Kingsford Legal Centre Annual Report 1992
KINGSFORD LEGAL CENTRE

Legal Assistance for our Community

A Learning Centre for Students of Law and Social Work
<table>
<thead>
<tr>
<th>CONTENTS</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Centre's Objectives</td>
<td>3</td>
</tr>
<tr>
<td>Staff and Management</td>
<td>4</td>
</tr>
<tr>
<td>Freehill Hollingdale &amp; Page Secondment</td>
<td>8</td>
</tr>
<tr>
<td>Social Work</td>
<td>11</td>
</tr>
<tr>
<td>Refurbishment</td>
<td>12</td>
</tr>
<tr>
<td>Clinical Education</td>
<td>13</td>
</tr>
<tr>
<td>Access and Equity</td>
<td>14</td>
</tr>
<tr>
<td>Funding</td>
<td>16</td>
</tr>
<tr>
<td>Students' Views</td>
<td>17</td>
</tr>
<tr>
<td>Volunteer Lawyers</td>
<td>18</td>
</tr>
<tr>
<td>Pro bono contributions</td>
<td>20</td>
</tr>
<tr>
<td>Cases</td>
<td>21</td>
</tr>
<tr>
<td>Statistics</td>
<td>24</td>
</tr>
<tr>
<td>Anti-discrimination law</td>
<td>25</td>
</tr>
<tr>
<td>Domestic Violence</td>
<td>27</td>
</tr>
<tr>
<td>Projects: Legal education and law reform</td>
<td>28</td>
</tr>
<tr>
<td>Community legal education</td>
<td>30</td>
</tr>
<tr>
<td>Design project</td>
<td>31</td>
</tr>
<tr>
<td>Committees, Research and Authorship</td>
<td>34</td>
</tr>
<tr>
<td>Panels, Conferences</td>
<td>36</td>
</tr>
<tr>
<td>The Year to Come</td>
<td>37</td>
</tr>
<tr>
<td>Students at the Centre</td>
<td>38</td>
</tr>
</tbody>
</table>
The Centre’s Objectives

Kingsford Legal Centre is a community legal centre and a centre for clinical legal education.

The Centre’s principal teaching objectives are:

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

The Centre’s principal community service objectives are:

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

Implementation of Initiatives

In 1990-91 the Centre conducted a major review of the provision of clinical legal education, and a review of its internal office and management procedure. This review was funded in large part by the Law Foundation of New South Wales, and supported financially and in kind by the Law Faculty.

Almost all the resolutions and recommendations from that review process have been implemented. The changes range from more refined and better defined job roles and management structure, through to the revision and clarification of legal education techniques within the Centre. A number of matters addressed elsewhere in this report - the enhanced Kingsford Legal Centre Advisory Committee, the introduction of the intensive subject, the development of community projects and the attention paid to the Centre’s access and equity policy - are all attributable to the review process.
The Centre's Staff and Management

Simon Rice was re-appointed in November 1992 as the Centre's director. His re-appointment, after a three year contract, is as a tenured lecturer in the Faculty of Law. He is the principal solicitor of the practice.

Solicitors Paul Batley and John Godwin share the bulk of the Centre's legal caseload, as well as assisting Simon in the supervision and education of law students. They also work with Mick Hillman on the community development projects.

Zoe Matis returned to the administrator's position after a period on maternity leave. Brenda Schleunz was Zoe's able replacement for eight months.

Kym Bedford is the Centre's full time legal secretary, taking over that position after Vivienne Green's departure early in the year.

Staff Christmas Party 1992:
Paul Batley, John Godwin, Zoe Matis, Kym Bedford and Simon Rice
Miriam Nunez worked as our part time legal secretary for the remainder of the year.

Mick Hillman was appointed at the beginning of the year as a lecturer in the School of Social Work, and maintained his role as the clinical supervisor for the social work students on placement at the Centre.

Greg Heesom was our librarian while in his final year of law studies.

Shirli Kirschner and Kylie Virtue, of the law firm Allen Allen & Hemsley, each worked for a six week period as a locum while staff solicitors were on holidays. Their time at the Centre, very much appreciated by staff, students and clients alike, was generously donated by Allen Allen & Hemsley.

