Paul's locum during 1995) Simon Rice, John Godwin and Kym Bedford  
Bottom Row: Zoe Matis and Graciela Buzy

# Centre Management





## **L**aw firm secondments

Susan Roberts who was the Freehills secondee for the period November 1993 to February 1994 writes:

I had the pleasure of being on secondment to Kingsford Legal Centre from Freehill Hollingdale & Page for 4 months from November 1993 to March 1994. My time at Kingsford Legal Centre involved the ascent of a very steep learning curve. Along the way, it involved a shift in mind set and required me to discard some of the tenets of commercial practice (such as “the client is always right” and “how much can I bill on this matter”) and adopt the principles of community law (such as “what are this client’s immediate needs, resources and desired outcome” and “what is the most efficient and cost-effective way of handling this matter”).

My experience at Kingsford Legal Centre took me for the first time into the forums of the Family Court, Industrial Relations Tribunal, Equal Opportunity Tribunal and Local Courts. The various matters I dealt with ranged from marriage dissolutions and debtors defences, to AVOs and pregnancy dismissals. My experience also placed me for the first time in the position of seeing potential clients face to face, assessing their queries quickly and then attempting to explain to them, coherently and succinctly, how, if at all, their story related to legal principles, procedures and remedies. I found this one of the most challenging and rewarding aspects of my work at Kingsford Legal Centre as it required many long-forgotten, though often quite basic, legal principles being dusted off and applied in a very practical and immediate context.

The additional role of being responsible for

a small group of students added a further and previously unexplored dimension to my experience as a solicitor. This experience was in all likelihood more educational and beneficial for me than for the students, as they had to tolerate my inexperience and lack of practice as a supervisor whereas I had the benefit of their enthusiasm and willingness to pursue the task assigned to them!

One of my most unusual and challenging matters at Kingsford Legal Centre (that I handled in conjunction with Paul Batley) involved a female client who had travelled to Australia from England, leaving behind her job and after giving up her flat in reliance upon a marriage proposal from an Australian. After 6 weeks of living together, the woman’s fiancé moved out of the flat, which he owned, and announced that the relationship was over. Our client was determined to stay in the flat and wanted her ex-fiancé to compensate her for giving up her life in England, and to finance her return trip. Given that there is now no such cause of action as breach of promise in Australia, it was necessary to try to establish the client’s right to stay in the flat in terms of her having an implied contractual licence to occupy the premises, given that she had performed repairs to the flat and had acted to her detriment in leaving her home and moving into the premises.

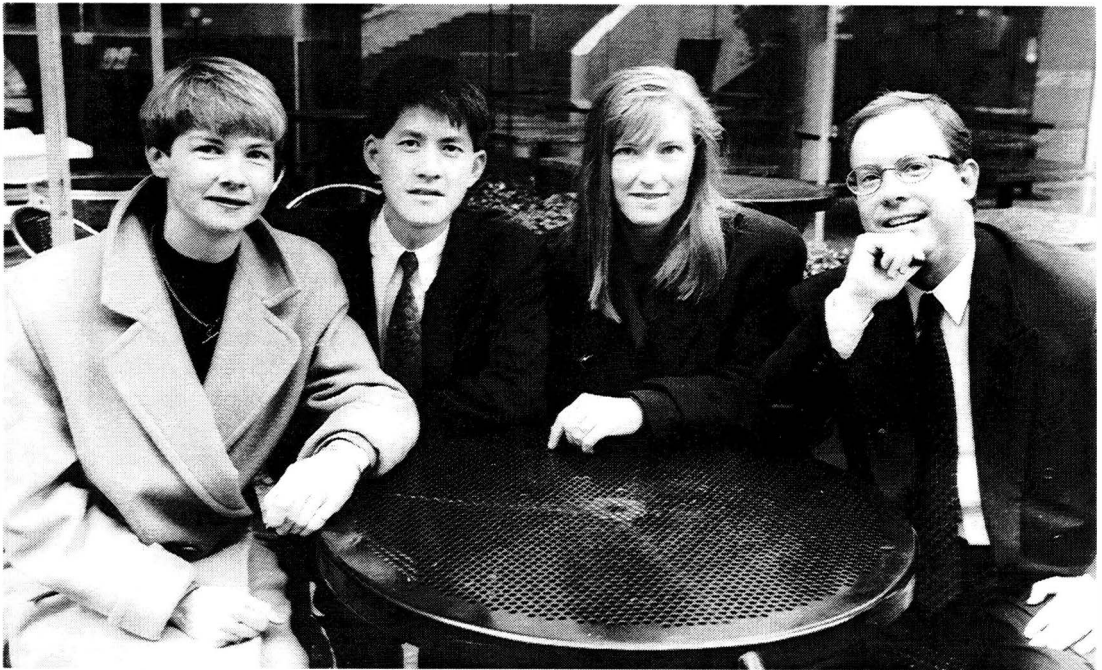
Ultimately, after unsuccessful and somewhat heated discussions and meetings with the solicitor for the ex-fiancé (including one where the solicitor was enthusiastically trying to gain physical access to the premises!), our client was prevented from staying in the premises when she was invited to meet with her ex-fiancé and found on her

return that the locks had been changed and a caretaker in possession of the flat. There was some consolation for our client, however, in that after spending some weeks in a women's refuge, an arrangement was made between the parties whereby a monetary sum was paid to our client and she was provided with a airline ticket back to England.

This is an example of the variety of emotional and unusual issues that one is confronted with at Kingsford Legal Centre - issues that help make the position occasionally stressful but also invigorating

proved to be too strong for me and the conclusion of my time at Kingsford Legal Centre was marked by me securing a position at the Human Rights and Equal Opportunity Commission where I have found the experience at Kingsford Legal Centre and the insight I gained there to have been more than relevant.

Thanks to Freehills for the opportunity, and thanks to all the staff and students at Kingsford Legal Centre for such a memorable and career-altering experience!



Secondments from Freehill Hollingdale & Page (L to R) Susan Roberts, Murray Gan, Michelle Wright and Robert Dick

**Michelle Wright** was seconded to the Centre during 1994 and she writes:

For a commercial litigator who has always been stumped by questions from friends and family about what to do legally about a dispute with a neighbour, an employment problem or a family law issue, a secondment at Kingsford Legal Centre was a blessing.

The experience I gained at Kingsford has raised my credibility as a lawyer enormously. No longer need I desperately respond to people seeking my assistance that employment law/ family law/ neighbourhood disputes/ motor vehicle accidents/ social security law/ criminal law is outside my area of expertise, and I really do not have a clue about how they should proceed. Now I know how to help these people: I confidently quote chapter and verse from the relevant sections of the Law Handbook and the Lawyers Practice Manual!

A measure of street cred was not all I gained from my time at Kingsford. I thoroughly enjoyed the entirely different world of legal practice that Kingsford offers - new areas of law, new courts and tribunals, and clients with legal and other problems of a type I do not normally encounter.

Of all these new facets of practice, I was least equipped to deal with the challenges the clients posed for me. For instance, nothing in my previous experience had prepared me for taking instructions from and advising a particular client who suffered from schizophrenia, and who seemed always to arrange a meeting with me when she was delusional. I also had difficulty taking instructions from some of the clients I encountered in the cells at Waverley Local Court. Often these clients would be affected by drugs and would nod off during our interview. Another challenge I had not encountered before was posed by a client

who had arranged to pay off a debt in monthly instalments. Since the arrangement was that the payments would be made through Kingsford, and since the client was not very keen to pay, I found myself calling him every month. It was interesting how his English would deteriorate once he realised it was me calling. I soon arranged to have an interpreter from Ethnic Affairs on the line when I called him.

A secondment at Kingsford also offers advocacy and negotiation experience to an extent not available in large corporate practices. On my first few appearances making bail applications and entering pleas in Waverley Local Court, I felt that this was an experience that I could happily do without, but I became more comfortable in that court over time. I also found great satisfaction in appearing in matters in the Family Court, the Downing Centre Local Court, and the Equal Opportunity Tribunal, and in assisting clients to negotiate settlements, particularly in conciliation conferences at the Anti-Discrimination Board.

Another feature of a secondment at Kingsford which distinguishes it from other community legal centres, is the opportunity to work with law students from the University of New South Wales. Solicitors at Kingsford, including secondees, supervise the law students who take primary responsibility for files. I was impressed by the quality of the work the students did, and I found discussing their matters with them and advising them very rewarding.

