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## Legal Assistance Services to Young People in South Australia

The Legal Services Commission of South Australia provides the following services to young people in the South Australia.

### Representation and the Youth Legal Service

The Commission provides legal assistance to young people charged with a criminal offence, who are eligible for such assistance under the Commission's means and guidelines tests. The Commission's Youth Legal Service provides representation to eligible young people appearing on criminal charges in the Adelaide Youth Court.

In addition, the Commission's in-house lawyers from its metropolitan, Whyalla and Port Augusta offices represent clients in their respective Youth Courts. Grants of legal assistance are also made to private legal practitioners to provide legal representation to eligible young people.

### Duty Solicitor Services

The Commission provides free duty solicitor services to young people in the Youth Court and in the Magistrates Court in Adelaide, its suburbs and in some country locations. In many such instances, assistance from a duty solicitor is provided to the youth who attends court on the first occasion without representation.

Assistance given by the duty solicitor can include initial advice, representation in a contested bail application, or at an adjournment hearing, and often involves referral of the person to appropriate ongoing assistance.

### Telephone and Advice Interviews

The Commission provides free legal advice, information and referral services to young people through the telephone advice line and by face to face advice appointments. The telephone service covers all areas of the State and can be accessed for the cost of a local telephone call.

Initial telephone advice calls are usually of five to ten minutes duration. However, half hour telephone advice appointments can also be arranged. The advisor can call back the young person at a specific time.

People seeking legal advice can arrange for a free 30 minute interview, on a face to face basis, with an adviser at any Commission office.

In addition, where a member of the community is in a disadvantaged position, it is possible for approval to be sought for the provision of what is termed "minor assistance" which, if approved, is provided by the Commission's Access Services Program.

Minor assistance is not a grant of legal aid as such (which, as noted above, enables the appointment of a solicitor to represent a person) but could include, for example, assistance in drafting a letter to the police, or another agency.

### Law Handbook Online

The Law Handbook Online, published and maintained by the Commission, is available via the Commission's website [www.lsc.sa.gov.au](http://www.lsc.sa.gov.au), or on the Handbook's own site, [www.lawhandbook.sa.gov.au](http://www.lawhandbook.sa.gov.au). The Handbook contains an overview of the law in South Australia in everyday language. It outlines people's rights and responsibilities in a range of legal areas and provides advice on where a person can go for more assistance.

The Handbook provides the only comprehensive guide to the law in South Australia and, since it has been available on the internet, there has been a steady increase in its usage. The chapter on "Children" in the Handbook contains sections on "children's rights" and "children and crime" with information relevant to young people.

In addition, the Handbook provides a link to the "Lawstuff Know your rights" website [www.lawstuff.org.au](http://www.lawstuff.org.au) which is an initiative of the National Children's and Youth Law Centre. The Lawstuff site includes information on legal topics specific to each State and Territory and is designed to be culturally appropriate to young people.

### After Hours Custody Service

Advice from a Commission solicitor is available, through the After Hours Custody Service, from 5.00 pm each Monday to Thursday through to 9.00 am on the following morning and each weekend from 5.00 pm Friday to 9.00 am Monday. This service runs all year including public holidays. The service advises persons in police custody about to be charged or interviewed in relation to major indictable offences.

This service is provided by in-house solicitors. The "on duty" solicitor is paged via the police who have the person under suspicion in custody. The service has been operating for more than ten years and runs with the cooperation of the South Australian Police.

### Community Legal Education

The Commission also provides a range of courses and information sessions, including brochures and pamphlets, as part of its community legal education program. These include sessions directed towards young people.

## **Services To The Indigenous Community**

The Legal Services Commission enjoys positive relationships with all key agencies providing legal assistance to Aboriginal persons. The Commission has regular meetings with these agencies and is well respected as an organisation that places a high value on serving its clients, both Aboriginal and non-Aboriginal.