Mark Wright was employed as a locum for 6 weeks. Mark had previously been a student at the Centre before working in private practice. He is now a staff solicitor at Campbelltown Legal Centre.

Miles Bastick, Shereef Habib, Andrew Seaton and Helen Brady were each at the Centre for consecutive two month periods, on secondment from the law firm Freehill Hollingdale & Page.

The secondment arrangement is a significant pro bono initiative by Freehill Hollingdale & Page, to the considerable benefit of the Law School and the Centre's local community.
Management

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

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

The Advisory Committee was reformed in 1992. The Committee has as its members the following: Mary-Anne Veliseck from Randwick City Council, Carol Krikorian from Botany Family and Children’s Centre, Cassie Hatton from The Shack at Maroubra, Julie Spies from Kooloora Community Centre, Rosa Loria from Botany Multicultural Resource Centre, Ross Ramsay from the Law Faculty of New South Wales, Mick Hillman social worker and Kym Bedford from the Kingsford Legal Centre.

The Committee meets 5 times a year. The Committee sees as its objectives to provide comments and feedback on current issues in the community, and topics that may be of interest for law students and social work students who attend the Centre. A network exists among the agencies which assists the Centre in informing the local community of what services are available from the Centre.

KINGSFORD LEGAL CENTRE OUTREACH SERVICE

At Kooloora Community Centre
167 Bilga Crescent
MALABAR 2036

Every 1st and 3rd Tuesday of the MONTH

for an appointment phone
Kingsford Legal Centre
398 6366
Freehill Hollingdale & Page
Secondment

The idea of a secondment was first raised in early 1991 and was developed over a period of time. In April 1992 Freehill Hollingdale & Page was able to begin a permanent secondment arrangement with the Centre.

From the Centre's point of view a secondment was timely. As a result of an extensive review of the clinical teaching program in 1990/91 there was a concerted effort to reduce the number of files allocated to students. Students would then be able to work with greater commitment to an understanding of their files than was previously the case. The availability of a further solicitor at the Centre was seen as desirable to enable the staff solicitors to maintain a level of casework that the community needs, and at the same time to allow the staff solicitors more time for intensive student supervision. In short, the presence of an extra solicitor at the Centre was part of a sensitive balancing process, with levels of casework on the one hand, and involvement in non-casework community legal activities on the other. The secondment also raised the possibility of the Centre extending its caseload into areas not previously addressed, usually for want of resources.
The anticipated advantages to the seconded solicitor were the opportunity for developing skills in different areas of law and in dealing directly and personally with clients, the opportunity to supervise and offer guidance to students, and involvement in a community service.

The Centre was physically able to accommodate a seconded solicitor only as a result of the refurbishments at the Centre which are discussed elsewhere in this report.

The secondment has proved to be a significant success. A dramatic increase in the Centre’s capacity to advise and act for clients, reflected in our statistics, is referable to the presence of an extra solicitor in the office. The Centre’s goal of spending more time on supervision of law students and on the law students’ own development of community education has been met. It is only with the presence of the seconded solicitor that the Centre has been able to embark on the community development programs discussed elsewhere in this report, as well as being able to implement the new intensive clinical subject.

The success of the secondment is judged not only by the increased number of cases and projects undertaken by the Centre, but also by the increased range of legal expertise in the office and the harmonious and constructive working relationship that has developed. The seconded solicitors have volunteered for the position, and have then been selected by Frehills with regard to their general legal experience, particularly in litigation. Frehills have seconded to the Centre solicitors of high personal and professional calibre who have committed themselves unreservedly to the philosophy and purpose of a community legal centre. All the seconded solicitors have continued an involvement in the Centre, being on the volunteer roster or available for advice and consultation whenever the need arises.

One of the Freehill Hollingdale & Page solicitors who was seconded to the Centre, Shereef Habib, has written about his secondment:

"My secondment, like that of the other solicitors who have been to the Centre, was both enjoyable and rewarding. On arriving at the Centre I picked up my 50 files from Miles Bastick. Out of those 50 files perhaps 20 involved areas of law which I knew something about. Another 20 would have involved areas of law that I had vaguely heard about. The balance of the matters were in areas of law I had never heard of, but talked very confidently about!

