annual report 97

kingsford legal centre

university of new south wales

Table of Contents

Introduction	1
Support for Kingsford Legal Centre	2
Staff	6
Secondments from Freehill Hollingdale & Page	8
Clinical legal education	12
Students' comments on the course	14
National clinical legal education work	16
Social work/Law	17
Other work within the Law School, UNSW	18
KLC Consultative Committee	19
Education and Policy work	20
Publications	22
Committees	23
Domestic Violence	24
Garendon - Consumer Credit case	26
Discrimination	28
Notable Cases	31
File statistics	34
Volunteers	36
Financial Report	38

MISSION STATEMENT

To be a community service agency which promotes access to the legal system and works towards a fairer society whilst fostering critical analysis of the justice system

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Introduction

1997 was a difficult year for Kingsford Legal Centre in a number of respects. Following government cuts to university funding, the Law School at the University of New South Wales considered a proposal to withdraw funding from the Centre. This would have effectively meant its closure. Support for the continued operation of the Centre from within the Law School and from the wider community was overwhelming (for a sample of comments and letters sent see pages 2 to 5) and a decision was made by the Law School on 13 August 1997 that;

> Faculty financial support for the operation of Kingsford Legal Centre is reduced to 50% of the presently projected sum of $245,000 for 1998. If externally generated financial support is not forthcoming to replace that withdrawn by the Faculty, the level of support will be reviewed in June 1998 in the light of income generated and projected enrolment of local fee-paying undergraduate students. In the event that fee income is insufficient, bearing in mind other claims upon it, to meet this funding shortfall, the Faculty will face the unpalatable but inevitable option of winding back the operation of the Centre.

The decision to continue funding the Centre until mid 1998 was based on agreement by academics at the Law School to take an extra teaching load from early 1998. We understand the sacrifice this entailed and appreciate it. We thank all those individuals and organisations that supported the Centre. Unfortunately, however, the issue of funding for the Centre is not going to go away and June 1998 will be another crucial time in the Centre's history.

Despite the devastating effect on staff morale that the constant worry about funding caused, the Centre continued its excellent work in the clinical education program and its community service. Freehill Hollingdale and Page continued their placement of a lawyer at the Centre assisting hundreds of clients in need and the volunteer lawyers continued to provide essential and much needed advice services to the community. The Centre introduced a telephone advice service on Thursday nights which has been used extensively by members of the public while the Centre maintained its face to face advice services. Staff and students at the Centre have been active in education and policy work in a variety of areas of law.

The Centre was a finalist in the Randwick Community Service Awards and John Godwin from the Centre was named the Law Society's Pro Bono Solicitor of the Year for his work for the HIV/AIDS Legal Centre.

1998 will be a crucial year in the Centre's history but with the strong support that we saw for the Centre's work this year I am confident we will battle our way through to yet another victory .

Frances Gibson
Director

Support for Kingsford Legal Centre

During 1997, Kingsford Legal Centre received a large number of letters supporting the Centre's continued operation. Following are extracts from some of those letters of support and some press clippings:-

I thought Kingsford Legal Centre very successful in providing both clinical teaching of law students and service to the community. It seems to me that closure would work a significant detriment in both these areas.

The Honourable Gordon Samuels AC
Governor

I can understand your concern to ensure that appropriate legal assistance services are retained for residents in the Eastern suburbs.

Bob Carr
Premier

It is clearly in the best interests of the University and the community that the Centre and its operations be maintained.

The Hon. Dr Meredith Burgmann MLC

In my observation over the years as a practising lawyer, the Kingsford Legal Centre has provided an extremely important service ... It is my personal view that any significant reduction in funding to Kingsford Legal Centre would be a serious mistake.

David Patch
Judicial Registrar
Family Court of Australia

Eastern suburbs legal centre in crisis

By EMILY TINSON

The Kingsford Legal Centre, the eastern suburbs' only free legal advisory service, looks set to close in 1998 unless it can find the $120,000 a year it needs to stay open.

The centre, funded primarily by the Law Faculty of the University of New South Wales, was established in 1981 as a teaching clinic for students, but quickly developed into an invaluable public service with its free advice nights twice a week. Today, over 3000 people are advised by the centre and 400 cases are conducted annually.

However, in the face of substantial funding cuts to education by the Commonwealth Government, the university looks unable to continue funding. If the centre does not find $120,000 before June next year, it will close down.

"We've made all kinds of attempts to get funding from other places," laments Frances Gibson, the centre's director, "but basically it's hard times and nobody's got any money."

With the recent closure of the Bondi Legal Aid office, solicitors at Kingsford have seen a huge increase in clients.

The centre takes a holistic approach to its clients' problems. "It's all very well to solve a client's legal problem, but if they don't have anywhere to live or any income, then they are not in a position to deal with it," says Gibson.

With the large number of volunteers and unpaid students, the centre is extremely cost effective, and as Gibson says, "to lose this service to the community for the sake of $120,000 would be a crime." ■

These faces at the Kingsford Legal Centre may not be around much longer if the Centre cannot find funding next year. Standing: Elsie McHugh, Maureen Power, Frances Gibson, and Rob Wynne-Jones; sitting: David Clarke, Elizabeth Elvy, Peter Campbell, Gaby Stein, and Perry Wood.

Support for Kingsford Legal Centre

During the years that I have been a Member of Parliament, my staff and I have recommended the centre to many of my constituents who would otherwise be denied access to legal advice and assistance. Those members of our community who are unable to afford legal help are often those most in need of it. ... As the only surviving free legal centre in the eastern suburbs it is imperative that the Kingsford Legal Centre not only survives but continues to provide its current range of services.

Ernie Page
Member for Coogee

The Centre offers not only valuable assistance to more than 3000 low-income people annually in need of legal advice but also provides face-to-face practical experience for law students.

Andrew Thomson
Member for Wentworth

Kingsford Legal Centre has a national profile as a model of the way in which a community legal centre can combine with a tertiary institution to provide service to the community and train lawyers to better service the wider community. It is an invaluable model.

James McDougall, Coordinator
Youth Legal Service (Perth)

Kingsford Legal Centre has an outstanding reputation of legal advice and assistance, and in identifying and acting on specific areas of legal need. Further, the Centre provides an invaluable teaching environment for law students where they receive practical skills in addition to an insight into effective ways that solicitors can contribute to their communities through the delivery of legal education.

Michael Antrum,
Director and Principal Solicitor
National Children's and Youth Law Centre

Kingsford Legal Centre is one of the few centres of its type in the country which provides much needed legal services to the community while creating learning opportunity for law students. ... In addition to fulfilling a vital role in the local communities in this way, the clinical education program is an effective method of teaching law students vital skills, such as critical thinking and client communication.

Patrick Fair, President
Law Society

I urge you to give to the centre the highest possible priority. It fulfils both training and community service needs that are not duplicated elsewhere. The clinical legal education program is one of the outstanding features of the law course at the University and one which gives it a highly competitive edge for prospective lawyers.

NR Cowdery QC
Director of Public Prosecutions

Kingsford Legal Centre has pioneered the development of law in key areas. The Centre's work on Discrimination law is a most notable example. The loss of Kingsford Legal Centre would represent a serious loss to the community and to UNSW. The university would lose one of the areas of speciality for which it deservedly has a top rate reputation.

Gary Moore, Director
NCOSS

For many years Kingsford Legal Centre has played a unique role in community legal centres, making great use of its limited resources by mobilising volunteers and law students. It thus serves as a practical legal training centre and source of effective, efficient legal advice for the eastern suburbs.

Tim Anderson, Acting Secretary
NSW Council for Civil Liberties

Support for Kingsford Legal Centre

Law School backs Kingsford Legal Centre

Academics in UNSW's School of Law will increase their teaching load in 1998 to make funds available for the continued operation of the Kingsford Legal Centre (KLC).

Staff within the School voted by a margin of five to one to maintain funding to cover 50 per cent of running costs at the centre.

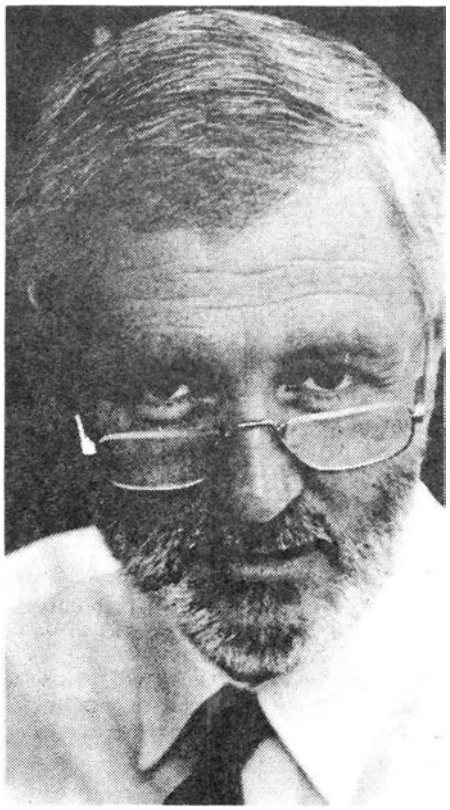
Dean of the Faculty of Law, Professor Paul Redmond, said the decision had removed an immediate threat to the operation of KLC. He said the Faculty of Law was exploring possible sources of external funding to meet the projected $250,000 operating costs for KLC next year.

The decision has given the Faculty and the legal centre extra time to seek external funding to cover operational costs.

"This unprecedented voluntary teaching increase is at the expense of research and publication opportunities for staff," Professor Redmond said.

"It is made by people who already have higher teaching loads than most academics on this campus and who teach in an interactive mode which makes exceptional demands upon its practitioners."

Professor Redmond said KLC's future operation would be reviewed in June 1998 in the light of the search for external funding.



Professor Paul Redmond.

The Faculty of Law established KLC in the early 1980s to provide legal assistance for people in need who could not find help elsewhere, and to provide opportunities for law students to obtain real life work experience.

Professor Redmond said students working at KLC worked on cases involving family breakdown, debt problems, evictions, the preparation of wills, domestic violence and discrimination.

"The 3,000 clients assisted by KLC each year are those most in need in our community," he said.

"Some 80 per cent receive social security benefits or equivalent income, 85 per cent are in public housing or private rental, 92 per cent have children and 20 per cent require interpreters.

"KLC has tremendous support and a very high profile in the community. Indeed, with the closure of the Bondi Junction Legal Aid Office last year, it is now the principal source of free legal assistance in the eastern suburbs.

"The clinical legal education program at KLC is also one of very few such centres in the country.

"The centre receives some funding from the NSW Legal Aid Commission, while Freehill Hollingdale and Page have a solicitor on permanent secondment and a roster of volunteer lawyers give advice in the evenings.

"Otherwise, the Law School funds the centre's operations."

Professor Redmond said the decision of Faculty staff to take up more teaching time would buy time to explore external funding options to cover some of the KLC operating costs.

"This decision also reasserts more powerfully than words the tradition of service, to students and community, which shaped the foundation of this Law School," he said.

The Centre is highly regarded having established a well earned reputation for excellence and has assisted in the development of many new services such as the Waverley Domestic Violence Court Assistance Scheme. The New South Wales Government is committed to the principles of access and equity as the basis of a socially just and multicultural society and all citizens should be equal before the law. It behoves your University to maintain the funding for the Kingsford Legal Centre to remain as a vital community resource as well as an indispensable teaching facility.