Our experience of working with migrant communities and Aboriginal organisations is that "word of mouth" referrals and strong relationships with key people lead to increased and ongoing demand for services.

The Commission has extensive experience in providing services to Aboriginal people and engaging in Aboriginal justice issues. For example:

- The Legal Services Commission has a Memorandum of Understanding with the Aboriginal Legal Rights Movement to facilitate cooperation and referrals. Since the execution of the Memorandum of Understanding, ALRM has referred most major indictable matters to the Commission for representation.
- The Commission has an outposted family lawyer at the ALRM Adelaide office to support the provision of family law services to Aboriginal persons.
- The Commission has offices in Whyalla and Port Augusta to assist Indigenous persons in the mid north. A Commission solicitor assists persons appearing in the Anangu Pitjantjatjara/Cooper Pedy criminal court circuit in the far north west of South Australia.
- The Commission runs the Law for Community Workers course through the TAFESA Certificate IV in Justice Studies. The course has been delivered via video conference to students in Port Augusta, Ceduna, Cooper Pedy, Ernabella, Port Lincoln, Berri, Mount Gambier, Port Pirie, Murray Bridge and Whyalla. Aboriginal staff from the Courts Administration Authority, Families SA, Aboriginal Family Violence Legal Services and ALRM are encouraged to attend the course and ALRM Field Officers must successfully complete the course to be eligible for ongoing employment.
- The Commission has produced a legal advice card in the Pitjantjatjara language for the use of Aboriginal communities in the northern areas of South Australia.

The Legal Services Commission is committed to working with indigenous organisations to ensure more effective service delivery to communities. This priority acknowledges that Indigenous Australians remain the most socially and economically disadvantaged people and face enormous legal needs in all areas of the law. A NSW legal needs survey (Justice made to measure: NSW legal needs survey in disadvantaged areas, 2006) found that individuals experienced a high volume of legal issues for which the legal system was not utilised, and typically consulted non-legal professionals including those working in medical, health and counselling professions. The study recommended general community legal information and education as one of the methods to tackle this.

The Commission recognises that Indigenous people require specific and targeted assistance to ensure their legal rights are protected. Extensive research carried out by the Legal Services Commission (Proposal for Legal Service Reform: A Report prepared for ATSIC by the Legal Services Commission of South Australia, June 2002) demonstrated that there is a general lack of awareness among South Australia's Indigenous communities of legal rights and responsibilities, the services available and how to access services. The need for further information in these areas was common to all the communities consulted. This research was conducted in 2002 but there is no reason to suggest that this need has diminished since that time. Susan Dodd, Co-Coordinator of AFVLS Port Augusta recently confirmed that one of the obstacles currently faced by people in Iron Triangle is knowing where to go for assistance.

The Legal Services Commission hosts regular liaison meetings with ALRM, community legal centres and Aboriginal Family Violence Legal Services to exchange information and discuss issues of common concern. It has also been noted at this forum that many Aboriginal people are unaware of their rights and the legal assistance available to them. While there has been an increase in the number of legal assistance services available to Aboriginal people, discussions between key agencies indicate that Aboriginal people (and referring agencies themselves) do not understand the differences between these organisations and the services they provide. The demands of service provision have meant that legal assistance agencies serving Aboriginal people have not been able to devote the resources necessary to improve coordination and cooperation. The state-wide promotion of legal resources and options for assistance for Aboriginal people is a necessary step towards improving the delivery of legal assistance services in SA.

Culturally appropriate community legal education is one of the strategies required to address the identified need in Indigenous communities. Best practice guidelines suggest that programs which aim to tackle legal issues in indigenous communities should be sensitive to Indigenous peoples' attitudes to law, restorative justice and family. This methodology is consistent with the approach taken in the Commission's Legal Education Awareness Project. The LEAP Project began as crime prevention project aimed at young people from African backgrounds. The LEAP project has provided community legal education workshops to over 850 young people and training on youth justice issues and culturally appropriate service delivery to more than 160 community workers, police officers and court staff, including magistrates and judges. In 2009, the scope of the LEAP project was extended to all disadvantaged young people, including Aboriginal youth. The project was awarded a Certificate of Merit and \$3000 at the Australian Crime and Violence Prevention Awards 2009.