"Learning to cope with a large number of matters on hugely varying areas of law was the most challenging aspect of the secondment. Some of my matters involved litigation proceedings which were heard during my secondment. This was the time to ‘play’ barrister. It was a great opportunity to see first hand just how justice works at the Local Court level. At times it can be very rough - and not just for the client!

"The fondest memory of my secondment was spending an hour cross-examining a store detective and two members of the
police force who were alleging that my client committed an extremely heinous crime - *stealing a spider toy and a pram cover*. I probably broke every commandment in Irving Younger's 'ten commandments of cross-examination' but I had fun in the process. *(Shereef's cross-examination was successful and the defendant was acquitted: editor)*

"Monday mornings at the Centre was slightly different to a usual Monday morning at Freehills. Each Monday the Centre acts as duty solicitor at Waverley Local Court and acts for persons in custody awaiting their first appearance, after arrest, before a magistrate. The work involves applications for bail and the entering of pleas (where appropriate) for those 'in the can'.

"Having seen every episode of Hill Street Blues I anticipated being able to comfortably interview clients at the Waverley police cells. Alas you can only learn so much from Hill Street Blues and, as I quickly found out, Waverley Local Court magistrates see things in a different light!

"I am sure the other secondees will join me in encouraging all solicitors eligible for secondment to the Centre to take up the opportunity. Each solicitor that has been at the Centre has learned much from the experience. It is a great opportunity to assist the community. It is also a good opportunity to practice in a wide variety of areas of law"."
Social Work

The Centre’s service continues to be limited by the absence of an employed social worker. A funding application in 1992 to the Community Legal Centres Funding Program for a social worker was unsuccessful. The Centre is hopeful of obtaining from that Program in 1993 enough money to employ a part-time social worker. Full time would be ideal, but the Centre simply lacks the space in which to accommodate another full-time worker.

Mick Hillman is the supervisor of the social work students on placement and is at the Centre for at least two days each week. Although his duties are officially limited to supervising the clinical social work that is done at the Centre by students, Mick generously gives his own time to many of the demands the Centre would ordinarily make on an employed social worker. It is the Centre’s hope in the future that a part-time social worker, who can share Mick’s office space, will be employed to supplement the excellent social work service already provided by the social work students on clinical placement.

Legal centres have always stressed the importance of providing a multidisciplinary service to their clients, and the presence of a social work unit at Kingsford Legal Centre is a major contribution to this goal.

Social work students under supervision provide a range of services, including:

- counselling, information and referral in a wide-range of areas including domestic violence, priority housing, victims compensation, social security and family law;
- advice to law students on community resources services, support groups and education programs;
- work in the Centre’s non-casework program on projects such as family law, elder abuse, juvenile justice and intellectual disability.

In all these tasks, increased emphasis is being placed on collaboration between the social work and law students. This collaboration is virtually unique in its extent and variety. The increased mutual understanding and respect which flows from this setting is apparent.

Students near to completion of the combined Social Work/Law Degree will continue to undertake concurrent placements at the Centre, further enhancing this innovative aspect of its operation.
Refurbishment

Each year the Law Faculty is allocated a sum of money for capital works by the University of New South Wales. The Faculty generously resolved in 1991 to dedicate $20,000.00 to the interior refurbishment of Kingsford Legal Centre. With an anticipated secondment and with the increased demand on space resulting from the introduction of the intensive subject, some refurbishment and creation of extra space was essential.

Randwick City Council agreed to the Centre using otherwise unused space in the building. On condition that development of that area would allow for community use of the premises, the Council agreed to the Centre expanding.

Plans were drawn up by the Minor Works Department of the University of New South Wales in consultation with Centre staff. Work commenced in early 1992 and was finished in time for the arrival for Session 1 students in March. The result of the refurbishments has been to expand considerably the student work area so that up to 12 students can work side by side in some comfort. New client interviewing spaces were created which, although only barely satisfactory in terms of privacy, are functional. A proper classroom space for students has been set aside and a new administrative area for the Centre’s support staff has been created. The work was done on budget and on time, and has considerably enhanced the Centre’s ability to provide education and community services.

An open day for the teaching staff of the Law and Social Work Schools was held in May, but was unfortunately very poorly attended. The Centre enjoys considerable support from the Law School, and appreciates the knowledgeable and constructive discussion that often surrounds the Centre’s operations. It is perhaps a pity that more members of the School are not able to take part in those discussions.