Joseph Vescio
Director Corporate Services
Randwick City Council

Support for Kingsford Legal Centre

While many migrant and refugee clients, old and new, possess little or no knowledge pertaining to their rights, we find that Kingsford Legal Centre provides a paramount service within our vast network. I strongly feel that Kingsford Legal Centre is a key example of the Access and Equity Policies, endorsed and implemented by previous and current Government bodies and hence its existence is crucial in continuing to provide such an important service to the community in our region.

Rosa Loria, Executive Director
Botany Migrant Resource Centre

Expertise in such areas as Discrimination law will be lost if Kingsford Legal Centre is defunded. The Centre's contribution to this area of law is of particular value to people with intellectual disability. ... We believe it is impossible to over-estimate the value of the clinical legal education program and see it as a measure of the Law School's commitment to social justice.

Paula Rix, Coordinator
Intellectual Disability Rights Service

A decision to reduce or cease funding to Kingsford Legal Centre would involve a significant loss to the Law School an even greater loss to the community. The Centre has long been a model for clinical legal education. The University showed great foresight in establishing it and even now other Universities are trying to develop means of providing a similar education experience for their law students. Kingsford Legal Centre is too significant an institution both in terms of education, and of service to the community, for it to be abandoned or so severely cut that it could no longer operate effectively. We implore you to seek to ensure through every possible avenue that the Centre continues to be funded.

Andrea Durbach, Director
Public Interest Advocacy Centre

The Randwick Community Centre is most disturbed about the threatened closure of Kingsford Legal Centre, with which we have been associated for many years. Kingsford Legal Centre is the only free legal service in the Eastern Suburbs and we would be most concerned about the lack of any alternative source of legal assistance for all of the many financially disadvantaged people requiring help. Where would we refer them?

Kim Morris, Coordinator
Randwick Community Centre

I deal with women who have suffered domestic violence. In many cases these women need advice to assist them with very complicated Family Law matters. These women are always referred to Kingsford Legal Centre for advice. Most women are in a situation where they do not have any financial security and thus feel isolated and without support.

AG Bell, Senior Constable,
Domestic Violence Liaison Officer
Maroubra Patrol, NSW Police Service

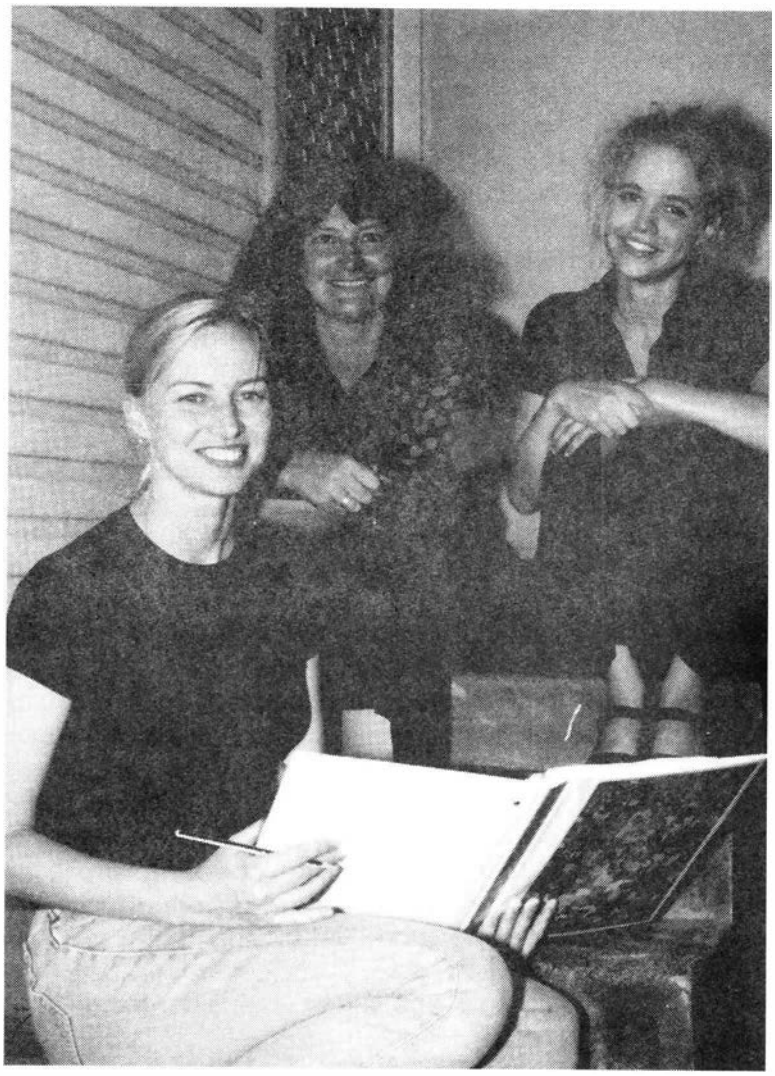
Residents in the Randwick and Botany Bay Local Government Areas are currently receiving essential, effective and accessible legal advice and representation on a range of important issues. Many people are unemployed or on low incomes, from a non-English speaking background or are a refugee, and many have a disability. These social and economic disadvantages mean that many people are not able to access private legal representation or advice. The closure of the Centre will also mean that students of law and social work will be denied the invaluable opportunity of studying and performing practical and professional work in a community setting. I strongly urge you to reconsider the cuts.

Jenny Broadbent
Community Worker
City of Botany Bay

Staff

Frances Gibson

Frances has been the Director at Kingsford Legal Centre since August 1995 and is a Lecturer in the Law School UNSW. She is responsible for the Clinical Legal Experience course undertaken by students in the Law Faculty of UNSW, management of the Centre and is a casework solicitor. Frances' previous experience is in private practice, the Aboriginal Legal Service, the Legal Aid Commission, the Independent Commission against Corruption and she was at Redfern Legal Centre as Principal Solicitor for over six years.



From left: Sally Cameron, Frances Gibson, and student Blaise Lyons

John Godwin

John has been a solicitor at the Centre for the past six years. John has continued to develop the Centre's specialised practice in discrimination law. He is also a teacher of the Clinical Legal Experience course conducted at the Centre. His work involves a mix of casework, community legal education, policy development and law reform advocacy.

Anna Cody

Anna has been a solicitor at the Centre since March 1995 and is a teacher of the Clinical Legal Experience course. During her time at the Centre she has increased the amount of domestic violence work undertaken by the Centre in the areas of policy, education and casework. She also runs discrimination cases, another focus area of the Centre.

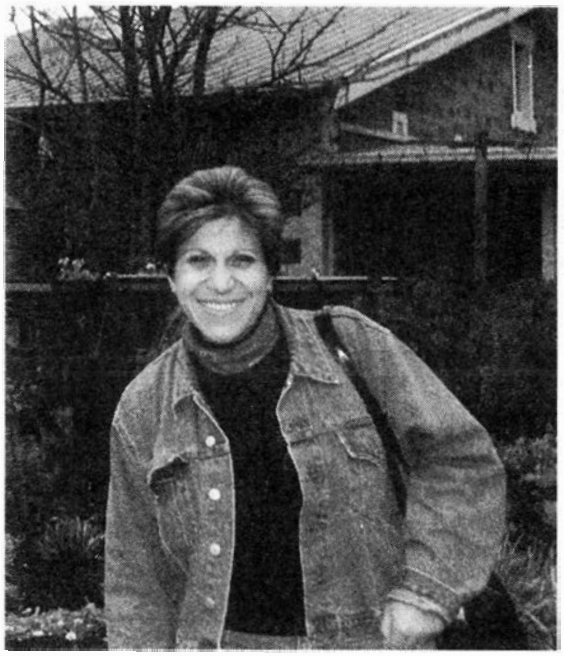
Sally Cameron

Sally commenced work as the Centre's project officer in November this year. She coordinates the Centre's publications including the **Guide to Clinical Legal Education Courses in Australian Universities,** the **Clinical Legal Education (Australia) Newsletter**, the **Kingsford Legal Centre Newsletter**, and the Annual Report. Sally also coordinates the volunteer lawyers' roster and training, and provides administrative support for other Centre projects.

Staff

Zoe Matis

Zoe is the Centre's administrator. Zoe is responsible for the financial management of the Centre's funds, including the Centre's trust account. Zoe is responsible for managing student enrolments and rosters and she supervises the performance of students in their administrative duties.



Zoe Matis

Kym Bedford

Kym was the Centre's administrative worker, responsible for managing student enrolments and rosters, the volunteer lawyers roster, and coordinating publications. Kym left the Centre in late 1997 and we thank her for her work and commitment to the centre over the preceding 7 years.

Vedna Jivan

Vedna Jivan

During 1996 Vedna was employed as Anna Cody's locum for six weeks while Anna took a well earned holiday, and we have been unable to manage without her since. The Legal Aid Commission later made funding available for a solicitor's position to work on the Garendon timeshare case, which has been running since 1991 (see page 26). Vedna was appointed to this position and has been an integral part of the Centre since. Vedna has worked previously at Redfern Legal Centre and Campbelltown Legal Centre.

Jason Parry

Jason began at the Centre in 1994 on a part time basis. He maintains the library and advises us of reference material which would benefit the work of staff and students at the Centre.

Secondments

Freehill Hollingdale & Page

Freehill Hollingdale & Page generously provides a solicitor on secondment to the Centre as part of their pro bono programme. Each solicitor spends four months at the Centre before returning to Freehills. The service provided by these solicitors is invaluable to our clients. Three of the solicitors on secondment during 1997 have written about their experience.

Nick Beaumont

While I enjoyed and profited from my time at Kingsford for a number of reasons, I feel that the overriding reason is the almost unique work environment that Kingsford affords, being both a community legal centre and a clinical teaching programme. Working with (and getting invaluable advice from) solicitors with specialised experience in areas of law with which I was unfamiliar, while at the same time assisting in supervising and instructing students, was highly stimulating. Added to this was the challenge of advising and acting for a wide variety of clients with a range of legal problems in areas of law such as credit and debt, social security law, discrimination and employment, family law and compensation.

For many of the clients, Kingsford was the only available source of legal assistance including legal aid (for example, clients at Long Bay Jail seeking legal advice in relation to civil matters). Working with clients who were totally dependent on the Centre for legal assistance reinforced to me the importance of the work that the Centre does. I also greatly enjoyed the opportunity and responsibility of running my own files, and working with the students assigned to them. I was struck by the ability and initiative of the students, and the speed with which they learned to take responsibility.

Finally, I should not omit the incidental bonuses of working at KLC, such as the No. 5 chicken focaccia at the Globe Cafe, Vedna's whistle-sensitive key-finder and the awesome mechanical power of John Godwin's car, especially when loaded up with 5 solicitors and negotiating a steep hill.

Nick Beaumont

Margot Morris

My secondment to Kingsford Legal Centre from Freehill Hollingdale and Page was for the period 26 May until 31 October 1997.

From day one, I experienced the joy of being able to drive to work assured of a free parking spot just outside the office door. No waiting for elevators, no lunchtime crowds, no being accosted by people handing out leaflets in Martin Place. I entered a new world (as far as I was concerned) of social security disputes, discrimination, divorce, succession, petty crime, victims' compensation and family and neighbourhood disputes. This necessitated some quick learning. After a one week handover period with the previous Freehills' secondee I was responsible for the management of 10 times the number of files I had left behind at Freehills. I was also regularly responsible for giving virtually on-the-spot initial advice to clients bringing new matters to the Centre.