Finally, a secondment at Kingsford provides the obvious pleasure of using legal skills to help people in the community who really need help. On this basis alone, I would commend a secondment at Kingsford to anyone who has not had experience in a community based practice.



Staff 1994 (L to R) Graciela Buzy and Anne-Marie Winkle

# Social work

1994 has seen a number of innovations aimed at a further integration of social work into the 'mainstream' of the Centre. Unfortunately, these took place in the context of a decision by the UNSW Social Work School, in the face of financial constraints, to reduce by 50% the time allocated to the Centre within the School's 'socio-legal' lecturer position as from 1995. This makes the need for an employed social worker more important than ever, particularly in maintaining and developing the Centre's links with the local community. Such links are critical to the Centre's effectiveness both as a community legal service and as a centre for learning and teaching.

Following a discussion on the social work role at the Centre at the 'Policy Day' in June 1994, several new measures were implemented during session two:

- introduction of case materials in the Wednesday afternoon class to promote discussion among law students of non-legal options. Social work students attended the majority of these classes;
- regular attendance by social work students at the morning meetings at which law students discuss case planning;
- a 'training session' for volunteer solicitors on the role of social work at the Centre and basic information on 'who does what' in community services
- attendance by social work students and supervisor at evening advice sessions.

These measures and the presence of a social work unit at Kingsford Legal Centre reflect the Centre's continuing commitment to a

broad based community service and a multi-disciplinary learning environment. A key role for the social work student is to facilitate the appropriate use of legal and non-legal options, as well as casework and broader responses to issues such as neighbour disputes and domestic violence.

The range of tasks undertaken by social work students includes the following:

- short term counselling and support, including crisis intervention, in a wide range of areas such as domestic violence, housing, social security, family law and psychiatric disability;
- assessment and referral to appropriate specialist or long term counselling services such as community health and family support;
- informal mediation in areas such as family law and neighbour disputes;
- provision of information to law students and solicitors on community resources and services including support groups and education programs. Advice is also given on dealing with particular client groups, particularly people with an intellectual or psychiatric disability, and those facing loss or bereavement;
- joint work with law students on the Centre's community education and research projects (see *Projects* section), in particular on domestic violence, local environmental issues and juvenile justice. The results of a research project undertaken by KLC students on young people and police during 1994 were published in July under the title *Nobody Listens*, and received substantial media coverage;
- social work students also worked on education projects with the Disability Discrimination Legal Centre in

conjunction with the Australian Quadriplegic Association, in relation to the *Disability Discrimination Act*.

In all these tasks, a high priority is given to collaboration between social work students and law students. Such collaboration at this level is unique in its extent and variety. While sometimes resulting in tensions between different approaches to practice, such contact has been highly productive in terms of learning and reducing the stereotyping between the two professions.

Supervision of social work students has been provided through a half time lecturer position in the School of Social Work at UNSW. Mick Hillman has been in this position since 1991 and teaches socio-legal practice in the Social Work School.

As with the 'legal' side of the Centre, the connection between clinical activity and class-based teaching has been a feature of the position, and is unique in this aspect. This link was enhanced by the completion of a research project on socio-legal practice

funded by the Law Foundation of New South Wales. The project was conducted by Mick Hillman and Jane Hargreaves and overseen by a steering committee that included representatives of the Law and Social Work Schools. The Report looked at the range of situations in which the two professions collaborate, and made recommendations for the teaching of law and social work which should be of particular benefit to the 'combined' social work/law students.

Students nearing the completion of the combined Social Work/Law Degree continue to undertake concurrent placements at the Centre. Their contribution to an understanding of the work of both disciplines has been significant. Previous students have now graduated and obtained employment in areas such as law reform and guardianship, where a combination of the skills and knowledge of law and social work is highly valued.

# Policy Day

The Centre's annual Policy Day was held at the UNSW Institute of Administration, Little Bay, on 10 June 1994.

All the staff were in attendance, as were Simon's locum for the second half of the year, Louise Blazejowska, the staff of the Disability Discrimination Legal Centre, volunteer lawyer, Lisa Ogle, Law Students Fiona McLeay, Rachel Francois and David Prince, and Advisory Committee members Jill Anderson and Carol Krikorian. Also attending was Archie Zariski, a visiting lecturer in law from Murdoch University, Western Australia.

## *Social work integration*

After discussion initiated by a paper from Mick Hillman, it was agreed that steps would be taken to enhance the teaching of non-legal remedies to the law students on clinical placement at the Centre; this integration would be compounded by the social work students attending the daily meetings and weekly class with law students. It was further agreed that the availability of the Centre's social work service would be promoted in the Centre generally, and in particular, in the evening advice sessions; again, this measure would be reinforced by the presence of social work students and supervisors at the evening advice sessions.

Regrettably, impetus for implementing the above decisions, was lost somewhat as it became clear during the second part of 1994 that the funding for the Social Work Unit was to be cut.

## *Volunteer lawyers roster*

It was agreed that specified steps should be taken to promote the teaching role that volunteer lawyers have at the evening advice sessions, and that specified steps should be taken to enhance the expertise and performance of the volunteer lawyers.

## *Administrative staff roles*

An important decision was taken in relation to administrative staff job descriptions and duties: in addition to resolving that the job descriptions would be reviewed periodically, it was agreed that administrative staff should have the opportunity to conduct a limited amount of casework under supervision. In doing so, they would be performing in the role of a para-legal, consistent with their considerable experience in the legal environment, their general skills and level of interest, and the need to ensure that job descriptions provide new horizons and challenges.

***Other issues***

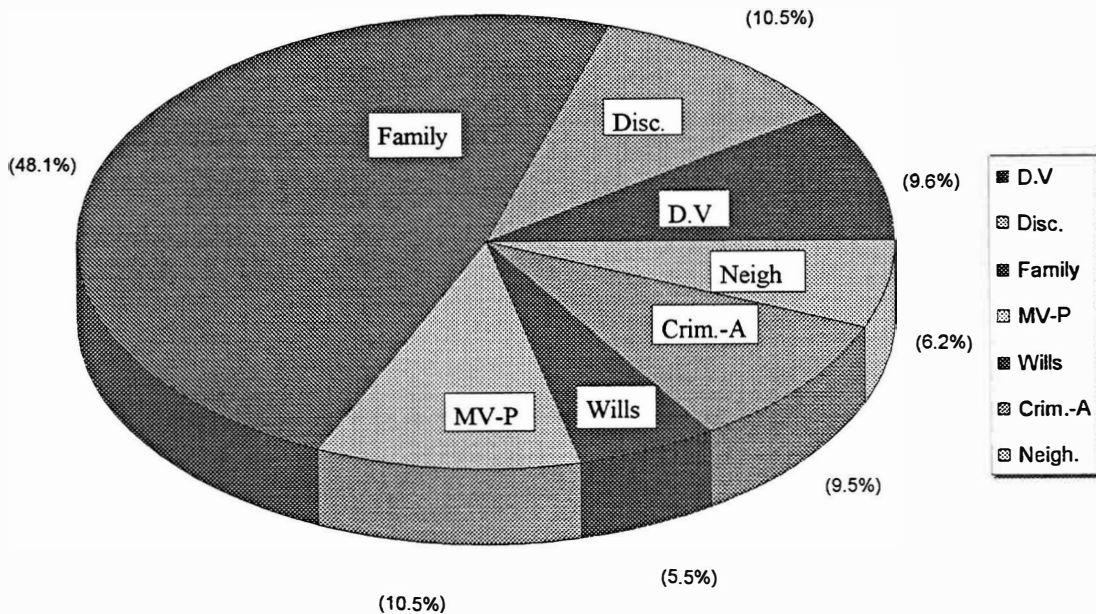
The Policy Day canvassed various concerns relating to the role of staff solicitors, the conduct of the community development projects, the role of the Freehill Hollingdale & Page seconded solicitor, casework criterion selection, the continuing relationship with the Disability Discrimination Legal Centre, and the management of the Centre's Access and Equity policy.