Towards the end of 1992 Randwick City Council allocated $5,000.00 for the guttering and painting of the Centre. As neither has been undertaken for at least 10 and perhaps up to 15 years, the decision is much appreciated and will assist in raising the profile and tenor of the Centre, as well as securing its future for a while longer.
Clinical Education

A major initiative in 1992 was the commencement of a new subject at the Law School: Clinical Legal Experience (Intensive). Superficially, the difference between this subject and the ordinary clinical subject is that students attend the Centre for two days instead of one day a week, for six credit points instead of three credit points.

After lengthy discussion at the Curriculum and Teaching Committee, the recommendation was accepted by the Law School in September 1991 for implementation in 1992. Of the 25 student positions available at the Centre in the first session of 1992, 12 were taken up by the “intensive” students, attending on two days a week. The remaining places were taken up by the students enrolled in the usual subject, attending one day a week. The figures for second session were 7 intensive and 18 ordinary students.

The increased continuity of students’ involvement in their clients’ matters has resulted in an exponential increase in the depth in which students consider, analyse and comprehend the legal and professional issues involved. The quality of discussion between students and solicitors relating to substantive, procedural and ethical aspects of the legal work has been very satisfying, and of a standard which is consistently higher than was previously the case.

It became clear through the year that students developed an increased identification with the Centre as a result of their more frequent attendance, giving rise to a level of spirit and commitment to the Centre’s social justice aims which was perhaps unanticipated when the intensive subject was first proposed. As a result, they developed an excellent environment for developing the non-casework project files at the Centre, discussed elsewhere in this report. Not only extra time, but a new and different attitude to legal work have seen the intensive students contribute significantly to the community legal education and law reform projects in 1992.

Many of the administrative and educational aspects of the introduction of the intensive subject have been reported in greater detail to the Curriculum and Teaching Committee and to the Centre’s own policy-day meetings. While it may be desirable to have as many students as possible attend the intensive course, it appears that to offer the subject only on that basis may exclude students who are unable or unwilling to commit six credit points to one subject and thereby lose the opportunity of doing other electives. Consequently, there is no intention at this stage to abandon the three credit point subject in favour of the intensive subject alone.

Demand for the subject continues to be high, reflecting the higher profile that the Centre has had at the Law School and in the community generally. The intensive subject, the community development program, and the commitment to increase student autonomy, all of which are a result of the review of the clinical program conducted in 1990/91, are factors that have contributed to the high regard in which the Centre is held among students in the Law School.

As usual, the number of students wanting to enrol in the summer subject far exceeds the Centre’s capacity. This demand is in large part explained by the attractiveness of doing a subject, any subject, over the summer break, although many students see the time spent at the Centre as being qualitatively different from, and preferable to, time spent in a summer clerkship.
Access and Equity

As part of the Centre’s commitment to community access and equity in relation to provision of legal services, the Centre ensured that a capacity to speak a relevant community language was a factor in employing a legal secretary in 1992. Myriam Nunez, employed to replace Vivienne Green in May 1992, is South-American by birth and speaks fluent Spanish. The Centre serves a large South-American population in the southeastern Sydney region, and Myriam’s presence at the front desk and in answering phones has enhanced considerably the Centre’s profile in that community.

The Centre has had printed in English and in five community languages a brochure that explains the unique basis on which legal advice is offered at the Centre. It is important that clients understand the involvement of law students in the Centre’s process; all clients are given a written explanation of the basis for the Centre’s operation.

In response to a report and recommendations of the Botany Migrant Resource Centre, we have determined to enhance our access and equity policy. This is a project of our social work unit. The report, “Study of the Effectiveness of Service Delivery to People of Non-English Speaking Backgrounds”, was available early in 1992. The sample survey group was drawn from areas covered by both Redfern and Kingsford Legal Centres. Of the survey group 23.6% were unaware of the services.

Of 13 responses regarding the quality of service, the replies were overwhelmingly supportive, especially in relation to the legal services’ ability to understand and to explain.