Secondments

My transition to this new world was made easier by the friendliness and helpfulness of the Centre's staff, whose willingness and practical advice proved invaluable on many occasions. I was impressed by the caring attitude which underpinned the dealings of both the solicitors and the administrative staff with their clients.

I learnt much from my own interaction with the Centre's clients. Most required that attention be paid to more than simply their legal problem. Their feelings of outrage, betrayal, fear and wounded pride were often the most pressing matters to be addressed. Some clients were facing enormous emotional strain, such as the ailing, from whom I took instructions in hospitals or nursing homes, those in prison who were being denied access to their children, and women mentally reliving episodes of sexual assault. Some clients taught me patience, some furthered my education regarding the ins and outs of obtaining social security benefits, and my experiences with all of them reinforced the notion that an adviser's job is to be helpful. Achieving effective communication was sometimes an enormous challenge, as in the case of deaf and illiterate clients, or those of non-English background. On occasions it was hard to explain that remedies available through courts and tribunals could not meet all of a particular client's needs, and could not be guaranteed to deliver the outcome which the client saw as just. My attempts to give such explanations left me grappling with my own questions regarding the inadequacies of our legal system. I admired many of those it was my privilege to try to assist for their courage and persistence in battling with difficult and traumatic experiences. (I fervently hope that dealing with me was not one such experience!)

Margot Morris

During my time at the Centre I was fortunate enough to work with 3 different groups of students - 2 groups undertaking clinical legal training at the Centre as part of their final undergraduate studies and a group of wonderful volunteers who assisted us during the 6-week winter university break. In addition to supervising students undertaking file work and fielding telephone enquiries, I shared responsibility with another of the Centre's solicitors for conducting the students' "morning meetings" on Tuesdays. It was always interesting to discuss at these meetings the projects and matters on which the students were working, and the issues they and the clients were confronting. The experience was educational (for me as much as the students, I think.) Students often displayed a quick grasp of the real concerns of clients, and showed me what motivators curiosity, care for others and an element of idealism can be. The openness, energy and enthusiasm of the students made the experience of working with them a great deal of fun. They were a terrific source of support, and their good humour meant my working days were generally full of laughs.

During my secondment I gained an appreciation of the important roles of the community legal centre: advocating legal and social reform aimed at improving the lives of the most disadvantaged groups in our society; educating people as to their legal rights and responsibilities; and

Secondments

assisting those unable to obtain legal advice and representation elsewhere. The staff at Kingsford are dedicated to the pursuit of justice for the people they serve, and managed to maintain that dedication in the face of the funding crisis which continues to threaten the Centre's survival.

I am grateful to have had the opportunity to make some contribution to the valuable work done by the Centre, and for the extraordinary learning experience I underwent in working there.

Anna Kaplan

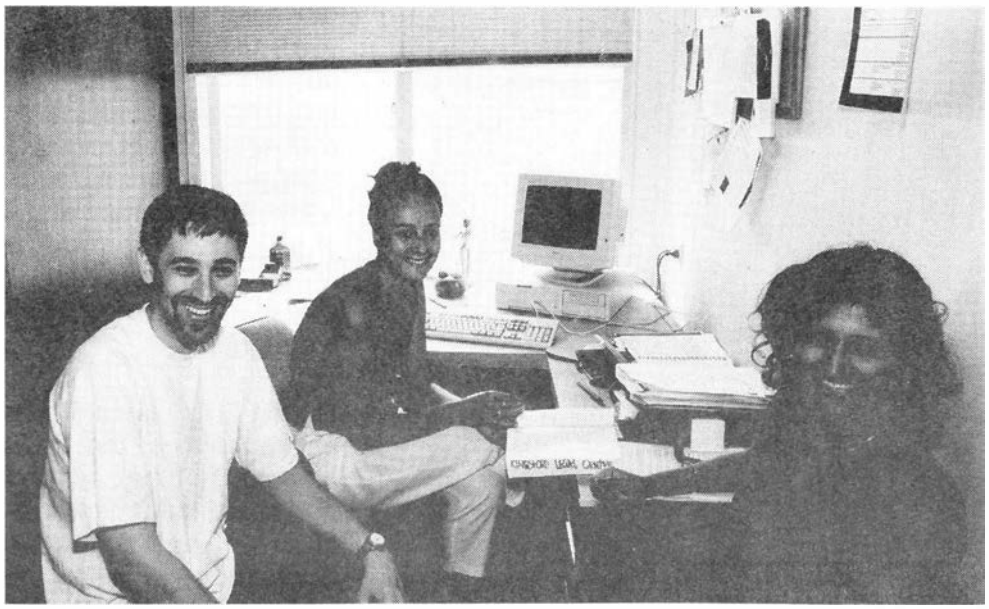
I was the Freehills' solicitor at Kingsford Legal Centre from November 1997 to March 1998. After being a student at Kingsford and a volunteer solicitor on the advice nights, the secondee role was the obvious next step.

At Kingsford I was exposed to diverse areas of law including discrimination, domestic violence, sexual assault, victims' compensation, social security, family law, debt, estates and a number of matters for which I never worked out appropriate labels. Often, I did not know the answer from previous experience and was constantly learning. Luckily, the staff were very helpful and answered my many questions (John particularly could not escape my interrogations as I gave him a lift to work each day).

As a volunteer solicitor, the clients would share their problem with me on the advice night, and I would never see them again. When at Kingsford full time, I had the opportunity to establish a rapport and have a continuing relationship with clients. I enjoyed working with clients from different backgrounds and the chance to speak Russian. I was involved in case meetings where Kingsford solicitors decided to act for clients and allocate responsibility for cases.

I also really enjoyed my involvement with the law students. They were enthusiastic and empathetic with clients. Some students who were hesitant to answer the phone at the beginning of the session (a reluctance I could associate with from my student days) were running the file by the end of the session. And Coogee beach is just down the road!

My experience at Kingsford was very rewarding. Hopefully, I will now be much more useful on the advice nights.



Anna Kaplan (centre), supervising two summer session students

Clinical Legal Education

The Centre, as part of the Faculty of Law, continued its clinical program for 75 latter year law students. Students attended in 3 sessions, including the summer period, either one or two days a week from 9 to 5pm each day. During this period they were required to attend weekly classes of 2 hours duration, a daily morning tutorial of one hour and four evening public advice sessions from 6pm to 9pm. The course provided substantial benefits to the students' understanding and analysis of our legal system as well as significant legal help to those in the community who cannot afford legal assistance. Students were responsible for a number of client files during their time at the Centre. Legal work done by students for clients was at all times supervised by a practising solicitor or barrister.

The objectives of the course are:

1. to develop students' critical analysis of the law and legal system in Australia through participation in a legal practice working for clients who are financially or otherwise disadvantaged

2. to enhance students' contextual understanding of the law and legal process by exposing them to real clients with legal problems

3. to provide students with a detailed understanding of the legal aid system and develop students' understanding of issues of access to the legal system for the Australian community

4. to develop students' awareness of the role of lawyers in practice in the legal system

5. to develop students' understanding of ethics and responsibility in a workplace setting

6. to introduce students to basic legal skills including communication / interviewing / drafting / negotiation

7. to develop students' ability to see beyond a casework approach to legal problems by providing opportunities to participate in campaign and education work

8. to encourage students to see the law as a vehicle for protecting and developing human rights

Students attending in Summer Session 1996/7

Rumana Ahmed
Tracey Brook
Lisa De Ferrari
Suzanne Donnellan
Shelagh Doyle
Melanie Freer
Justine Grayce
Glen Jones
Maria Kay
Lyndall Kennedy
Shek-Keung Kwan
Shelley Hampton
David Irvine
Larissa Leschev
Desmond Liaw
Benjamin Lee
Jenny Lovric
Pamela Milios
Michael Nightingale
Alana Phillips
Max Roberts
Louise Russell
Elizabeth Sadlier
Stamatia Stamatellis
Katherine Thompson

Clinical Legal Education

The weekly classes and morning tutorials allow students a chance to analyse and reflect on legal and policy issues that have arisen during the course of their work. Below is an outline of some of the many matters we aim to cover in the course of a session.

The course aims are as follows:

- **legal aid** - to discuss the purpose of legal aid, to identify providers of legal aid and pro bono services in NSW, to discuss the different roles and responsibilities of service providers, to identify and examine policy issues relating to government responsibility for funding of legal aid, to analyse the way in which legal aid is provided in Australia, to discuss the role of professional practising lawyers in providing pro bono services

Students attending in 1st Session 1997

Angela Abrahams
Stephanie Akers-Barnes
Megan Bastik
George Cockburn
Kelly Cooper
Naomi Degabriele
Michael Fullilove
Tracey Francis
Asraf Hashim
Lael Hassinger-Jenkins
Claire-Louise Johnson
Lyntern Kee
Katie Kemm
Thang Luong
Kim May
Fiona McGuire
Eric Meppem
Deborah Newman
Phyllis Newnham
Kim Pengally
Aiyaz Sayed-Khaiyum
Amber Sharp
Sarah Thew
Stuart Walton
Tomoko Yamamoto

- **interviewing** - to introduce students to principles of legal interviewing, to examine the role of communication between solicitor and client, to discuss methods of applying legal principles to data collection and discuss the importance of cultural issues in the interviewing process, to identify and analyse the power relationship between the solicitor/client, to recognise any impact a client's disability may have on the interview

- **drafting** - to explain the principles of plain English drafting, to discuss reasons for using plain English, to introduce students to exercises in plain English drafting

- **negotiation** - to examine principles of good negotiation, to identify situations where negotiations are commonly used, in legal practice (eg mediation, conciliations, door of the court etc) to consider questions of power imbalances in negotiation and ways to diminish negative effects of these. Students undertake a practical exercise in groups in negotiation to illustrate factors which affect negotiation eg ongoing relationship

- **access/cultural difference** - to examine issues of access to the legal system for people from an Aboriginal or non English speaking background, discussion of the principles relating to use of interpreters, to examine how cultural differences may affect the solicitor/client relationship, to explore ways of facilitating effective communication and relationships

Clinical Legal Education

- **Legal Aid Commission** - to examine in detail the role, functions and responsibilities of the Legal Aid Commission and relationship between the Commission and community legal centres including decision making in the Commission, rights of appeal, manner of service provision, the Commission's role in law reform and education, examination of the means and merits tests and discussion of the effects of these tests in providing access to the legal system, the role of duty solicitors, examine the arguments for and against in-house provision of services versus referrals to the private profession

- **current issues** - to provide an overview of current issues regarding law and practice in areas relevant to the Centre's work, and to work through case examples which demonstrate practice issues which may arise. Discussion of issues including current legislative models for addressing domestic violence/discrimination; the adequacy of legal processes and legal remedies; the range of different approaches (legal and non legal) to addressing domestic violence /discrimination in our community; the role of a lawyer when acting for a client who has experienced domestic violence/ discrimination; and proposals for law reform in these areas

- **domestic violence** - to discuss the nature of domestic violence and its effects, explore reasons for its existence and societal and legal responses to it

- **law reform** - to examine various modes of law reform activity including submissions, test cases, campaign work, use of media etc, to analyse ways of achieving practical law reform by considering the history and progress of a major law reform campaign, to consider the effect of the political process on law reform, to consider the role and responsibilities of legal professionals in law reform activity

- **ethics** - to develop student understanding of the principles of legal ethics, to examine the difference between legal and general ethics, to discuss by way of case studies practical ethical dilemmas frequently arising in practice

Students are required to prepare and give a presentation on ethical, jurisprudential or social aspects of their legal casework, and have an extensive formal assessment process to go through during the course.