KLC Solicitors (L to R) Simon Rice, Paul Batley and John Godwin

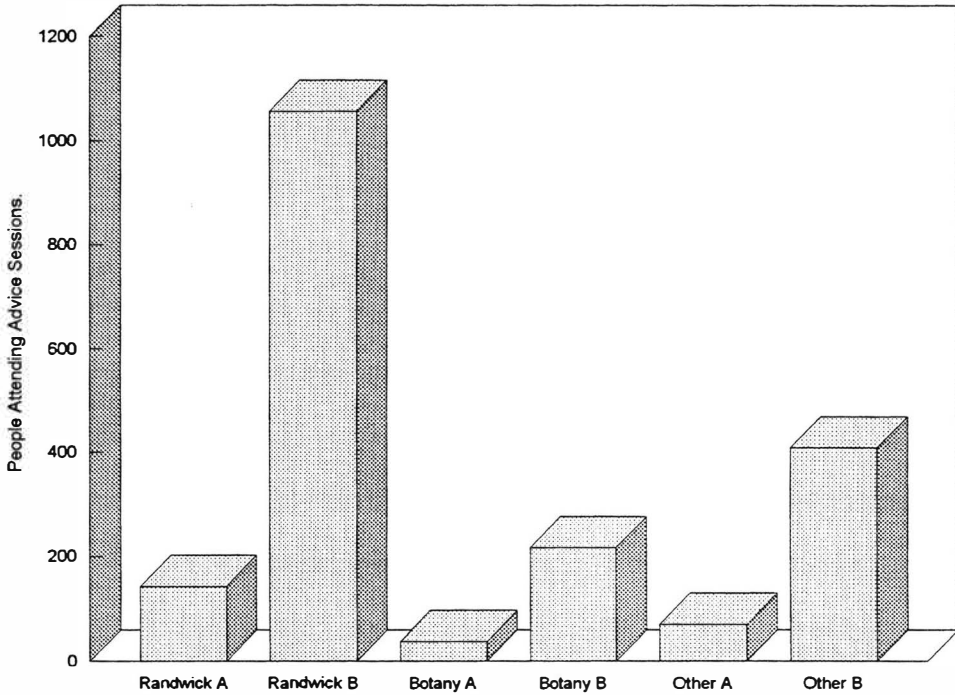


## CLIENTS SEEN DURING 1994



DV	Domestic Violence	99	MV-P	Motor Vehicle-Property	108
DISC.	Discrimination	108	WILLS	Wills	57
FAMILY	D - Divorce	181	CRIM-A	Criminal-Adult	98
	C - Custody	78	NEIGH	Neighbour	64
	A - Access	32			
	M - Maintenance	49			
	P - Property	56			
			<b>TOTAL CLIENTS SEEN</b>		
			<b>IN 1994</b>		<b>1,683</b>

**COMPARISON OF PEOPLE ATTENDING FOR ADVICE AND FILES OPENED**



Randwick A	Number of files opened for residents in the Randwick area
Randwick B	Number of people who came in for advice in the Randwick area
Botany A	Number of files opened for residents in the Botany area
Botany B	Number of people who came in for advice in the Botany area
Other A	Number of files opened in the East and Other areas
Other B	Number of people who came in for advice in the East and Other Areas
Total number of opened files:	250
Total number of people attending for advice:	1,683

# D

## irector's study leave

As a tenured lecturer in the Faculty of Law, the Centre's director is entitled to seek study leave. This is a little problematic for the Law Faculty as there is no other member of academic staff available to teach the clinic director's "subject", i.e. to manage the Centre. Nevertheless, the Faculty did approve the application and committed itself to ensuring that the clinic director has at least some access to the opportunity to expand the academic dimension of his or her professional life.

Simon Rice was granted leave for the second half of 1994, and spent the Fall semester at Osgoode Hall Law School at York University in Toronto, Canada. The following is an extract from Simon's report to the University on his study leave:

"It has been a rare thing for a law lecturer to be appointed to a tenured position as a clinical teacher. The opportunity has arisen only rarely in Australia, but is the subject of a long and bitter, and well documented, history in North America. It is to the credit of the UNSW Law Faculty that they have been willing to see the merit in considering tenured appointments of clinical teaching staff, and I am pleased to have been appointed in that way.

### Getting leave

"A necessary consequence of a tenured appointment is the need to maintain the research activity that gave rise to the appointment, even though a clinical appointment is based in large part on teaching expertise. Allowing the clinical academic time to take the usual 'sabbatical' (study leave) is a challenge for the Faculty as there are financial

implications. Whereas a law teacher might ordinarily take study leave and have a colleague step in to teach the relevant subject during the teacher's absence, such an arrangement is not as easy for a clinical teacher.

"It is unlikely that a colleague will be able or willing to step in to the clinic and to teach the clinical subject - such was the case at UNSW, where none of the academics on the Faculty was able or willing to 'cover for' my absence. Again to the credit of the Faculty, the decision was taken to fund my study leave by meeting the expense of engaging a locum. While not the most satisfactory arrangement in principle, it worked well on this occasion, and I am grateful to Louise Blazejowska for her commitment to my students, my clients, the staff, and the Centre. John Godwin and Paul Batley acted as co-Directors, and I am very grateful to them for carrying those duties on top of their onerous casework and clinical supervision duties.

### Osgoode Hall

"I spent the northern Fall Semester at Osgoode Hall Law School, York University, in Toronto, Canada. Perhaps because of my proximity to and frequent interaction with the Faculty members there, or perhaps because of the much higher profile clinical teaching enjoys at Osgoode Hall, I felt as much a colleague of the Osgoode Hall Faculty as I have ever felt at UNSW. The experience was rewarding and enriching, and I owe a considerable debt to the many members of the Osgoode Hall staff and Faculty who went out of their way to make me welcome professionally, and my family welcome personally.

## Research

“My research agenda related to the provision by the State of legal services. I had started with the simple thesis that the provision by the State of legal services could be characterised as a human right. Such a statement is riddled with conceptual and definitional difficulties, just on the question of 'the State' and 'legal services' before even getting to 'a human right'.

“My work resolved into an inquiry into the justification for the State's involvement in the provision of legal services, most commonly confined to legal representation. This took me on a path that travelled through common law, ecclesiastical law, civil law, administrative principles, the Canadian Charter of Rights and Freedoms, the US Bill of Rights, and developments in Europe and South Africa. Of course the path was endless, and I ran out of time.

“Numerous 'sub-issues' arose: defining legal need, the relative merits of in-house and contracted legal aid lawyers, the place of *pro bono*, the competing claims of criminal and non-criminal law for the legal aid dollar, different methods of legal service delivery, the usefulness of test cases and other 'preventative' law measures - the list goes on.

“I wrote a short article for the *Alternative Law Journal* (December 1994) commenting on some current debate on legal aid in Australia - it was an opportunity to run together a few ideas that had been developing during the research.

“A larger piece of (unfinished) research is on a tangential issue: looking at the meaning in practice of the High Court's decision in *R v Deitrich*. Specifically, in what cases is the 'rule' (that allows a defendant to a serious charge a stay if s/he is involuntarily unrepresented) to be applied? What does

'serious' mean? The path I followed in the search for the meaning of 'serious' was as meandering and indeterminate as the one I described above; not surprisingly the question is only answered effectively by reference to policy considerations.

“The big piece of unfinished work is to establish a coherent philosophical basis that explains the State's involvement in the provision of public legal services. Without this, decisions to cut legal aid, to allocate resources disproportionately, or to introduce certain services, can have no clear and defensible rationale. It will take more time than I had on sabbatical, but I made a good start and am very grateful for the opportunity”.

# **A**nti-Discrimination law

The Centre continues to maintain its high profile in advice and representation in anti-discrimination law. The Centre is the only specialist legal service in New South Wales where people can receive expert advice on discrimination matters without fee. Consequently the Centre receives a large number of referrals directly from the Anti-Discrimination Board, the Equal Opportunity Tribunal, the Human Rights and Equal Opportunity Commission and numerous other jurisdictions, legal centres, private solicitors and agencies.

The demand for our expertise is invariably beyond our capacity, and what capacity we do have remains essentially unfunded. In as much as the Centre is funded to provide clinical legal education to students, and a community legal service, the expertise in discrimination is incidental. Nevertheless the Centre understands that it is providing an essential service in New South Wales, and will continue to do so, although it will at the same time, during 1995, seek recognition of and funds for this service.