Ideally the Commission would like to appoint an Aboriginal Project Officer to undertake the community consultation and to develop an appropriate community legal education program. However the Commission has no funds to commence an Aboriginal Legal Awareness Program.

The Commission notes the comments of Tom Calma, Aboriginal and Torres Strait Islander Social Justice Commissioner and National Race Discrimination Commissioner, Human Rights and Equal Opportunity Commission (HREOC) in his paper on Essentials for Social Justice Reform:

*"There is currently a disconnect between policy making at the national level and its implementation at the local and regional level, with a consequence that there are insufficient provisions that enable Indigenous participation in the policy process.*

*Much of the failure of service delivery to Indigenous people and communities, and the lack of sustainable outcomes, is a direct result of the failure to engage appropriately with Indigenous people and of the failure to support and build the capacity of indigenous communities. It is the result of a failure to develop priorities and programs in full participation with Indigenous communities.*

*Put simply, governments risk failure if they develop and implement policies about indigenous issues without engaging with the intended recipients of those services. Bureaucrats and governments can have the best intentions in the world, but if their ideas have not been subject to the "reality test" of the life experience of the local Indigenous peoples who are intended to benefit from this, then government efforts will fail."*

### **Current Issues Faced by the Commission**

The Commission has observed in recent years a dramatic increase in expenditure on grants of aid to Indigenous clients charged with criminal law offences. Since 2000, expenditure for Indigenous clients has increased from \$515 000 to \$1 828 000. In the last three years grants of aid to Indigenous Australians have increased 75%. This increase is largely because ALRM refers most major indictable matters to the Commission, due to funding constraints. The South Australian governments Law and Order Campaign has created new more serious offences and increased penalties for other offending which appears to have caused 'Jurisdiction creep' where matters have moved into higher courts. This trend is of concern where no additional State monies are available and the Commission cannot expend Commonwealth funds in State law matters.

The data collected by the Commission on legal assistance to young Indigenous Australians indicates a 50% increase in grants of aid over the last four years. An examination of the postcodes of young indigenous clients indicates that early intervention programs should be targeted in the Northern suburbs of metropolitan Adelaide and the Iron Triangle region of South Australia, Port Augusta in particular.

Further:

- The Commission assists "traditional" and "urban" aboriginal people.
- The Commission is not aware of reliable data on the numbers of young or juvenile aboriginals who engage in substance abuse, have poor or inadequate education, come from dysfunctional families or have other risk factors known to be associated with offending.
- In the absence of such data we can offer some anecdotal observations including:

- Young traditional aboriginal people who appear in the Youth or Magistrates courts are likely to –
  - Speak little or poor English;
  - Have engaged in solvent sniffing and may have brain damage as a result;
  - Abuse alcohol;
  - Abuse cannabis.
- They are likely to live an itinerant lifestyle and have a history of being cared for by different family members.
- Their parents are likely to have been poor role models and they are likely to have witnessed domestic violence, drug and alcohol abuse.
- They are likely to live in appalling third world conditions in overcrowded homes.
- To reduce the risk factors it would seem prudent to -
  - Increase school retention rates- many traditional youth, particularly males, leave school before completing high school;
  - Continue with programs to reduce solvent, drug and alcohol abuse;
  - Improve housing and ensure that housing is distributed to families in need in an equitable fashion so that access to housing is not determined by relationships to person allocating homes to families;
  - Encourage maintenance of traditional ceremonies and teachings;
  - Improve employment prospects on traditional lands to give youth hope of a 'future';
  - Allocate funds to develop an Aboriginal Legal Assistance Project modelled on the current Legal Education Awareness Project.