Students attending in 2nd Session 1997

Christine Athanassious
Fiona Atkinson
Melissa Beauford
Angela Bradley
Peter Campbell
Elly Chew
David Clarke
Libby Elvy
Margaret Fahy
Jackie Finlay
Belinda Jones
James Judge
Muhunthan Kanagaratnam
Elise McHugh
Nathan Maslen
Jodie Maurer
Samantha Nolan
Maureen Power
Keren Rosenman
Kathy Santikos
Gaby Stein
Mark Tognolini
Perry Wood
Robert Wynn Jones

Students' comments on the course

There is a considerable waiting list of students wanting to participate in the UNSW Law School's Clinical Legal Experience course, which operates through Kingsford Legal Centre. Throughout 1997, students' feedback on the CLE course was very positive and enthusiastic. Following are a few extracts of their comments.

"Kingsford is a fantastic place to learn "hands on" lawyering, while allowing you in a real and tangible way to help people in dire need of assistance. The most enlightening aspect of my time at Kingsford has been understanding the way in which the law and social welfare safety net interact (or fail to do so!). KLC has definitely been the most rewarding part of my degree and the experiences here have given me a much broader social focus and understanding. The opportunity is invaluable!"

Tony Abrahams

"There should be more establishments like Kingsford Legal Centre. It provides the local community access to the legal system and tackles real issues, with hands-on work for students and opportunities to experience how lawyers fit into the whole system. The course has been an eye-opener for me, especially in determining whether 5 years at uni can be put to good use."

Tuyet Duong

" Kingsford provides a wonderful opportunity for us, as students, to help others while learning to put our skills into practice. Perhaps the most important factor for me was that "clinical" experience at Kingsford reminded me that law is not really a clinical and rarefied subject. It involves real clients with actual problems, not just names in appellate judgements."

David Selby

"A session at Kingsford Legal Centre should be compulsory for all law students. I learnt more in a 3 hour advice night than I did in some subjects. The client contact - which involves things like making sure a person will have somewhere to live, or keep their job, or escape a violent situation - operates as a good reality check. Kingsford also provides a great opportunity to decide whether or not it is worth spending your cash on College of Law."

Rachel Connell

students discussing their work for the CLE course

Students' comments on the course

"The thing that became most apparent within a few days at Kingsford was the dramatic impact of "the law" on so many people's daily lives. Most of the clients I've dealt with have no idea what to do about their particular situation, and some are quite frightened at the prospect of dealing with law. It's fantastic to be involved in helping find a solution. Being at Kingsford has given me a huge injection of enthusiasm for being a lawyer, which I can't really say I had after four years of law school. I think it would be an incredible loss to students and the community if Kingsford were to close."

staff and 2nd session students

Giselle McHugh

''Working at KLC has shown me that there is often a huge gap between peoples' theoretical legal rights and the patent practical realities, and as a good lawyer one has to be able to function within both these limits. While a law degree teaches us what the law is, clinical legal experience is the only way to teach students how to function as a lawyer. "

Janet Lazzaro

"There's unfortunately one thing nobody talks about at law school - THE CLIENT. Unlike the bean counters of the bureaucracy who are totally unaccountable for the decisions they make, lawyers at Kingsford are accountable to a real human being every time the phone rings or the door opens. Kingsford has shown me that people are the most important thing about the law. Every time funding is withdrawn from somewhere like Kingsford, somebody, somewhere can't get the help they need, and we, as a society, are impoverished."

Fiona Kerr

" The greatest aspect of the KLC course has been the amount of encouragement and support given to students by the staff at the centre. I consider this to be an essential ingredient in facilitating the development of practical legal skills. The responsibility and independence given to students at the centre, and the amount of face to face client contact has been invaluable. Closure of the centre will inflict irreparable damage on the students of UNSW Law School, the Law School in general and the local community."

Nicholas Georgeopoulos

National Clinical Legal Education Work

The Centre is active in working with other clinical educators in Australia in promoting clinical legal education in law courses. This year, the Centre:

- published the **Guide to Clinical Legal Education in Australian Universities 1997** which for the first time ever collected details of all clinical legal courses in Australia. The Guide includes details of content and assessment of courses, and contact details of course convenors. The Guide will be updated annually. Copies are available from the Centre.

- organised for the Australasian Law Teachers Association (ALTA) to create a Clinical Legal Education Interest Group for the first time. The group aims to promote clinical legal education in Australian Law schools.

- continued publication of the only newsletter in Australia on clinical legal education. This newsletter highlights developments in Australian CLE courses, and is distributed in Australia and internationally.

- convened a clinical legal education session at the 1997 Community Legal Centres Conference in Adelaide. The session was attended by both clinical legal education specialists and generalist community legal centre workers.

- continued its participation in the new National Association of clinical legal educators.

Plans for 1998 include developing a list serv on the Internet, to facilitate communication between Australian clinical educators.

Frances Gibson boarding the plane home following the successful CLE session at the 1997 Community Legal Centres Conference in Adelaide.

Social Work Law

Perhaps we could have foreshadowed that the achievements of 1996 would require a much stronger grip to be exerted during 1997 so as to protect them from being undermined! As you will have read in other sections of this report, Kingsford Legal Centre is battling to maintain its existence, functions and the stamina of staff and volunteers within a climate of unrelenting resource stripping. Aided by commitment and cunning, we aim to carry on with the strong belief that what KLC does matters.

The UNSW Law Faculty offers, in conjunction with the School of Social Work, a six year Social Work/Law degree. This unique combined course allows students to graduate with the qualifications necessary to pursue either profession and with abundant skills/knowledge sufficient to benefit many practice arenas. A current course requirement course is that the Social Work/ Law students attend KLC fulltime for 54 days. In this way these students fulfil the requirements of their final social work subject, Social Work Practice -Third Placement, whilst concurrently fulfilling the requirements of the law subject, Clinical Legal Experience. This is quite different from other law students who attend for one or two days/ week throughout one session.

During their time at KLC, Social Work/Law students usually undertake a range of individually tailored activities in addition to the legal casework assigned to them. The resignation of KLC's Community Worker in 1997 meant that such students no longer have access to non legal on-site guidance. However a learning contract is negotiated between the student and their off-site supervisor. This allows students to outline their learning goals, specify the activities necessary to facilitate their learning and the means by which goal attainment can be measured. Regular supervision sessions are arranged to monitor student progress, facilitate learning, deal quickly and appropriately with any difficulties, discuss future plans and review strategies.

During 1997 three students satisfactorily completed their final social work subject at KLC. Their learning opportunities included consultations with hospital social workers, and after identifying the need for legal information, students held consultations about the development of plain English resources and effective ways to deliver such resources to busy social workers. Students also investigated means of providing up-to date, non legal referral resources for use by KLC staff, students and volunteers. One student did research into responses to domestic violence, both legal and non legal, and the links with child protection interventions, and consequently prepared an article. Another student pursued her desire for more experience in counselling by negotiating with a local service provider about access to those requiring counselling concerning issues of abuse. This experience proved to be invaluable on a number of levels. The student gained the opportunity to compare agency philosophies and procedures. She learnt about different counselling models and found that many of her pre-existing ideas were challenged.

Social Work/Law students gain valuable practical experience through interviewing people at KLC, pursuing government and other agencies for timely, relevant information, collaborating with staff, other students and volunteers about matters concerning KLC (from whose turn it is to purchase the choccy biscuits to how to campaign for future funding). To date graduates have found employment in international aid agencies, legal centres, environmental agencies, mental health organisations and in other more conventional legal settings. It is hoped that KLC will be allowed to thrive and thus continue to provide the context for the challenging learning opportunities needed to hone the fine minds of those whose future influence on our society is likely to be profound.

Ms Christine Gibson
School of Social Work, UNSW

Other work within the UNSW law school

Following is a brief summary of some of the other work the Centre did within the law school.

DV Classes

Anna Cody presented classes on domestic violence within Owen Jessup's Family Law Class (see Domestic Violence section, p24).

Faculty Seminar on the role of Kingsford Legal Centre

The Centre presented a forum on the function and role of Kingsford Legal Centre within the Law School. It included ideas about the importance of clinical education as well as feedback from students.

Remedies

Remedies students provided written advices on legal aspects of client's problems.

Immigration

Students taking immigration law worked at the Centre on a number of immigration applications for clients, including refugees, who could not get assistance elsewhere.

Interviewing classes

Frances Gibson gave classes in subjects in the Law School's general curriculum on aspects of interviewing clients.

Wills Day

On 26 September 1996 the Centre had a Wills Day where pensioners from the local community attended Kingsford Legal Centre to give instructions for their wills. Students from the UNSW Law School course on Succession were given some initial training in interviewing and then came down to the Centre to take instructions from the clients.

Wills were then drafted for the clients and checked by Succession guru Prue Vines from the Law School. The day was extremely successful both for clients and the law students involved and we hope to make this a regular feature of the Centre's workplan.

summer session students on the steps of Kingsford Legal Centre

KLC consultative committee

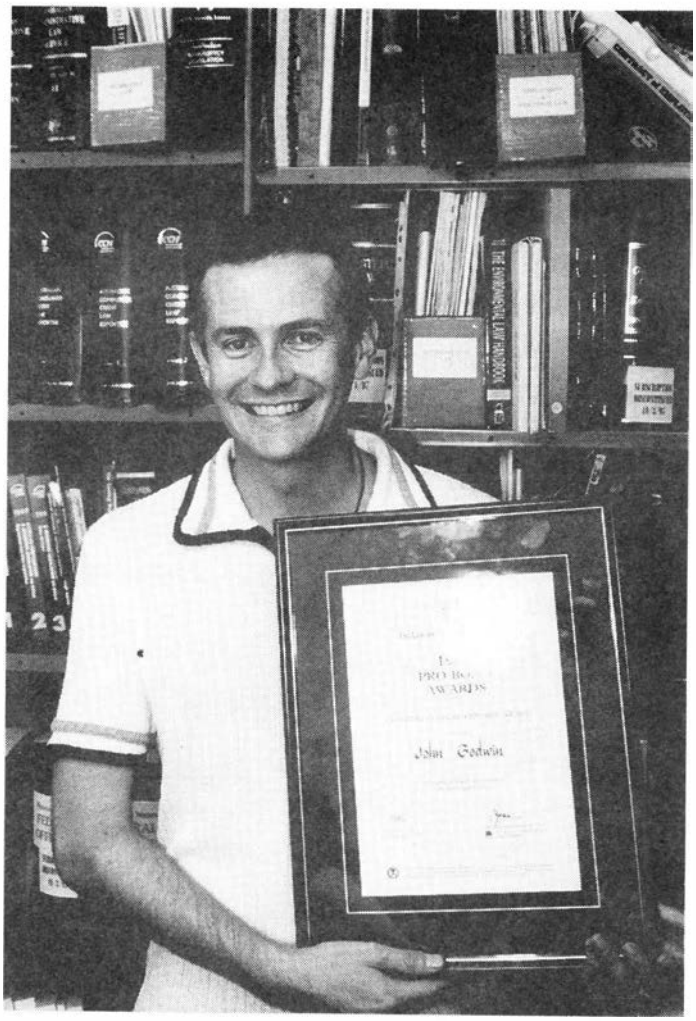
Although KLC is part of the University of New South Wales the work of the centre is significantly informed by our Consultative Committee. The Committee has representatives from a wide range of organisations who have an interest in the work of the Centre. The 1997 members of the Committee are:

- **Christine Gibson**
  Social Work School UNSW
- **Carol Arrowsmith**
  Kooloora Community Centre
- **Shauna McIntyre**
  Randwick Information & Community Centre
- **Carol Krikorian**
  Botany Family & Children's Centre
- **Cassie Hatton**
  The Shack Youth Services
- **Jill Anderson**
  Law School UNSW
- **Caroline Mason**
  Randwick City Council Community Services
- **Annie Cossins**
  Law School UNSW
- **Colin Rosenfield**
  Randwick City Council Community Services
- **Rosa Loria**
  Botany Migrant Resource Centre
- **Jenny Broadbent**
  Botany Council Community Services

The input of the Committee is sought on policy issues, materials written and distributed by the Centre and strategic planning of the Centre. The Committee's meetings in 1997 were largely concerned with the funding crisis.