## ***Unrepresented complainants***

Due to the unfunded demand for our services, the Centre has adopted a policy of assisting unrepresented complainants as much as possible without actually representing them. The criterion that the Centre uses to distinguish such cases is whether or not the case, in the view of the Centre's experienced staff, will advance an understanding of discrimination law. Many complaints, although extremely serious on their facts and of substantial importance for the individual, will be resolved according to established principles of discrimination law. The decision is a hard one for the Centre to make, but necessary in light of the demand

and the available resources.

Two such matters that were conducted in the Equal Opportunity Tribunal during 1994 were *The Complainant v The University*, and *Mahmut v Department of Health*. In the student/university case, the complainant represented himself throughout the proceedings. He led his own evidence, and conducted the cross-examination without advice or assistance. On the other hand, the Centre committed considerable time and resources to drafting the complainant's documents, assisting him in replying to the respondent's documents, and in complying with the many procedural requirements of the Tribunal.

As at the end of 1994 the decision is reserved. Although the matter is unfinished, and the result cannot be anticipated, the Centre already has reason to be concerned about the extent to which the Tribunal relies entirely on a complainant to conduct the proceedings in adversarial fashion. This case, and others in the experience of the Centre, raises questions about the Tribunal's willingness to make full use of its powers to conduct an enquiry rather than adversarial proceedings, even to the extent of invoking the powers of a Royal Commission.

In the *Mahmut* case, the complainant was provided with a "do it yourself" form of initiating process prepared by the Centre, and was provided with extensive advice on the drafting of pleadings and affidavits. As an interlocutory matter the respondent in the proceedings raised a question of law which had not yet been decided; the Centre agreed to represent the complainant on this threshold question of the Tribunal's jurisdiction. With the generous assistance of

barrister Ms Sylvia Winters, instructed by the Centre, the complainant successfully argued that health inspectors do provide a "service" within the meaning of the Anti-Discrimination Act, such that their conduct is covered by the Act. The jurisdiction of the Tribunal having thus been established, the complainant will continue to conduct the proceedings unrepresented, but with the assistance of the Centre as necessary.

## CASES

### ***Racial Vilification***

In our last Annual Report we noted the case of *Harou-Sourdon v TCN 9* which was awaiting a decision. The decision, reserved on 19 February 1993, was eventually handed down on 23 June 1994, a delay of a one year and four months.

In this case, the first racial vilification case to come before the Equal Opportunity Tribunal, the complaint was dismissed - before any evidence was heard - as lacking in substance. It was the view of the Tribunal that, whatever the evidence may have been, the conduct complained of would not amount to racial vilification as defined in the Act.

As at the end of 1994 no further racial vilification cases had been heard by the Tribunal, although it appears likely that one or two will come up during 1995. Racial vilification cases are usually resolved during the conciliation process at the Anti-Discrimination Board.

### ***Homosexual harassment***

A street sweeper's complaint against the *Council of the City of Sydney* was finally resolved in 1994 by the complainant discontinuing the proceedings. An unconscionable delay at the Anti-Discrimination Board resulted in the referral of the complaint from the Board to the

Equal Opportunity Tribunal being delayed for seventeen months.

This case would have been the first time the Tribunal had heard a complaint of homosexual harassment. The delay at the Board meant that by the time the matter was approaching a hearing in the Tribunal, the Complainant's AIDS-related illness was so advanced that he was unable to continue with the proceedings. The new President of the Anti-Discrimination Board, Mr Chris Puplick, has undertaken to speed up the processes of the Board and to avoid any such delays in the future.

### ***Sex Discrimination Cases***

The Centre commenced several sex discrimination complaints before the Equal Opportunity Tribunal. A number of cases were settled prior to hearing.

In *Lewis v CRA*, Ms Lewis claimed discrimination in her employment with CRA on the grounds of sex, pregnancy and marital status. A preliminary point was argued before the Tribunal as to whether the Tribunal should appoint an officer assisting the Tribunal. The complaint was settled on the first day of hearing.

### ***Disability Discrimination***

Mr Hurley suffered from hypertension. He sought a position as a cleaner/labourer with the Electricity Commission. In *Hurley v Electricity Commission of NSW* the Commission argued that because of his hypertension, Mr Hurley would be unable to do his job. Handing down its decision in 1994, the Tribunal found that Mr Hurley had been discriminated against on the ground of his physical impairment. The case is important in that it establishes, in an interlocutory decision in 1992, that hypertension is considered an impairment under the Anti-Discrimination Act. Mr Hurley was awarded \$40,000 compensation

(the maximum available under the Act), and was awarded costs.

### ***Settled cases***

Complaints that are resolved to the satisfaction of the parties are usually settled on the basis that the terms of settlement are not to be disclosed. While the identity of the parties will already have become a matter of public record, the basis for resolution of the complaint is invariably private. Thus, many cases that we conduct in the Equal Opportunity Tribunal and the Human Rights and Equal Opportunity Commission are resolved without a precedent being set, problematic areas of law being addressed, or even a standard being set for a particular industry or field of activity. The part that

the usual “terms not to be disclosed” basis of settlements plays in both facilitating settlement and in impeding law and social reform is of interest to many people, and maybe addressed in future in a joint research project between the Public Interest Advocacy Centre and the Civil Justice Research Centre.

### **CONCILIATION**

During the course of the year, the Centre represented numerous complainants in conciliation proceedings, and assisted in resolving those complaints. All details of complainants and of the conduct of their complaints remain confidential. The Centre is able to say that the conciliation process



Secondments during 1994 (L to R) Freehill Hollindgale & Page: Susan Roberts, Murray Gan, Michelle Wright, Kate Eastman (Allen Allen & Hemsley) and Robert Dick

continues to be problematic, in as much as when lawyers take part in such a process they rarely demonstrate an understanding of conciliation.

Neither the Anti-Discrimination Board nor the Human Rights and Equal Opportunity Commission invites lawyers to represent the parties in conciliation unless it is felt that some form of advocacy is necessary in the circumstances. Thus on the few occasions

when lawyers are involved in conciliation it can be expected that the complaint will be complex and perhaps have reached an impasse. Nevertheless, the ignorance of many private practitioners of the non-adversarial nature of conciliation proceedings, and of the general attempts being made by the Board to find a non-prejudicial resolution of the complaint, continues to be a phenomenon.



Policy Day July 1994 (L to R) Louise Blazejowska, Mick Hillman, Fiona McLeay, Rachel Francois, Maureen Shelley and Yvonne Jones



## **O**ther major cases

### ***Aboriginal community tenancy issues***

The Centre has previously represented residents of the La Perouse Aboriginal Community in their relations with the Local Aboriginal Land Council. In early 1994 the Land Council commenced proceedings against a number of residents in the Residential Tenancy Tribunal, alleging arrears of rent and seeking the tenants' eviction.

The guidelines of the Aboriginal Legal Service preclude it acting for Aborigines in such circumstances. The Centre agreed to act. By the time the Centre was approached the dispute with the Land Council appeared to have gone past the point of a negotiated settlement: proceedings had been commenced and a date had been set in the RTT. Nevertheless the Centre attempted to resolve the dispute in the course of the proceedings. In doing so it received the support and cooperation of the Tribunal; the Tribunal eventually suspended its hearing in order to mediate a resolution to the dispute.

A number of interesting issues were canvassed in the proceedings, most importantly the question of the existence of native title over the land occupied by the Aborigines at La Perouse. Ultimately, the proceedings were resolved and the tenants remained in occupation. Nevertheless, the question of native title continues to be an issue which the Centre, on the instruction of some of the residents at La Perouse, is investigating.

### ***Victims compensation***

The Centre handled a distressing case which highlights the need for legislative reform. The Centre has a client living in the Randwick Council area; her daughter was

murdered in Queensland. A man has been convicted of the murder in Queensland, and sentenced. The client, a pensioner, borrowed money to meet the funeral expenses and then sought to recover the money by way of a victims compensation claim.

To the extent that there is a victims compensation scheme in Queensland, it does not extend to cover "secondary" victims, i.e. the mother of a victim of a crime. The New South Wales system does not cover people who are victims of crimes that occur outside New South Wales. The New South Wales Government referred the application for an ex gratia payment to Queensland; the Queensland Government declined the application and referred our client to Lifeline for counselling. The Centre is considering, in consultation with the client, what political action might be taken to assist her, and to address the anomaly.