The report recommended that legal centres implement access and equity policies, and increase awareness of the service in the non-English speaking community.
Kingsford Legal Centre is a service for people who live and work in the Randwick/Botany area. It is staffed by a lawyer and 25 law students specialising in legal aid. They work here two afternoons a week. A lawyer and a law student are available to consult with clients who need legal advice.

SIMON RICE
DIRECTOR
Funding

The Centre continues to receive a substantial amount of its funding from the Law Faculty at the University of New South Wales. An invaluable contribution is made by Randwick City Council which provides the premises at reduced rent, and maintenance services to the property. A proposal during the year that the rent be increased to market rent was troubling, and threatened the viability of the Centre. The Centre is grateful to community organisations and aldermen who supported it during discussions with Council, and is grateful to the Council for ultimately reconsidering this proposal and not proceeding with it. It is unlikely that the Centre would be able to locate suitable and affordable premises in the area, and the University, although sympathetic, is itself hard-pressed for space.

The Centre continues to receive funding under the Community Legal Centres Funding Program which is managed by the Legal Aid Commission of New South Wales. For some years the Centre has received joint Commonwealth and State funding for one legal centre employee. These funds are used for the employment of a solicitor and as part contribution towards the non-salary expenses of the Centre. Unfortunately, the Centre was again unsuccessful in a funding submission for a further solicitor’s position and for a social worker’s position. The need for the extra solicitor’s position has since been answered by the secondment from Freehill Hollingdale & Page; we are hopeful of obtaining funding for a part-time social work position in 1993.

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

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

The Centre continues to receive funds from the Legal Aid Commission on a financial year basis and from the Law Faculty on a calendar year basis. In the 12 months 1 January 1992 - 31 December 1992 the Centre’s income and expenditure was as follows:

**Income**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community Legal Centres Funding Program:</td>
<td>$52,537.50</td>
</tr>
<tr>
<td>UNSW Salaries and Non-Salary Items:</td>
<td>$230,072.31</td>
</tr>
<tr>
<td>Self-Generated Income:</td>
<td>$10,815.67</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$293,425.48</strong></td>
</tr>
</tbody>
</table>

**Expenditure**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries and Associated Costs:</td>
<td>$225,492.57</td>
</tr>
<tr>
<td>Operational Costs:</td>
<td>$73,608.57</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$299,101.14</strong></td>
</tr>
</tbody>
</table>

**NET**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>NET</strong></td>
<td>($5,675.66)</td>
</tr>
</tbody>
</table>

16
Students’ views

In its January 1992 edition, the higher education newsletter Campus reported on the Centre’s operations. Eric Aubert was the reporter, and he interviewed some of the students:

"While most students took their summer break, it was business as usual at the University of NSW’s Kingsford Legal Centre.

"The Centre fills a market gap by providing legal help to people ineligible for legal aid but unable to afford a private solicitor.

"Students get a real buzz out of doing the elective, Simon Rice, the director says. There’s enormous satisfaction from discovering how theory is put into practice.

"It stretches them personally and makes them think more critically about the functions of the legal system.

"Olga Ganopolski, a final year law student, said the experience was rewarding, partly because it involved legal practice outside the commercial arena.

"It showed students how the law fits in with social needs and how it can help average people in the community", she said. "A lot of the time legal decisions are made with financial considerations in mind, so it is good to work in an area where the main aim is helping less privileged people in society.

"Fifth-year student Pia Van de Zandt was required to pass the elective as part of her combined law/social work degree.

"Working with the public and solving real legal problems brings to life what we have studied", she said. "The elective gives us a better idea about where we want to end up after graduating".
Volunteer lawyers

The Centre continues to enjoy the enthusiastic support of a stalwart group of volunteer lawyers, attending on a fortnightly roster to advise the local community. These lawyers are barristers and solicitors working in a range of practices from purely commercial to government, suburban or legal aid. Many of them are former students at the Centre who, after some time in legal practice, have felt that they have gained sufficient experience to be able to join the roster.