Involvement in wider community work

The notion of community work has a reciprocal quality and all staff at the Centre



John Godwin displaying his NSW Law Society Award as 1997's Pro Bono Solicitor

participate in wider activities. This includes involvement in management committees (see page 23 for details). It also includes other activities for example, youth week preparations, various community centre AGMs, contributions to newsletters, attending meetings on specific community issues and being supportive of other community initiatives.

The expectation is that this kind of work will not only strengthen the contribution that KLC can make to the wider community, but also through collaborative work prevent some issues falling into "gaps" between specialist agency service provision.

Education and policy work

Community education

The Centre has been active in providing legal education for other community workers and for other members of the community.

Sessions for members of the public included sessions in relation to

- Law as a career
- Wills and powers of attorney
- Family law
- Social Security law

Sessions for community workers and others involved in community legal services included

- Domestic violence training
- Discrimination and human rights laws
- The work of Kingsford Legal Centre
- Occupational health and safety
- Legal aid

In the first half of the year the Centre employed a Community Worker, Mick Houlbrook, who made a substantial contribution towards the development of the community education work of the Centre. Regretfully, due to funding constraints this position could not be continued from June 1997.

Examples of some of the innovative educational work conducted by the Centre in 1997 are:

Discrimination law seminar for Public Service Association workers

A seminar was presented to a group of 25 rural workers and PSA delegates. The presentation covered the role of the Human Rights and Equal Opportunities Commission, the operation of discrimination laws, complaints procedures and the effectiveness of discrimination law to remedy injustices. The presentation was followed by a heated discussion in relation to human rights issues, especially in relation to the race debate and justice for the stolen generation.

Probis club seminar on domestic violence

This seminar was presented to 85 senior citizens in the Randwick area. The Centre targeted elderly residents as they had been identified as a group in the community who find it difficult to access legal information. The seminar prompted an interesting discussion on the perspective of elderly residents on violence issues.

Domestic violence workshop for Spanish speaking women

A workshop was conducted in Spanish for Spanish speaking local residents. The workshop was held at the Botany Migrant Resource Centre. The workshop attracted 8 women of South American and Spanish backgrounds. The Centre is fortunate in having a staff member who speaks Spanish, Anna Cody, as there is a large community of Spanish speaking migrants in the local area.

Training video for youth

Students produced a video for use in training sessions on young people and the police. Students interviewed a number of members of the public including young people about police attitudes to youth and the desirability of new laws to strengthen police powers. The students also collected a range of written materials for use in educational sessions with young people. Despite technical problems with the video's production, it is hoped the video will inspire future students to adopt fresh approaches in delivery of training sessions for young people in the local area.

Education and policy work

Policy Work

Legal Aid campaign

The Centre was heavily involved in the campaign to stop Commonwealth cuts to legal aid. Formal submissions were made to the Senate committee on legal aid and staff members played a key role in developing the Combined Community Legal Centre's response to the legal aid crisis.

Staff and students attended the demonstration to protest against cuts to legal aid held at Queens Square, Sydney, in February. The Centre's representatives enthusiastically waived the KLC banner in a show of support for the broad-based campaign.

In March, staff members joined the Save Legal Aid entry in the 1997 Gay and Lesbian Mardi Gras Parade. Frances Gibson, John Godwin and an inflatable penguin represented the Centre in the Combined Community Legal Centres/Legal Aid Commission marching 'float'. The marchers received a very supportive and enthusiastic response from the crowd. The entry made a significant contribution to raising the profile of the legal aid funding crisis in the general community, and was excellent fun.

Submission writing

The Centre responded to a broad range of legal policy issues considered to be a priority. Staff participted in workshops on structural reform of the Combined Community Legal Centres Group, and staff and students were part of the Workplace Discrimination Project with the Australian Centre for Lesbian and Gay research. Students assisted staff in preparing submissions on a wide variety of social justice issues including discrimination, domestic violence, criminal law, family law, privacy and legal aid issues.

Submissions made in 1997 included the following:

- the Senate's Community Affairs References Committee on access to medical records
- the Minister for Immigration and Multicultural Affairs on the closure of the Refugee Advice and Casework Service
- the NSW Minister for Corrective Services on the use of biometric technology
- the Model Criminal Code Committee of the Standing Committee of Attorneys General on Sexual Offences against the Person
- the Premier and the Attorney General's Department on legal recognition of same sex relationships
- the Attorney General's Department on proposed pamphlets to be used in Local Courts
- the Commissioner of Police on the role of police in variations of apprehended violence orders
- the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families
- the NSW Attorney General on the use of mediation where there has been domestic violence
- the Disability Discrimination Commissioner on Medicare Refunds for People with Psychiatric Disabilities
- the Law Society project on Australian Bureau of Statistics on usage of legal services
- the NSW Law Reform Commission on section 316 Crimes Act 1900

Publications

Centre staff and students were involved in producing the following publications in 1997:

- **Guide to Clinical Legal Education in Australian Universities 1997**
- **Kingsford Legal Centre Newsletter** (quarterly)
- **Clinical Legal Education (Australia)** - newsletter
- **When the battle's lost and won: legal aid in civil matters in NSW 1992-1995, outline of a community legal centre campaign**, Frances Gibson
- "Anti-discrimination laws strengthened in Australia" John Godwin, in **International Council of AIDS Service Organisations Advocate's Guide to the International Guidelines on HIV/AIDS and Human Rights**
- "Report from the Manila conference", John Godwin, **National HIV/AIDS Legal Link Newsletter**
- **On The Record - Community Legal Centres' Newsletter**

* Editorial committee of **On the Record**, John Godwin

Issue 43

* Medicare Changes Discriminatory, Anna Cody

* Testing the Reach of NSW Laws, John Godwin

* Sexual Harassment Win, Anna Cody

* Rental Assistance Rights, Glenn Jones

Issue 44

* HREOC Funding Cuts, Kym Pengelly

* Legal Recognition of Same Sex Relationships, Amber Sharpe

Issue 45

* Recommendations for Counselling for Sexual Assault Victims: a Chinese Perspective, Elly Chew

* Kingsford Legal Centre Crisis, Keren Rosenman

- **Articles in CLC Notebook - National Community Legal Centres Newsletter**

* Campaign for Fair Privacy Laws, John Godwin

* Health Care for Gay Families - Supreme Court win, John Godwin

- **Lawyers Practice Manual**

Staff, students and volunteers contributed to the following chapters in 1997:

* Interviewing, Stephen Fagg

* Complaints to the Anti-Discrimination Board, John Godwin

* Acting for Clients with HIV/AIDS, John Godwin

* Domestic Violence, Anna Cody

* Legal Aid in NSW, Frances Gibson

- **Law Handbook**

Frances Gibson contributed to chapters on Neighbours and Assistance with Legal Problems of the new edition of the Handbook published in 1997.

summer session students discuss casework

Committees

As part of the community work of the Centre, staff were active on the management committees of local organisations. These include:

- Eastern Area Tenants Service Management Committee (Chairperson)
- Waverley Domestic Violence Court Assistance Scheme Advisory Committee
- Domestic Violence Sub-Committee, Combined Community Legal Centres
- Killara Women's Refuge Management Committee
- Botany Migrant Resource Centre, Humanitarian and Refugee Worker Reference Group
- Implementation Committee of Half Way to Equal
- Eastern Suburbs Domestic Violence Committee
- HIV/AIDS Legal Centre Management Committee
- Disabled Action Committee Group
- Eastern Suburbs Aboriginal Interagency Committee
- Botany Neighbourhood Centre Management Committee
- The Shack Management Committee
- Randwick Interagency Meeting
- Disability Discrimination Legal Centre Management Committee

Combined Community Legal Centres

The Centre is extremely active in working on projects at State and National levels with other community legal centres. Staff are represented on:

John Godwin (left) receiving Randwick Council's "Highly Commended" award for Best Community Service

- NSW Combined Community Legal Centres Group Executive
- Domestic Violence sub- committee
- Criminal Justice sub-committee
- Human Rights and Discrimination sub-committee
- Funding Committees
- Access and Equity sub-committee
- *On the Record* newsletter sub-committee

The Centre notes with great appreciation the invaluable role played by the NSW Legal Centres' Secretariat which enables legal centres to work effectively on collaborative projects. Without the assistance provided by staff of the Secretariat, the numerous achievements of community legal centres in this State would be impossible.

Domestic Violence

The Centre maintained its commitment and work focussing on domestic violence during 1997. The Centre continued to participate in the Waverley Domestic Violence Court Assistance Scheme on a monthly basis by a solicitor from the Centre attending the Court as the legal worker. The Waverley Domestic Violence Court Assistance Scheme has grown and increased its profile within the local community throughout the year and Kingsford Legal Centre has been a key participant in the management of the Scheme. Kingsford Legal Centre has also been an active participant in the Combined Community Legal Centres Group (NSW) Sub Committee on domestic violence and involved in various policy projects.

Waverley Domestic Violence Court Assistance Scheme

The Waverley Scheme continues to run smoothly with a new coordinator, Vicki Harding as Linno Rhodes took maternity leave. Vicki works 3 days a week and maintains the high profile of the Scheme within the local community. One of the key achievements of the Scheme is the coordination between the local legal profession, police, court staff, magistrates and community workers. This ensures that women applying for apprehended violence orders are dealt with sensitively and efficiently.

A development for the Scheme was the incorporation of the Eastern Suburbs Domestic Violence Committee. This means that the auspicing body has changed to clarify the role of the Eastern Suburbs Domestic Violence Committee. It delegates authority for management of the Court Assistance Scheme to a sub committee of the larger committee. The Advisory Committee continues to meet on a monthly basis to provide guidance and support for the Coordinator. Kingsford Legal Centre continues to be a key participant in the management of the Scheme.

Kingsford Legal Centre provided two training sessions for new and current support workers within the Scheme on the law relating to domestic violence. These sessions were given by students at the Centre and supervised by Anna Cody. The training for existing workers took a novel form in running a Sale of the Century type competition about knowledge of domestic violence laws. Support workers enjoyed the method as an effective refresher/training and a good way of team building.

Students have continued to attend the Thursday domestic violence roster day at Waverley Court. In the evaluations they regularly comment on the importance of this experience in exploding the myths and showing them the reality of domestic violence.

Anna Cody, responsible for domestic violence work in the Centre.

Domestic Violence

DV Classes

Anna Cody presented three classes on domestic violence within Owen Jessup's Family Law Class. The classes covered the nature of domestic violence and why it exists as well as the law relating to domestic violence. Students were particularly interested in hearing the practical side of domestic violence legal practice as well as the socio-legal aspects. Debate was intense over various issues within the class.