### ***Queensland Adoption Test Case***

A writ has been filed in the Supreme Court of Queensland claiming that a 1987 adoption was void. The Centre acts for the biological mother of the adopted child. The mother is arguing for the return of her child and for compensation for psychological injury. Breach of duty of care, breach of statutory duty and breach of fiduciary duty are argued. The mother claims that a hospital social worker and an officer of the Department of Family Services failed to properly advise her of her options and that the mother's revocation of her consent to the adoption was ignored.

### ***Joy Williams and the Aborigines Welfare Board***

Kingsford Legal Centre commenced a Supreme Court damages claim on behalf of Joy Williams. In December 1994, the Court of Appeal extended the limitation period to allow Joy to pursue her claim against the State of New South Wales.

Joy was taken from her mother very shortly after her birthday in 1942 by the Aborigines Welfare Board (AWB). She spent the first four years of her life at Bomaderry Childrens Home, an establishment run by a religious charity dedicated to ministering to Aboriginal people.

In 1947 Joy was transferred to Lutanda, a home for white children run by the Plymouth Brethren. Bomaderry had become overcrowded and Joy was selected to move "to take the child from association of aborigines as she is a fair-skinned child".

Joy recalls being very lonely and isolated at Lutanda. She could not escape the feeling that she was different from other children who stayed for up to a couple of years and were fostered out or returned to their families. She ran away several times and was found and brought back by the police. After one of these escapades Joy remembers being told "You have mud in your veins" and "Your mother is an Aboriginal and a drunk and does not want you". This was a shocking revelation. Joy, like other children of the time, had grown up in a culture which despised Aborigines. She had thought herself a white orphan.

Joy was very poorly prepared for the world at large by her institutional upbringing. She lived more or less homeless in the Cross and was sent to gaol for 8 months in 1961. Joy spent the early to mid 1960s in and out of psychiatric hospitals. She had a child who also became a ward of the State.

Through the 1970s Joy struggled with alcoholism and dependence on pills, she raised two more children, found her mother and became exposed for the first time to positive images of Koori culture and identity.

In the 1980s, Joy began studying at Wollongong University, became a published poet and started to try to find out about her past. She approached the Aboriginal Legal Service in 1987 and came to Kingsford Legal Centre when a solicitor, Louise Blazejowska, started to work here in 1988.

Joy has been diagnosed as having the serious but deceptively-named psychiatric illness, borderline personality disorder. According to her psychiatrist, Joy's illness is more likely than not a result of her childhood upbringing.

Kingsford Legal Centre commenced proceedings for negligence, breach of fiduciary duty and wrongful imprisonment, in the Supreme Court against the Minister, Aboriginal Land Rights Act 1983 (the legal successor to the AWB) and the State of New South Wales. We fell at the first hurdle when Studdert J. refused to extend the limitation period on the basis that Joy did not have a viable cause of action and that the delay between the conduct of the AWB complained of and the commencement of proceedings made it "impossible for justice to be done".

The Court of Appeal (by majority) took a different view. Kirby P said:

"The law which has often been an instrument of injustice to Aboriginal Australians can also in proper cases be an instrument of justice in the vindication of their legal rights. It is not just and reasonable in this case to

close the doors of the Court in Ms Williams' face. She should have her chance to prove her case. She might succeed. She might fail. But her cause will have been heard in full. It will then have been determined as our system of law provides to all Australians - Aboriginal and non-Aboriginal - according to law, in open Court and on its merits".

***Liddell: The Federal Industrial Laws***

Mr Liddell was employed as a hairdresser in a Coogee hair salon under a State Award. He was sacked in early April 1994, just a couple of weeks after the commencement of the Federal Industrial Relations Reform Act 1993. The Federal Act sought to extend to all workers in Australia the minimum protection of the standards required by the ILO Convention on Termination of Employment.

The Act deferred to existing remedies under State and other Federal laws by saying that the industrial Relations Court "must decline to consider or determine an application" if there is an "adequate alternative remedy...unless existing machinery that satisfies the requirements of the Termination of Employment Convention".

The Act gave Mr Liddell an entitlement to minimum notice of four (4) weeks - three weeks better than under the State Award; we advised him to commence proceedings in the Federal Industrial Relations Court.

The Employers Federation of New South Wales backed the employer, and filed an objection to the Industrial Relations Court's jurisdiction on the basis that the unfair dismissal provisions of New South Wales were an adequate alternative remedy. Ultimately a question of law was stated for a decision by the Full Industrial Relations Court, and the State of New South Wales intervened. It was argued for the Employers' Federation that as a remedy in

New South Wales is reinstatement, and the remedy under the Federal law is reinstatement, New South Wales law is an adequate alternative. The Court in fact found that the requirement for procedural fairness before termination which is entrenched by the Federal law was not matched in the law and practice of the New South Wales Industrial Relations Commission. The New South Wales Minister was reported to be "very disappointed" with the decision, and the State of New South Wales sought leave to appeal to the High Court. That leave application is pending, likely to be heard towards end of 1995.

There may be more to this case than meets the eye: press reports have attacked the Federal Industrial Relations Reforms, and suggested that they are an interference with the State's sovereign rights and should be changed. The Employers Federation and the State Government have pushed this line strongly, and the Federal Minister has been reported as considering amending the Federal Act in order to preserve the "inadequate" State law. We are not aware of the union movement speaking out in defence of either the decision of the Full Federal Court, or of the Federal Act. We are in the curious position of perhaps having undermined the standing of the Federal law simply by establishing its pre-eminence.

***Garendon - Timeshare test case***

In July 1989 a young couple came to Kingsford Legal Centre with a debt problem. It had all begun in May 1988 when they filled in an entry form for a free competition for a holiday in Hawaii. They did not notice the small print at the bottom of the form: "Your entry may be used for promotional purposes".

The lucky pair were intrigued to hear a short time later that they had not won the major prize but they should come at an appointed time to collect a consolation prize. When they arrived they were told that they would get their prize after a "presentation". Weren't they in for a thrill? Ushered into a room with other young couples, they sat down at their own little table and watched a video of Barry Crocker strolling barefoot on the sands of Port Macquarie extolling the fun and savings to be had by owning your own holiday at the beautiful Port Pacific Resort overlooking the pristine beaches of Port Macquarie.

That was the soft sell. From there on the "presentation" really took off. Individual salespeople sat with each couple and told them how they could afford to own their own holiday and the other benefits of the exciting timeshare concept on easy terms. Anyone signing up was greeted with a salesperson led round of applause from the gathered multitude and the champagne flowed. After a couple of hours, our clients walked away as the proud new owners of a timeshare holiday for life, \$12,000.00 worth of debt and a cheese board (their prize).

What did they buy? Land - a 1/4079th share in the land and buildings of Port Pacific Resort, subject to a 99 year lease in favour of "the club" which ran the resort; and a share in the club permitting them to use the resort and its facilities in accordance with the memorandum and articles of the club. This exotic package added up to the right to stay for one week of each year forever at Port Pacific Resort. In return, they were obliged to pay an annual maintenance levy of about \$200.00 and repayments on their \$12,000.00 loan of \$221.50 per month for 7 years. That is \$2,858.00 a year for 7 years, folks. When they did their sums some time later, our clients worked out that they had not brought a bargain holiday and the money

would be better put to saving for their dream home. They learned that the resale value of their lifetime timeshare interest a year after purchase was less than \$4,000.00.

Who sold it? The lender of the \$12,000.00, Garendon Investments Pty Limited, was the developer of the resort, vendor of the land and controlled the allotment of shares by the club. Apart from their \$100.00 deposit, our clients paid no money at the presentation but received a unit in a trust entitling them to the land and the share, subject to a mortgage and charge in favour of Garendon. Confused? Who would not be?

Disgruntled Port Pacific Resort buyers were wandering into other legal centres: Campbelltown, Liverpool, Redfern. They were confused as our clients.

What to do? We consulted widely throughout the legal centre network: Bernie Shipp, Greg Kirk, Jill Anderson and Ben Slade. The consensus was that a Contracts Review Act claim would be risky and expensive. Besides, they were clearly lots of other people in the same boat. Campbelltown had the classic test case: timeshare buyers who were intellectually disabled and who were given the \$50.00 deposit by the salesperson. Not surprisingly, that one settled quickly.

The consensus was that the loans were subject to the Credit Act and that since the lender was not licensed to lend money, the lender would forfeit principal and interest on the loans under the civil penalty in the Credit Act, subject to the Commercial Tribunal's discretion to permit partial or total reinstatement.