Special mention must be made of Abe Schwartz who has been a volunteer lawyer at the Centre for perhaps longer than even Zoe has been working here. He not only continues to attend on the roster (except when he takes his annual holidays to go to the Sydney Film Festival) but takes responsibility for supervising one of the advice nights and for liaising closely with the staff on issues that arise from time to time.
The following are volunteer lawyers who attended the Centre in 1992:

Mark Anstee
Sue Cunningham
Kathy Doosey
Michael Eburn
Dennis Flaherty
Linda Goodman
Fiona Guilmartin
Duncan Inverarity
Shirli Kirschner

John Longworth
Adam McLean
Dave McMillan
Sue Mordaunt
Lisa Ogle
David Robertson
Robert Tassell
Mary Turco
Jenni Whelan
Michelle Womer

We continued to have the assistance of a barrister once a fortnight on roster from 8th Floor Garfield Barwick Chambers.

Volunteer lawyers Shirli Kirschner, Judson Agius and Michelle Worner at a Tuesday night advice session
Pro bono contributions

In a year when "pro bono publico" was a concept enthusiastically embraced by the profession, many barristers and solicitors demonstrated through their contribution to the Centre that *pro bono publico* is more than mere rhetoric. The Centre and its clients benefited considerably from extensive professional time donated by a number of barristers in conducting complex, time consuming and important cases. Many of those cases are discussed elsewhere in this report.

The Centre thanks these barristers for their contribution:

Mark Anstee  
John Basten QC  
David Buchanan  
David Catterson QC  
Martin Gorrick  
Mark Lynch  
George Masterman QC  
Lucy McCallum  
David Robertson  
David Robinson  
Chris Ronalds  
John Spender QC

Annual holidays are more of a principle than a practice in many community legal centres. Legal centres are often unable to afford the cost of a locum to cover for the absence of a solicitor, and are unable to function short staffed. This has been a chronic problem at the Centre but one which was alleviated considerably in 1992 by the generous donation of time by Allen Allen & Hemsley and two of its employed solicitors. When Simon took six weeks leave in the middle of the year, one of our volunteer lawyers, Shirli Kirschner, approached her employer, Allens, on her own initiative and arranged a secondment to the Centre. The secondment was successful, and had many of the advantages noted above in relation to the permanent secondment from Freehills. So successful was the arrangement that when Paul too wanted some leave the Centre again approached Allens who were able to arrange for Kylie Virtue to repeat the secondment. This is an example of simple pro bono cooperation which we hope will be repeated, and which ought to extend more widely; there are clearly benefits both to the Centre and to the law firm involved.
Cases

The Centre was involved in 1992 in a number of cases that were both interesting and important.

In addition to these important cases, the Centre conducted a large number of cases, both civil and criminal, in a number of jurisdictions: Local, District and Supreme Courts, Social Security Appeals Tribunal, Administrative Appeals Tribunal, Residential Tenancies Tribunal, Commercial Tribunal, Family Court, Metropolitan Childrens Court (Family Matters), Consumer Claims Tribunal, Human Rights and Equal Opportunity Commission, Anti-Discrimination Board, Equal Opportunity Tribunal, Industrial Commission, and the Bankruptcy District.

King v New South Wales Land and Housing Corporation and Ors, NSW Court of Appeal 10 April 1992.

After the landmark case of Nicholson, run by the Public Interest Advocacy Centre, the Supreme Court again had the occasion in King's case to comment on the application of rules of procedural fairness to Department of Housing evictions. It appears clear from King's case that the Residential Tenancies Tribunal must give a tenant a chance to argue her or his case before it terminates a suspension order or issues a warrant for possession.

The Department of Housing had applied for termination of a tenancy and for an order for possession under section 58 of the Residential Tenancies Act. Although the orders were made, they were suspended subject to the tenant complying with a number of conditions. The Department then alleged that the conditions had been broken and sought a warrant for possession. The tenant was not given an opportunity to respond to the allegations that the conditions had been broken. Instructed by Mr King, and assisted by pro bono counsel, the Centre obtained an interim injunction restraining the Department from executing the warrant. At a full hearing, however, the Court rejected Mr King's application for the injunction to continue, and Mr King appealed to the Full Bench of the Court of Appeal. His appeal was upheld.

Priestley JA described Mr King's contention that he had been denied natural justice as "to say the least of it, distinctly arguable". Priestley JA went on to say "it is only when a statutory power is conferred in a way which clearly and explicitly ousts the rules of procedural fairness that a Court will act on the basis that the authority or person endowed with the power may proceed without due regard to those rules". After the decision of the Court of Appeal, the proceedings were settled. The Department of Housing consented to the orders made by the Residential Tenancies Tribunal being quashed.