Kingsford also presented a workshop on domestic violence to 80 participants of the Randwick Probis Club and to the Botany Migrant Resource Centre's Spanish speaking women's group.

Policy projects

The Centre prepared and wrote the Combined Community Legal Centres' response to the Model Criminal Code, (Sexual Offences Against the Person) inquiry. This addressed such issues as definitions of "consent", sexual act committed against children, factors of aggravation and evidentiary rules.

The Centre also prepared a submission on the role of police in variations of apprehended violence orders and the importance of Police education in variation of orders. Another issue addressed at a policy level was the lack of knowledge of police and magistrates about their powers under the Family Law Act to vary contact orders where there has been violence. This submission was followed up by a further submission to a National Inquiry into the effectiveness of these provisions. The submission highlighted the lack of knowledge by key players in the area of their powers.

Another important concern has been the increasing use of mediation where there has been domestic violence. The Centre became involved in raising issues about the use of mediation at community justice centres where there is a power imbalance in the relationship. This has been addressed in a larger forum with representatives from various sectors including legal centres represented by Anna Cody, the Attorney General's Department, and others.

Another issue which is being addressed is the role of police prosecutors in contested apprehended violence order cases. Domestic violence schemes across NSW are addressing the relationship between clients and prosecutors.

Killara Women's Refuge

Anna Cody is a member of the Management Committee of the Refuge and attends meetings on a monthly basis. The involvement of Kingsford ensures a closer working relationship with the clients of the Refuge and the Centre.

Legal Centres DV subcommittee

Anna Cody actively participates in the NSW Combined Group's domestic violence subcommittee and has written a number of submissions on its behalf.

Eastern Suburbs Domestic Violence Committee

Kingsford Legal Centre continued attending meetings of this Committee and participating in local activities regarding domestic violence. These included activities for Stop Domestic Violence Day such as organising successful media coverage, and articles on the Waverley Domestic Violence Court Assistance Scheme for local papers.

Casework

Casework relating to domestic violence is a significant portion of the Centre's total casework. In 1997, it constituted approximately 8% of all advices given, and 20% of all files opened.

Garendon - Consumer Credit case

The Garendon timeshare case has been a massive undertaking for the Centre in 1997. The scale of this litigation has been an extraordinary task for one solicitor to handle and without the commitment and tireless work of Vedna Jivan the Centre could not have coped.

Kingsford Legal Centre's timeshare case has exploited every available resource at the Centre, every student, every volunteer who has offered a hand and every staff member who has walked past the Garendon think tank (ie. Vedna's office) in the last few months.

All of this has been in preparation for the hearing which has finally been set down for 3 February 1998 and is expected to last between two and four weeks. Appearing at the hearing will be Junior Counsel, Terence Lynch who took over from Janet Manuell in February 1997. He is being led by John Basten QC - leading Terence Lynch who is leading Vedna Jivan who is leading the students who are leading the volunteers who are leading ... and it goes on.

Background

For those of you who have forgotten the significance of the "G" word, here is a reminder:

This matter has had a long history. The case concerns 2317 loan contracts between various borrowers and Garendon Investments (now in receivership) to finance the purchase of timeshare options at Port Pacific, Port Macquarie. Borrowers were lured in by filling in entry forms to win "Free Holidays" at their local milk bars and shopping centres. The clients told stories of high pressure sales tactics used by Garendon at glitzy presentations held at their offices in Parramatta, Circular Quay and at the Resort.

Mr J's experience

One client told us that he had merely allowed the company to place their entry forms on the counter of his chicken shop. He received a telephone call several weeks later informing him that he had won a prize for allowing them to leave their entry forms in his shop. He informs us that he attended a presentation with his wife and signed forms believing they were signing to receive their prize of a holiday.

When the client and his wife took their documents home, they were shocked to hear from their son that they had not won a holiday of a lifetime but were going to pay approximately $20,000 for "a life time of holidays". The client returned to Garendon's offices two days later with his son and tried to exercise his rights under the cooling-off period. The client was told by the same salesman, "Don't be stupid, these things are a gold mine. If I were you, I'd buy five more." The client was then informed that as he had already signed the papers he was bound by the contract. He made several thousands of dollars in repayments and stopped when he heard about Kingsford Legal Centre's involvement in the case.

Proceedings

The case was originally run by Kingsford and Redfern Legal Centres and since 1993 has been run by Kingsford Legal Centre alone.

The proceedings originated in the Commercial Tribunal in 1991 on a jurisdictional point, then moved to the Supreme Court on appeal where we were unsuccessful. Kingsford Legal Centre then appealed to the Court of Appeal on behalf of 5 borrowers and won in this jurisdiction. Garendon's application for special leave to the High Court was refused on 8 August

Consumer Credit case

1995 and the matter was remitted to the Commercial Tribunal for hearing of the substantive issues.

There have been countless directions hearings in the Commercial Tribunal in the last year. We have filed 31 affidavits on behalf of approximately 60 clients. Since filing our first Notice of Appearance in February 1996 we have taken instructions from an extra 24 clients. At last count we acted for 116 clients.

Many thanks to Stefan Mueller, Justine Grayce, Lyn Payne, David Robinson, Anne Horvarth, Muhunthan Kanagaratnam, Erin Kennedy and Michelle Dolonec for their tireless efforts.

On 18 December 1997, Garendon made an offer to our clients to settle the proceedings.

Postscript

On 22 January 1998, John Basten, Terry Lynch and Vedna Jivan (from our office) met with Garendon's representatives in New York (ie. the New York conference room at Baker and McKenzie's offices in Sydney!). After a three hour meeting a settlement was reached. Most clients received a percentage back of payments they had made and debts totalling over $750 000 were waived. Most importantly, however, our client's adverse credit ratings were removed.

A one day hearing was held on 3 February 1998. We are advised that the Department of Fair Trading also settled with Garendon, hence the brief hearing. Judgement, however, is reserved.

We have recently discovered that a similar case is in the offing against a related company. Any takers?

Vedna Jivan (standing right) with students

Discrimination

The Centre continued its active involvement in discrimination and human rights issues, and maintained a busy discrimination practice in 1997. Settlements were reached in a number of matters in both the Human Rights and Equal Opportunity Commission (HREOC) and the NSW Equal Opportunity Tribunal. The Centre was also involved in claims in the State and Commonwealth industrial relations jurisdictions which involved allegations of discriminatory conduct. Some important cases are noted below.

In the policy area, the Centre was actively involved in campaigning for better anti-discrimination laws and procedures through the Combined Community Legal Centres' group discrimination sub-committee. For example, the Centre contributed to a submission on the Human Rights Legislation Amendment Bill 1997 (Cth) and the Centre successfully campaigned for the retention of legal aid for discrimination matters. The Centre also commenced discussions with the Equal Opportunity Tribunal on a project to improve Tribunal procedures to increase the Tribunal's accessibility for people bringing discrimination claims. The Centre was vocal in objecting to federal budget cuts to funding of the HREOC Commission.

Sexual harassment test case

Kingsford Legal Centre won another sexual harassment case. The Equal Opportunity Tribunal handed down its decision on 28 February awarding damages to Christine Berrier for the sexual harassment and victimisation she suffered from Mr Newton at Peakhurst Inn. This case sets a precedent for sexual harassment cases where so often it is the word of one woman against one man.

In this case, the complainant Ms Berrier faced the evidentiary test of convincing the Tribunal of her version of events against the word of four men. Her version was believed. This sets a new bench mark for sexual harassment cases.

Ms Berrier was employed as a bistro attendant for approximately 8 months in 1994 and suffered various forms of sexual harassment. The manager of the Hotel, Mr Gerald Newton, propositioned her repeatedly, commented on her appearance and touched her sexually. Throughout her employment Ms Berrier continually rejected his advances and tried to keep working. When she complained about the harassment she was intimidated, subjected to bag searches and forced to work unpaid overtime and do extra duties. The Tribunal found that she was an "honest and reliable witness" whereas Mr Newton was untruthful in his evidence and "not a credible witness".

She was awarded $10,000 for pain, humiliation and loss of earnings. She was also awarded $1,000 in costs for the prolongation of the hearing by false allegations of fraud.

Ms Berrier's case was funded by the Legal Aid Commission. This case exemplifies the need to maintain legal aid for discrimination matters. Ms Berrier said: "Finally I have been vindicated. I could not have won this case without the help of Kingsford Legal Centre and Legal Aid. I hope that other women who are being sexually harassed see that they can complain and justice can be done".

Testing the reach of NSW laws

Kingsford Legal Centre represents a gay man who claims that he was discriminated against on the ground of his homosexuality by Ansett Australia. The case is a test case on the operation of beneficial NSW laws such as the Anti-Discrimination Act 1977 to events which occur outside NSW.

Our client was recruited in Sydney to work as a flight attendant/chef on Ansett's new international service in 1994. He was sent to Melbourne to attend a training course. Just prior to completing the course he was told that his employment had been terminated. Our client claims that the real reason for his 'failure' of the training course was his homosexuality.

Our client complained to the Anti-Discrimination Board of NSW alleging that Ansett had breached the Anti-Discrimination Act 1977 (NSW). At the time of the alleged discrimination there was no homosexual anti-discrimination law in Victoria.

The matter was referred to the Equal Opportunity Tribunal in 1995. Ansett raised a jurisdictional issue as a preliminary point of law which was argued in a hearing in December 1996. Ansett argued that as the alleged discrimination occurred in Victoria, there was no right to complain under NSW law. The Tribunal found that the Anti-Discrimination Act 1977 (NSW) is capable of extra-territorial operation and that the conduct of Ansett in Melbourne in this case was subject to NSW law. The Tribunal stated that extra-territorial operation of the Act was justified on the basis that "such operation is for the peace, order and good government of the State by protecting or benefiting citizens of the state who have become employees of employers carrying on business within the State."

Ansett lodged an appeal in the Supreme Court, and the Centre will be fighting hard to ensure that the Tribunal's decision is not overruled.

Vilification by broadcasters

The Centre is representing the AIDS Council of NSW, the Queensland AIDS Council and 8 individuals in a complaint against a radio station and a talkback broadcaster. The complaint relates to broadcasts in late 1996 and early 1997 over a network of rural radio stations in NSW and Queensland. The broadcasts contained gratuitous attacks on the homosexual and HIV affected communities. For example, at one stage the talkback host interrupted an HIV positive caller to say that he hoped that the caller would "die horribly".

Complaints were lodged with the Australian Broadcasting Authority and the NSW Anti-Discrimination Board. The Authority found that the licensee had breached the anti-vilification Code of Practice for Commercial Radio. The Anti-Discrimination Board is attempting to resolve the complaints through conciliation. The complainants are seeking a public acknowledgement that the broadcasts breached anti-vilification laws. If conciliation fails, the Centre will represent the complainants at the Equal Opportunity Tribunal.

students display the KLC banner made as part of a student project

Discrimination

Health and safety in the funeral industry

The Centre represented a man who was dismissed from his position as a resident officer at a funeral home. He was dismissed on the ground that his artificial foot posed a safety threat. His job involved the carrying of coffins at funerals and the removal of bodies from place of death to the morgue.

The Centre argued that our client was discriminated against in contravention of the Disability Discrimination Act. The case ran for 7 full days in the Human Rights and Equal Opportunity Commission. Students were heavily involved in pre-trial preparation. Student Georgina Legoe made a notable contribution in filming extensive video re-enactments of funeral processions and body removals involving our client. Georgina also gave evidence in relation to the re-enactments. The Centre also thanks Sydney University's engineering department, who weighed a coffin for us free of charge, and the State Emergency Service who provided us with free sand bags for realistic weighting of the coffin.