Advice from John Basten was that the loans were subject to the Credit Act (regulated) either as loan contracts or credit sale contracts. If so, the net balance due on the

loans was nil.

They were regulated loan contracts because there were two rates of interest in the loan contract which differed by more than 2%. The "acceptable rate" said to be 12% simple interest per annum if you paid your instalments on time and the "higher rate" said to be 14% simple interest per annum if you paid late. Our calculations showed that the real interest rates were 11.99939% and 14.00503% - a difference of 2.00564%!

Alternatively, they were credit sale contracts because credit was provided by the supplier under a contract of sale of goods or services. "Services" under the Credit Act includes the rights and benefits supplied under a contract for or involving the use or enjoyment of facilities for amusement, entertainment or recreation.

Ben Slade devised a strategy for dragging Garendon into the Commercial Tribunal and in a special team effort Kingsford and Redfern started proceedings against Garendon. As the evidence unfolded, Garendon realised that they had a problem which affected all 2,317 loan contracts they had entered into and started their own proceedings to determine the issues for all contracts. As a preliminary point, they sought an order dismissing their application on the grounds that the contracts were not regulated under the Credit Act. The Commissioner for Consumer Affairs intervened in proceedings to represent the interests of borrowers generally.

The Commercial Tribunal heard the case in December 1991. It became apparent that we were in the big league when counsel for Garendon's creditors said that more than \$30 million were at stake. At the conclusion of argument, Acting Chairman Cavanagh said:

"These are complex issues but I will endeavour to give the Tribunal's decision by Christmas".

John Basten was only half joking when he replied, "1995". The Tribunal finally gave its judgment in August 1992, and because of a peculiarity in the Tribunal's approach, the decision that our clients and most other borrowers were not entitled to the protection of the Credit Act was pronounced in December 1992.

We were very lucky to get a grant of legal aid for the appeal a matter of hours before the Commission's no civil legal aid policy began. The Commissioner for Consumer Affairs did not join in the appeal. Justice Matthews heard the appeal in the Supreme Court in March 1994. She handed down her decision in April. The forces of darkness triumphed yet again. Next stop, the Court of Appeal.

Both the Tribunal and the Supreme Court adopted a novel approach to the construction of the Credit Act to decide that either the two interest rates did not differ by more than 2% or, if they did, that it did not matter. On the credit sale contract argument, the Tribunal said there was no contract of sale, while the Court said there was no supply of services.

We are still confident that our view of the law is the right one. We will have to see if the Court of Appeal agrees. Meanwhile, interest continues to run on the loans and our clients owe a great deal more than they borrowed. If we lose the next round they will be up for quite a bit of money. The one happy consequence of the time that all this has taken is that the law has changed and it is now possible to raise the Contracts Review Act as a defence in the Local Court.

***Police misconduct & HIV confidentiality case***

The Centre acted on behalf of a person ("C") in a complaint regarding misconduct by Rose Bay, Waverley and Maroubra Police.

C was arrested for assaulting police and resisting arrest. C was held in custody overnight at Waverley Police station and Maroubra Police station. When C attempted suicide at Maroubra Police station, he was charged with malicious damage to a cell mattress.

C complained that he was assaulted by police upon arrest and lost consciousness; he was subjected to homophobic and HIV/AIDS related abuse by police; his HIV status was not kept confidential by police; he was unlawfully held in custody overnight; he was not informed of his charges or his right to bail; he was refused telephone calls; and he was not kept in safe custody or provided with support when suicidal.

The Centre appeared in the Local Court to defend all charges with the assistance of David Buchanan, pro bono counsel. The Court found the offences of resist arrest and assault police proved, but declined to enter a conviction. The Court dismissed the charge of malicious damage to the cell mattress on the basis that the evidence disclosed irregularities in bail procedures adopted when C was arrested.

The Centre lodged a complaint with the Ombudsman's Office whose inquiries are continuing. A report by Police Internal Affairs was conducted which sustained the complaints of breach of confidentiality and of failure to use available services to assess C's suicidal state. The Ombudsman's Office have indicated that further inquiries are warranted and that there is a possibility of charges being brought against police.



Staff 1994 (L to R) Louise Blazejowska, Graciela Buzy, Simon Rice and Zoe Matis

# Domestic violence

The Centre regards domestic violence as a priority issue. The Centre's work on this issue involves:

- policy formulation
- community legal education
- case work

During 1994, the Centre contributed to development of policy on domestic violence laws through the Eastern Suburbs Domestic Violence Committee, the NSW Government's Domestic Violence Advisory Council and the Domestic Violence Sub-Committee of the Combined Community Legal Centres' Group.

The Centre continues to play a major role in the Waverley Domestic Violence Court Assistance Scheme. The Scheme provides legal and non-legal assistance to women who are applying for protection orders from the Waverley Local Court. Law and social work students are involved in observing the operation of the scheme, and have assisted in training of support workers on legal issues and in evaluation of the Scheme.

The Centre co-ordinates legal services for the Scheme. Other legal agencies involved with the Scheme in 1994 were Inner City Legal Centre, and the local law firms Segal Litton & Chilton, Lyons & Lyons and Chalmers Marx.



Volunteer Lawyers: Sue Mordaunt (Segal Litton & Chilton), Anne-Maree Farrell (Slater & Gordon), Abe Schwartz (solicitor) and Mark Anstee (barrister)

# **P**rojects

The following projects under the Centre's community development, community education and law reform program were conducted in 1994:

## ***Local environment issues***

Students gathered materials on legal methods of challenging development proposals on the basis of their environmental impact. These materials are to be used in presentations by students for local community groups. Assistance was given to a local residents' action group on objecting to a development application for a Waste Transfer Facility in Matraville, and in opposing the development of liquefied petroleum gas storage site at Port Botany.

## ***Youth issues***

Students held an information stall on youth legal issues at Randwick Village Fair Day.

Students also commenced work on a project to develop a video on youth rights in employment. Young people at Randwick Girls High School and The Shack youth centre were interviewed by law students. Scenarios were developed for presentation in video form, addressing issues such as work conditions, award wages, unfair dismissal and age discrimination.

## ***Neighbour issues***

An ongoing and difficult area of work for the Centre involves disputes between neighbours, particularly on Department of Housing estates. Students have engaged in research on common areas of dispute and available legal and non-legal measures for resolving disputes. Research findings are to be used in developing policies for the Centre and strategies for dispute resolution.

## ***Domestic violence and victims compensation***

Two training sessions on domestic violence laws and court procedure were conducted in 1994 for local community workers. The sessions were presented by law and social work students.

Students also developed a pamphlet for women who experience domestic violence on their rights to compensation under the Victims Compensation Act. It is hoped that this resource will provide a model for a pamphlet to be used throughout NSW.

## ***Women's issues***

Students conducted a seminar for young mothers for the Australian Red Cross Young Women's Health Program at the Glen Mervyn Residence.

Students held a stall distributing information on women's legal issues at the Kooloora Community Centre Women's Day.

Students conducted a needs analysis of clients of the Centre who had experienced sexual harassment, with a view to exploring the possibilities of establishing support groups. The Centre deals with a significant number of women who have experienced sexual harassment in the workplace. Such women often share common reactions to their experiences, such as depression, anxiety and difficulties re-entering the workforce.

## ***Research on complaints mechanisms***

Students have commenced researching complaints procedures in a range of areas including complaints against health care providers, lawyers, insurance providers and



government officers. Research focuses on new laws on complaints procedures, and the Centre's experience in practical use of complaints procedures. Research findings will be used for a new chapter of the Lawyers Practice Manual.



Street Stall at Belmore Road Randwick in 1994

# **D**isability Discrimination Legal Centre

The Disability Discrimination Legal Centre provided the following report on current activities.

## **The association with Kingsford Legal Centre**

This year has seen the first full year of the association between Kingsford Legal Centre (KLC) and the NSW Disability Discrimination Legal Centre (DDLC). While DDLC was originally auspiced by the NSW CLC Secretariat and has, in the last twelve months, become separately incorporated, our close links to KLC have been invaluable both in terms of casework and also the centre's development.

Despite the link being informal, it has provided our sole solicitor, Michelle Hannon, with casework and peer support through regular visits to KLC as well as close and regular telephone contact. Working as a sole solicitor in a small, new centre can be very isolating and this is probably even more true in specialist areas of law. The expertise and experience KLC has in discrimination law, particularly under NSW legislation, has allowed us to develop our own casework skills and legal knowledge and ensure that our clients get not only a good advice and referral service, but also a comprehensive specialist casework service.