Willis v State Rail Authority of New South Wales, Equal Opportunity Tribunal, 1 June 1992

Andrew Willis applied for an apprenticeship with the State Rail Authority and appeared to have been given a position, but for a hearing test. He was told that his hearing did not meet the State Rail Authority’s standards.

The case was a long and complicated one and required the Tribunal to refer to some of authoritative cases previously run by the Centre: Jamal; Anstee; and Sheiban.
The case turned in large part on whether Mr Willis, with an admitted hearing loss, would be able to perform the tasks of an apprentice safely or at all. A further question was whether the State Rail Authority could take reasonable steps to enable him to carry out the duties. More than 18 months after he had been discriminated against, Mr Willis won his case and, he hopes, brought about a significant change in the way the State Rail Authority regards physical impairment.

**Hurley v The Electricity Commission of New South Wales,** Equal Opportunity Tribunal 30 June 1992

An important precedent was set in this case, in an interim decision which determined whether the Tribunal had jurisdiction to go on and hear the substantive merits of a discrimination complaint.

The simple question for the Tribunal was whether a person with hypertension is a physically handicapped person within the meaning of the Anti-Discrimination Act. The Tribunal found that, having regard to a number of negative community attitudes held in respect of sufferers of hypertension, a person with hypertension could be, and in this case Mr Hurley was, a physically handicapped person within the meaning of the Act. The matter is awaiting hearing in 1993 on the merits of Mr Hurley’s complaint.

**Wilson & Lampasona v Garendon Investments,** Commercial Tribunal, 10 December 1993

Ms Wilson and Mr Lampasona found themselves the proud owners of a timeshare holiday package and a debt of about $12,000.00 after attending a prize-giving night in response to a "free" competition. They missed out on the Hawaiian holiday but did get a cheese board. They also signed up for a lifetime of holiday weeks at Port Macquarie.

In a joint effort with Redfern Legal Centre we argued in the Commercial Tribunal that their loans, and the loans of thousands of other borrowers were regulated by the Credit Act. The developer conceded that it did not have a licence to lend money under the Credit Act and that if the loans were regulated they were not entitled to the money lent or any interest on it unless the Tribunal reinstated some or all of the borrowers’ liability.

The Tribunal said that the loans were not credit sale contracts and not regulated loan contracts, so the developers did not need a licence.

The matter is now the subject of a Supreme Court appeal. The Commissioner for Consumer Affairs who intervened on behalf of borrowers generally in the Commercial Tribunal has not joined the appeal.

**R v Champion,** Court of Criminal Appeal, 8 October 1992

Mr Champion is an intellectually disabled man who was convicted of indecent assault. He was placed on a 5 year bond. Perhaps not surprisingly he breached his bond, only in that he failed to comply with some of the directions given to him by the Community Corrections Service. Expert evidence attributed these breaches to Mr Champion’s intellectual capacity to comprehend such directions.

After completing 18 months of his bond Mr Champion was called up for the breaches and sentenced to two years goal for the original offence. Mr Champion instructed us in his appeal.
The appeal against the sentence was upheld, and the bond re-imposed. The Court led by Justice Kirby confirmed the developing principles of sentencing intellectually disabled offenders: in short, the "general deterrence" principle of sentencing is given less weight, if any, when sentencing a person with an intellectual disability. This, said Justice Kirby, is now "well-established jurisprudence", although his judgement is the most authoritative such pronouncement in Australia.

Aspland v Victims Compensation Tribunal, District Court, 13 November 1992

The Victims Compensation Tribunal (the VCT) awarded Mrs Aspland $1,000.00 after she had been assaulted by her employer. The VCT decided, without a hearing and on the strength of its own reading of documents, that Mrs Aspland "was primarily responsible" for the assault.

On appeal Phelan DCJ made it clear that "far from provoking an assault, Mrs Aspland was assaulted in a nasty and vicious way", molested, and almost raped. No history of a relationship excused this conduct. Nearly 3 years after the assault, after being disbelieved by police and by the VCT, Mrs Aspland received the maximum award of compensation.