The case raises issues in relation to the interaction of state occupational health and safety laws with federal anti-discrimination laws. A decision is expected from the Commission in 1998.

HIV immigration test case

The Centre acted for a gay man trying to sponsor his partner to migrate to Australia from the UK. They lodged an 'interdependency' application, but it was rejected on the ground that the applicant has HIV. The applicant was only recently diagnosed with HIV and has suffered no ill health as a result of his HIV status.

Generally people who migrate to Australia are required to be in good health, however this requirement may be waived. Since the current Commonwealth government has been in power, the previous government's policy of allowing the health waiver to be exercised in favour of people with HIV has been reversed. The Centre is concerned that the policy of refusing visas is being applied without regard to the merit of individual applicants, and will pursue the case as a test case for the way in which the Department assesses applicants with HIV.

In our client's case, the Department of Immigration refused to waive the health requirement because of a finding that the cost to the Australian community of his health care would be excessive. The Centre is challenging the decision on the basis that the Department failed to take into account recent developments in HIV treatments, the contribution that our client is likely to make to the Australian community as a productive taxpayer over his working life, and the measures that he could take to minimise any health or care costs. The appeal is to be considered by the Migration Internal Review Office in early 1998.

WA Sex Discrimination Claim

The Centre successfully settled a long running sex discrimination claim in the Western Australian Equal Opportunity Tribunal. Our client was sacked after she experienced harassment and discriminatory terms of employment while working at a bar at a remote, male dominated mine site.

The case raised a preliminary jurisdictional issue in relation to the interaction of state anti-discrimination laws and federal industrial laws. As our client was employed under a federal award, the respondent argued that the state Tribunal had no jurisdiction to deal with the complaint. This issue was resolved in our client's favour.

The Centre acted in conjunction with Dwyer Durack, a WA based firm which provided pro bono assistance to our client when Tribunal appearances were in Perth.

Notable Cases

The Centre is a generalist community legal centre. Following are a few examples of cases the Centre dealt with in 1997.

The Army

For 15 years, our client has attempted to resolve his dispute with the Department of Defence - unsuccessfully. He currently has a case in the NSW Supreme Court claiming negligent mis-statement by the Army/Department of Defence. The action arises from the financial loss he suffered as a result of relying upon wrong advice the Army gave him about his retirement entitlements.

Our client served in the Police Force, the Army, and the Navy. He received the Royal Shipwreck Relief and Humane Society Medal for Bravery and the Peter Mitchell Award for the most courageous act by a member of the Police Force. While serving in Vietnam he was honoured by the Queen with a mention in Dispatches for Distinguished Service and he was recommended for the United States Award of the Silver Star. He also later received another commendation from the Royal Humane Society for attempting to rescue two fishermen whose boat had sunk off North Head in Sydney.

When changes to the Defence Force Retirement and Death Benefits Scheme began in 1980, contributors under the previous scheme were assured that the changes would cause 'no detriment'. That year, our client received a letter from the Department informing him of a recategorisation, the effect of which would be a change to compulsory retirement age, from 50 to 47 years of age. This letter also stated that there would be 'no detriment' suffered as a result of these changes.

Acting on that advice, our client entered certain financial arrangements only to learn that the recategorisation had been delayed and his retirement age would still be 50. He was then advised to transfer to another corps to reduce his retirement age and to obtain the same effect. When he retired from the Australian Army in August, 1982, he was 47 years of age and had accumulated 17 years of service. His retirement benefits were adversely affected by the changes to the Scheme and he has been compelled to pursue his rights in the NSW Supreme Court.

To date, his case has been before the Ombudsman, the Administrative Appeals Tribunal (AAT) and the District Court. It was moved to the Supreme Court because the Army/Department of Defence did not consent to increase the jurisdiction in the District Court to enable the case to be heard in the District Court. Kingsford Legal Centre also wrote to members of the former Labor Federal Government seeking an ex-gratia

Solicitor Maria Nicolof (seated) advises a student about her casework

payment, as the AAT had suggested his case warranted, but without any success.

Currently, he is a special rate Veterans Affairs pensioner having being totally and permanently incapacitated as a result of his war service in Vietnam. He has ongoing health problems caused by injuries he suffered as the only survivor of an anti-armour rocket attack upon the military vehicle in which he was travelling. He also became a diabetic as a result of internal injuries suffered in the attack. He has recently had reconstructive surgery on his knee and shoulder.

So far all attempts to try and resolve this case by alternative means have failed. Our client has sought mediation with the Army but with no luck. He is now seeking the intervention of the Minister for Defence, Bronwyn Bishop. We are hopeful that this intervention may assist in the resolution of the case to prevent it having to go to hearing in the Supreme Court. Our client's case has been in progress for 15 years and he deserves a favourable result.

Aboriginal Stolen Children

Joy Williams case against the state of New South Wales progressed substantially within the year. This case has gained much media and legal attention. Joy is an Aboriginal woman who was removed from her mother at a few hours old. She was placed in Lutanda Home, a Plymouth Brethren home for children. With the National Inquiry Into the Separation of Aboriginal and Torres Strait Islander Children from their Families, the community has been exposed to the effects of the horrific and destructive policies of government and churches at State and Federal levels. The commencement of individual actions seems to be the only way to make governments accountable as the Federal Government refuses to apologise for past actions or to acknowledge responsibility for those actions. Thus individual claims are even more vital.

Joy's claim is one of negligence, breach of fiduciary duty, breach of duty and false imprisonment. With the increase of the jurisdiction of the District Court, the Supreme Court initiated a hearing to determine whether the case should be transferred. It was decided that because of the important questions of law involved, the case should remain in the Supreme Court. The statement of claim has been amended, affidavits in support of Joy's case have been filed as have the affidavits of the State of NSW. We hope to get a hearing date soon so that this case can be decided promptly.

Son exiled

The Centre is acting for a woman who is trying to get her 8 year old son into the country. She migrated to Australia 6 years ago and has been working 6 or 7 days a week since then to send money back to her parents to look after her son. Her parents are now getting old and have health problems and she is desperate to have her son with her. A previous application to the Department of Immigration was refused on the basis that her son was not dependent on her. The Centre assisted her to prepare an application on the basis that her son is the last remaining relative of the family outside Australia. Unfortunately, the number of these visas is capped so there is no guarantee she will be successful in getting her son into the country in the near future. Our client is desperate and we can only hope that we can achieve some results.

Victims' Comp & DSS

Our client was very badly beaten by a gang of men at Maroubra. His doctor attended his injuries and also told him that he should not bother with victims' compensation as the only ones to benefit in such actions were

lawyers. Despite the advice, he made his way to the Centre. We learnt that he had severe injuries including a broken nose, and he had no income. His Social Security had been cancelled for not completing the work diary required by DSS. The Centre is assisting him to obtain counselling under the Victims' Compensation scheme, to lodge an application for victims compensation and to negotiate with DSS to reinstate his benefits.

Volunteer solicitors (from left) Kate Eastman and Rachel Francois checking case notes

Refugee win

The Centre succeeded in having a decision of the Refugee Review Tribunal reversed. The Centre assisted an Indian man who applied for residence on refugee grounds in 1994 due to his political affiliations. His application was rejected by the Department and the Tribunal. The Centre requested that the Minister for Immigration substitute a more favourable decision under a last resort discretion available under the Migration Act. The Centre argued that because the man had married an Australian and fathered a child born in Australia, it would be contrary to the *Convention on the Rights of the Child* to refuse residence. The family has been highly stressed awaiting the outcome of the Ministerial request, and was overjoyed when we received a notice from the Minister reversing the Tribunal's decision in August.

Kingsford wins estate battle

KLC has resolved a bitter estate dispute in favour of an elderly, non-English speaking pensioner. Our client's husband had a $30,000 term deposit. The day after he died, the funds were withdrawn by an associate of the deceased who did not notify the bank of the death. We argued that our client was entitled to the full estate as surviving spouse, but the husband's associate refused to hand over the money, claiming that he had been promised the funds for his family by the husband. The associate also took possession of various items of the husband's personal property. Clayton Utz provided pro bono representation for our client in her application to be appointed Administrator of the estate and negotiated a settlement which included return of the term deposit.

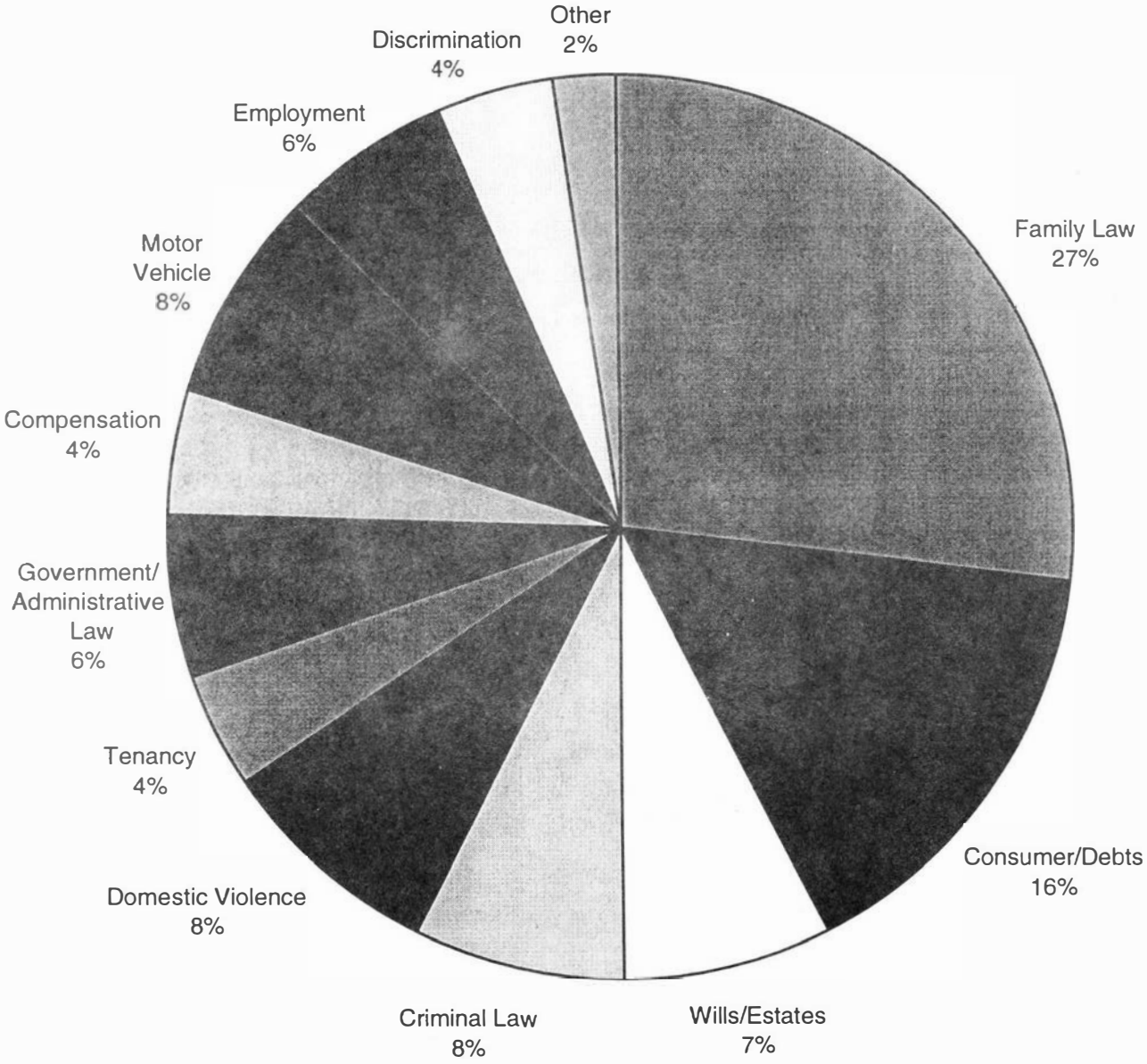
An unexpected compensation victory

A client of the Centre who has cerebral palsy and lives on an invalid pension, has made a successful victims compensation claim to the Victims Compensation Tribunal. Sexually assaulted by her home-carer, the client was awarded $25,000.