## **Cases**

We have run two major cases under the Disability Discrimination Act that deserve comment.

In the first of these we represented Ruth Miller in a case against the NSW State Rail Authority. Ms Miller, a student at

Newcastle University, complained that the State Rail Authority had discriminated in the design of a railway station to service Newcastle University. We were successful in getting an interim determination to halt the tender process for the station. The outcome of the actual complaint was redesign of the station to ensure access, and a commitment from the State Rail Authority that they will ensure full access to all new stations in NSW.

The second case is ongoing, and involves a complaint against Telstra that it discriminates in not providing TTY phones to people with hearing impairments in the same way as telephones are provided to all other subscribers. In this matter we are representing Disabled People's International (Australia). A hearing, before the Human Rights and Equal Opportunity Commission is likely in March 1995.

Kingsford Legal Centre has been of great assistance to us in running these cases both through administrative and legal support.

Although our volunteer roster is nowhere near as well developed as that operating at KLC, the involvement of some of KLC's ex-students has been a great boon to our telephone advice roster. Rachel Francois, in particular, has worked both in a casework and policy work capacity, and has extended our capacity to undertake broader policy development issues. Her work with Michelle and Maureen on the Representative Complaints Guidelines is now almost complete and will be available in the next month or so.

We also benefited from the placement of a Social Work student, Darren Fittler, from the University of New South Wales under supervision from KLC. Darren did ongoing advice work and was instrumental in developing and running training for staff of the Australian Quadriplegics Association on how to use the *Disability Discrimination Act*.

On the administrative front, KLC has contributed greatly to our development through Simon's involvement on the management committee. In Simon's absence overseas he was replaced by Paul Batley. Our development as a new and specialist community legal centre has been greatly enhanced by the involvement of Simon and Paul because of their extensive experience both in this sector and in the specialist area of discrimination law. We are hoping that the next twelve months will see progress on the proposal to co-locate with Kingsford as this will greatly enhance our current links.

Staff and volunteers at DDLC for 1994 have been:

Yvonne Jones, Administrator (part-time); Michelle Hannon, Solicitor (full-time); Maureen Shelley, Co-ordinator, Rachel Francois, legal support worker (paid and voluntary); Joe Singer, legal advice volunteer; Darren Fittler, social work student volunteer; Stephen Fagg, legal advice volunteer; Tracey McRae, volunteer social work student; Janet Cummins, voluntary social worker.

Management Committee members for the last twelve months have included:

Simon Rice and Paul Batley, Kingsford Legal Centre; Gillian Church, Mental Health Co-ordinating Council; Freda Hilson, Brain Injuries Association of NSW; Graeme Innes, Qantas; Ted Smeaton, Intellectual Disability Rights Service; Natalie Ross, Marrickville Legal Centre; Rhonda Fadden, NSW CLC Secretariat; Mark Hoskins, AIDS Council of New South Wales.



DDLC Staff: (L to R) Maureen Shelley, Michelle Hannon and Yvonne Jones

# **C**ombined Community Legal Centres and other Committee responsibilities

Simon Rice continued to convene the Practice Issues Sub-Committee, and as the Legal Aid Commission representative was *ex-officio* a member of the Funding Resources Group. In September 1994 Simon was reappointed for a further three year term as the Legal Aid Commissioner representing community legal services. As director of Kingsford Legal Centre, Simon also sits on the Management Committee of the Disability Discrimination Legal Centre.

Paul Batley has for some years been the CLC's representative on the Legal Aid Commission's Prisoners Legal Service Advisory Committee, and continues to sit on the Credit Reporting Code of Conduct

Consultative Committee. Paul was invited to sit on the Local Courts (Civil Claims) Rule Committee, and continues to be a member of the NSW CLC's Secretariat Management Committee.

John Godwin is an editor of "On the Record" (CLC's newsletter) , and participates in the CLC's Domestic Violence Sub-Committee. He is on the Management Committee of the HIV/AIDS Legal Centre, and the Eastern Suburbs Tenancy Service, and the Board of the AIDS Council of New South Wales.

Graciela Buzy attends the Access and Equity meetings of the Combined Community Legal Centre Group (NSW).



Students Class Group: (L to R) Sonia Tame, Archie Zariski (Senior Lecturer, Murdoch University), Annie Tucker and Michelle Doleneć

# Clinical legal education

## *National newsletter*

The Centre continued during 1994 to coordinate the writing, publication and distribution of a national information newsletter. The purpose of the newsletter is to ensure that information about initiatives in clinical legal education is disseminated throughout Australia.

The mailing list has over one hundred names and institutions, many of whom contribute regularly. The newsletter is in effect a collection of various people's reports, providing a clearing house for news and developments.

Existence of the newsletter has been acknowledged and promoted by the clinical section of the Association of American Law Schools, and the newsletters boasts subscribers as far afield as South Africa. To join the mailing list, please contact the Centre.

## **The reflective practitioner**

Archie Zariski, a senior lecturer at Murdoch University in Western Australia, spent the first half of 1994 on study leave at the

University of New South Wales. As part of a course he undertook at the Professional Development Centre, Archie conducted empirical research at the Centre.

Archie observed the supervisor/student interaction in its various contexts: daily group meetings, weekly classes, individual case discussion, client advice sessions, and student assessment interviews.

Archie transcribed a number of the staff/student exchanges, and analysed them with particular reference to the seminal work by D A Schön, "the reflective practitioner"; the transcriptions, and Archie's analysis, form part of an as yet unpublished paper he has written.

In addition to being a "fly on the wall" Archie made a considerable contribution to the Centre during his time here. He was a welcome participant in meetings, classes and supervisor/student exchanges, bringing fresh perspectives to a wide-range of issues. The students particularly enjoyed Archie's stimulating presence, readily responding to his request that they maintain a diary of their thoughts to assist him in his research.

# **P**ublications and Seminars

On 30 March 1994 Simon Rice presented a seminar on "Acting in the Equal Opportunity Tribunal". The seminar was part of a series arranged by Legal and Accounting Management Seminars Pty Limited.

The Lawyers Practice Manual, of which Kingsford Legal Centre is a founding and continuing author and editor, published a new chapter: 15.1A "Complaints to the NSW Anti-Discrimination Board". The chapter was written by Simon Rice and complements Chris Ronalds' chapter 15.1 "Proceedings in the NSW Equal Opportunity Tribunal".

# **F**unding

The Centre continues to receive most of its funding from the Law Faculty at the University of New South Wales. An invaluable contribution is made by Randwick City Council, which provides the premises at reduced rent and maintenance services to the property.

The Centre continues to receive funding under the Community Legal Centres Funding Program which is managed by the Legal Aid Commission of New South Wales. For some years the Centre has received joint Commonwealth and State funding for one legal centre employee. These funds are used for the employment of a solicitor and as part contribution towards the non-salary expenses of the Centre.

The Centre continues to receive funding for only one position allocation under the Program, due to continuing regard being

had to the apparent security of UNSW funding.

Yet again the Centre was unsuccessful in seeking increased funding under the Program for the employment of a social worker. In light of the loss of the social work placement unit (discussed above), the continuing difficulty in finding funding for social work services in a community legal centre is a matter of great concern. The UNSW funds are specifically for clinical legal education, with the associated legal service. It cannot continue to be assumed by the CLC Funding Program that the Centre has access to funds for a social work service. The Centre's impressive history in securing UNSW funding, and generating its own funds, seems to have prejudiced its claim on the CLC Funding Program.