As with many sexual assaults there was little corroboration of the applicant's evidence and the application was originally dismissed at the Tribunal. The matter was appealed to the District Court who sent it back for the Tribunal for reconsideration. Without the Centre's help the applicant would have been very unlikely to have received compensation for the assault.

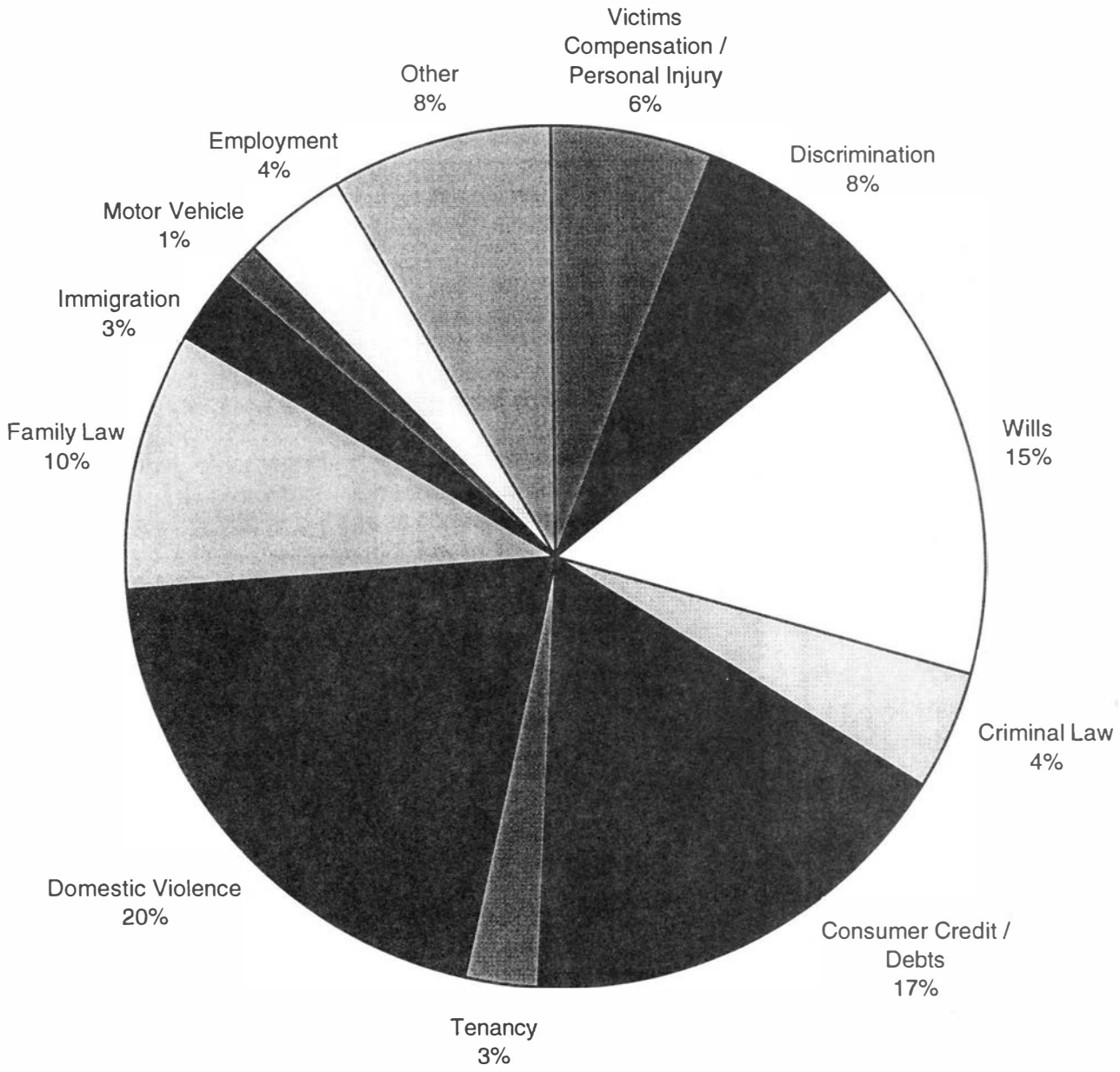
Casework

Advice given in 1997 by matter type



Total number of advices given in 1997 - **2103**

Files opened in 1997 by matter type



Total number of files opened in 1997 - **442**

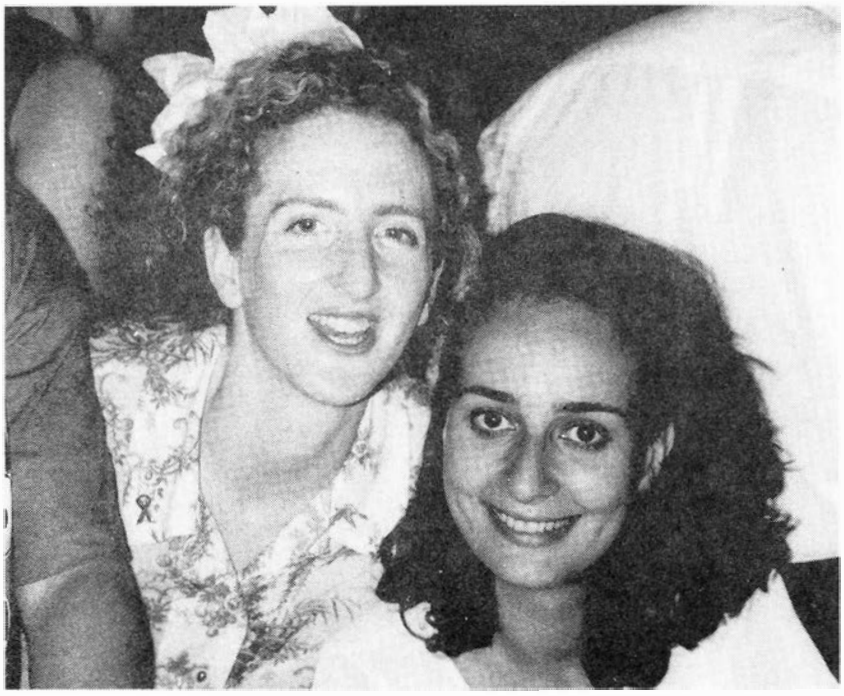
Volunteers

Volunteer Lawyers

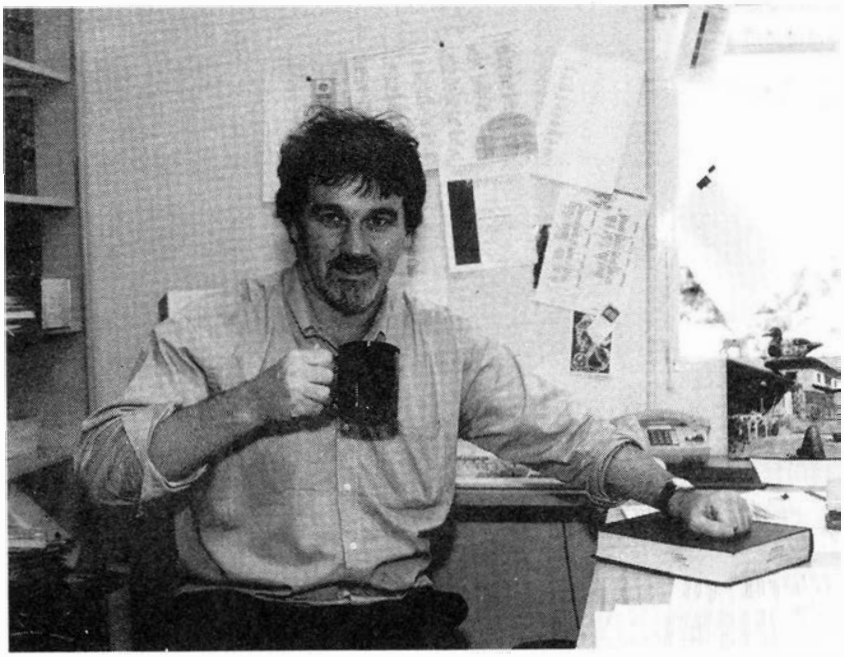
Over the year clients of the Centre have received considerable assistance from other members of the profession. Apart from the contribution made by Freehills, we need to note as usual, the extraordinary efforts of our volunteer lawyers who provide the bulk of the Centre's advice service.

Volunteer Solicitors

Nicole Abadee
Roxanne Adler
Eleanor Alexander
John Burke
David Carroll
Sue Donnelly
Melinda Donohoo
Kate Eastman
Anne-Maree Farrell
Christine Graff
Michael Gross
Daniel Grynberg
Tara Gutman
Michelle Hannon
Roger Harper
Sarah Hopkins
Duncan Inverarity
Anna Kaplan
Sharon Katz
Erin Kennedy
Shirli Kirschner
Paul Livingstone
John Longworth
Dave McMillan
Sue Mordaunt
Mark Nicholls
Lisa Ogle
Simon Rice
David Robertson
Abe Schwartz
Andrew Seaton
Pamela Soon
Mike Steinfeld
Anthea Tomlin
Anne Tucker
Shawn Whelan



(from left) Tara Gutman and Anna Kaplan



Dave McMillan preparing for another advice session

Volunteers

Staff and volunteers enjoying the Centre's Christmas party

Clayton Utz

As part of their Pro Bono Scheme, Clayton Utz has taken on a number of cases for the Centre (for example, see page 33). These clients would have been unable to get help elsewhere. Clayton Utz provided advice in complex cases, representation, and found counsel who were willing to act for free for our clients. We particularly thank David Hillard, Clayton Utz's Pro Bono Director, for his support over the year. This assistance has been invaluable.

Pro Bono Solicitors

We especially appreciate the efforts of the volunteer solicitors Mike Steinfeld, Michael Gross, Shirley Kirschner, and Duncan Inverarity who took on matters outside their normal roster. Also, thank you to all those who put in enormous hours on the Garendon timeshare case (see p.26). This assistance made a significant difference to the capacity of the Centre in dealing with such an enormous case.

Pro Bono Barristers

Christine Adamson
David Buchanan
David Godwin
Anne Healey
Erin Kennedy
Greg Moore
Linton Morris QC
Ian Neil
Chris Ronalds
Murugan Thangaraj
Sylvia Winters

Para legal/Admin. Support

Aileen Briggs
David Cleverley
Angelene Falk
Barry Watterson

Financial Report

Income

Community Legal Centre's Funding Program	$107,613.00
UNSW salary funding	$177,844.00
UNSW non-salary funding	$ 76,730.00
	$362,187.00
Income transferred by KLC to Law Faculty	$ 15,000.00
	$347,187.00