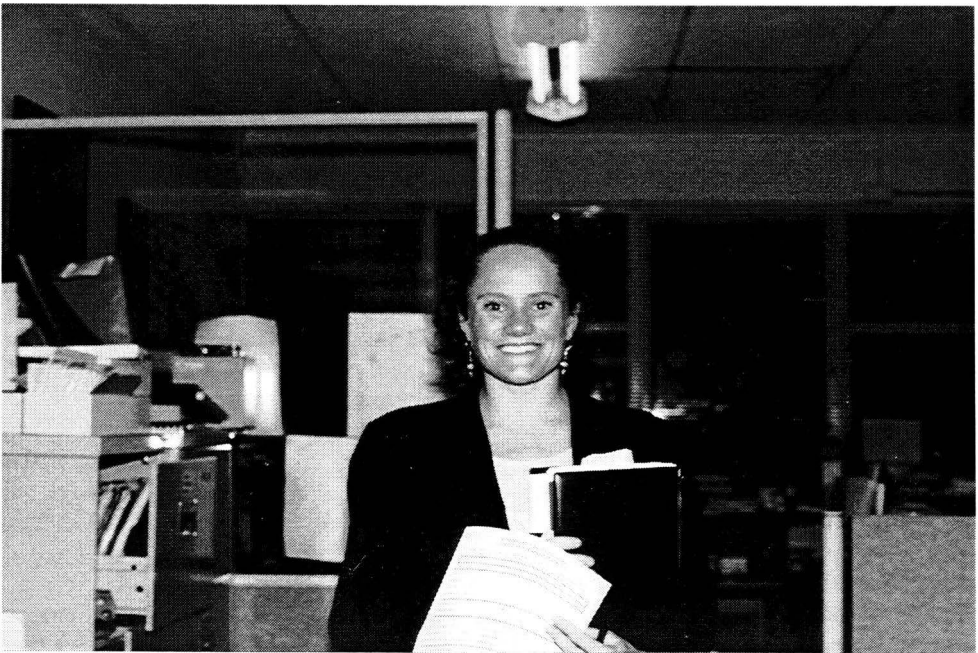
The Centre generates its own funds by performing duty roster work for the Legal Aid Commission at Waverley Local Court. Every Monday a Centre solicitor attends the Waverley police cells and takes instructions from those people to whom bail has been refused. The Centre is paid for this work on an assignment basis from the Legal Aid Commission, to a capped amount. These funds have enabled the Centre to update capital equipment and to manage the expense of the introduction to the Centre of extra student time.

From time to time the Centre's clients are successful in litigation and obtain a costs order in their favour. It is only on such occasions that the Centre recovers fees from clients, and this money too is invaluable in enabling the Centre to maintain a reasonable level of resources.

The Centre continues to receive funds from the Legal Aid Commission on a financial year basis, and from the Law Faculty on a calendar year basis. This dislocation in funding periods adds considerably to the complexity and demands of administering the Centre's budget.

In the 12 months 1 January 1994 - 31 December 1994 the Centre's income and expenditure was as follows:

<b>Income</b>	\$	<b>Expenditure</b>	\$
Community Legal Centres Funding Program:	54,974.00	Salaries and Associated Costs:	257,441.00
UNSW Salaries and Non-Salary Items:	254,643.00	Operational Costs:	59,323.00
Self-Generated Income:	23,048.00	UNSW Recoup:	15,000.00
		<b>TOTAL</b>	<b>331,764.00</b>
<b>TOTAL</b>	<b>332,485.00</b>	<b>NET SURPLUS</b>	<b>721.00</b>

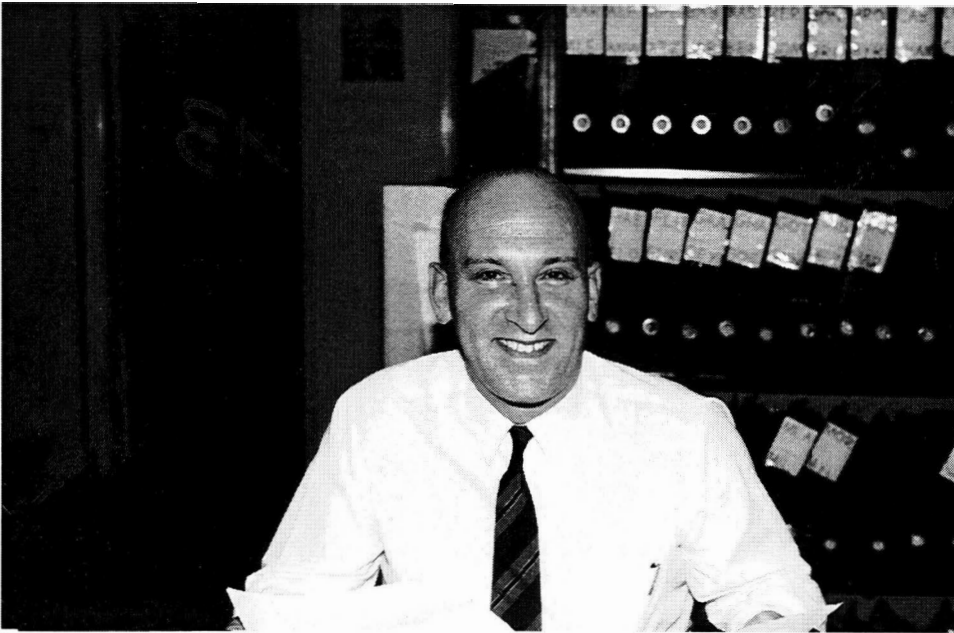


Volunteer Lawyer: Melinda Wallman

## **V**olunteer lawyers

ARDLER, Roxanne  
AGIUS, Judson  
ANSTEE, Mark  
BROWN, Joanna  
CLARKE, Ross  
CUNNINGHAM, Sue  
DE ROSA, Linda  
DICK, Robert  
EASTMAN, Kate  
FARRELL, Anne-Maree  
FLAHERTY, Dennis  
GUILMARTIN, Fiona  
HAMILTON, Chris  
HEALEY, Anne  
INVERARITY, Duncan

KATZ-VIDOR, Sharon  
KIRSCHNER, Shirli  
LONGWORTH, John  
McMILLAN, Dave  
MORDAUNT, Sue  
OGLE, Lisa  
PACKER, Howard  
RAKUS, Sharon  
RICHEs, Michael  
SCHWARTZ, Abe  
TASSEL, Robert  
VIRTUE, Kylie  
WALLMAN, Melinda  
WORNER, Michelle  
YOUNG, Suzanne



Volunteer Lawyer: Abe Schwartz



## **P**ro bono Barristers

Basten, John (SC)  
Buchanan, David  
Flannery, Leonie  
Keyes, Judith  
Manuell, Janet  
Masterman, George (QC)  
Ronalds, Chris

## **S**tudents at the Centre

ANASTASIOU, Michelle  
BARNES, Christopher  
BARTIMOTE, Denyse  
BEHRENDT, Jason  
BOYKO, Victor  
BURTON, Catherine  
COLLIER, Jonene



Second Session 1994 students

COWAN, Mark  
DE FERRANTI, Louisa  
DOCTOR, Simon  
DOLENEC, Michelle  
EDMUNDSON, Peter  
FARKAS, James  
FONG, Paul  
FONTIGALLAND, Shirani  
GALANIS, George  
GRAY, Simon  
GRIFFITHS, Nancy  
GRYNBERG, Daniel  
HADDOCK, Fiona  
HARNADI, Victor  
HAUPT, Linda  
ITIN, Eli  
JENKINS, Dave  
JOYCE, Simeon  
KAPLAN, Anna  
KENNA, Rosemary  
KENNEDY, Bill  
KERR, Sandra  
KILGOUR, Kylie  
KONIC, Natasha  
LEANEY, Inga  
LEVY, Michelle  
LINDSAY, Kate  
MAGNAYE, Marigold  
MANION, Andrew  
McGREGOR, Jill  
McLEAY, Fiona

McVICAR, Jennifer  
MORROW, Gemma  
NELSON, Kath  
NG, Chuan  
O'GORMAN-HUGHES, Richard  
PAXTON, Belinda  
PERDIKOIANNIS, Elen  
POULOS, Maria  
PRINCE, David  
ROBERTSON, Helen  
SENA, Penny  
SINGER, Avrom (aka Joe)  
SLOAN, Rachel  
SPRING, Vicky  
SPROULE, Robin  
SYMON, Scott  
TAHAR, Paul  
TAME, Sonia  
THEUNISSEN, Joshua  
THOMAS, Matthews  
TREACY, John  
TUATAGALOA, Mata  
TUCKER, Anne  
VERSCHOOF, Robyne  
WILSON, Marea  
YAN, Sunny  
YATES, Michelle  
YEW, Eugene  
ZIEGLER, Deborah

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We are open Monday to Friday 9.00am - 5.00pm

We have advice sessions on Tuesday and Thursday nights for residents of the Randwick/Botany municipalities between 6.00pm - 7.30pm

We also have two appointments daily at 2.00pm and 2.30pm for discrimination and immigration advice

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