A distinctive feature of the case was the lengthy submission that was made to address the failure of the police to respond to the assault. The incident occurred in a country town, the parties lived in another country town, the aggressor was a senior figure in the town, and Mrs Aspland's husband was a police officer. These factors conspired to raise strong sociological considerations that militated strongly against Mrs Aspland.

We made a well-documented submission on these factors, explaining why her credibility should not be questioned because of others' failure to believe her. As Phelen DCJ said, the reasons for police inaction were "understandable but...unsupportable". The police inaction was "wrong", and the complaint had been "swept under the carpet".
Statistics

Number of individual advices = 1406
Number of files opened = 499
Anti-Discrimination Law

As it has done since its inception, the Centre conducts perhaps the largest anti-discrimination practice in the State. We continue to receive direct referrals from the Anti-Discrimination Board of clients who have reached an impasse in the conciliation process and who require legal advice and assistance. We are also one of a number of sources of assistance to which the Registrar at the Equal Opportunity Tribunal refers unrepresented complainants. In addition we receive numerous direct referrals from the Legal Aid Commission, the Law Society, the Human Rights and Equal Opportunity Commission and other agencies.

The demand for our services in this area is gratifying but causes some concern. These matters are often technically and factually complex and require the commitment of considerable time. With the limited availability of legal aid, and none being available for the conciliation stage of an anti-discrimination complaint, the burden of maintaining a viable anti-discrimination jurisdiction in New South Wales falls heavily on this Centre. The Centre receives no funding or other resources for the work it does in this area, but acknowledges at the same time that the Anti-Discrimination Board and the Equal Opportunity Tribunal themselves are severely under-resourced and under-funded.

It is a cause of considerable concern to us, speaking from a position of some standing and experience in the area, that the needs of the anti-discrimination jurisdiction appears to be irrelevant and largely ignored by Government. The jurisdiction has been neglected for some years now, and has been left to cope with politically correct increases in its jurisdiction, but without the resources even to maintain its basic role, let alone an increased workload.

We look forward not only to the final report of the Law Reform Commission in its reference into the operation of the jurisdiction, but to the implementation of any recommendations that will enhance the jurisdiction’s ability to provide access to fundamental human rights to the people of New South Wales.

A report on migrant services in the local area (see Access and Equity in this Report) noted that discrimination is a significant phenomenon in their lives, and there is insufficient support and assistance available.

Of the 45 matters that were pending at the Equal Opportunity Tribunal at 1 July 1991, 7 were being conducted by Kingsford Legal Centre. Of the 39 new matters referred by the Anti-Discrimination Board to the Equal Opportunity Tribunal in 1991-92, 3 of them were conducted by Kingsford Legal Centre.

Of these 10 matters in total, 4 were settled by negotiation before they went to hearing. 4 remain part-heard, 1 went to hearing and was won by the complainant, and 1 was lost by the complainant when unrepresented but we have been instructed to take it on appeal.

In addition to these matters before the Tribunal, the Centre conducted conciliation conferences and/or negotiations, and gave advice on merits and procedure in numerous others. It is disappointing that in an account of successes in advancing anti-discrimination principles we cannot report in detail on successfully negotiated settlements. Innovative terms of
resolving discrimination disputes should be made known as widely as possible - not to 'punish' the alleged discriminator, but to promote standards of non-discriminatory behaviour and the prospects of resolving disputes.

Non-monetary settlements that include revised employment policies, staff counselling and workplace education are some of the many bases on which complaints can be resolved.
Domestic Violence

The Centre has continued its commitment to the effective operation of the domestic violence provisions in the NSW Crimes Act. Our solicitors attend monthly at Redfern Local Court on the rostered service there, and attends Waverley Local Court almost weekly. At these times the solicitors adopt a "duty solicitor" role, advising and appearing for complainants in applications for domestic violence orders.

The Centre receives referrals directly from local community organisations, including women’s refuges, and from the Chamber Magistrate at the Court.

Policy developments in this area in 1992 include the commencement in the social work unit of the development of a policy on domestic violence representation, and the Centre’s renewed involvement in the Eastern Suburbs Domestic Violence Committee.

---

Cartoon by Streetwise

WE CAN DO SOMETHING ABOUT IT!

DOMESTIC VIOLENCE = BREAK THE SILENCE
Projects: Legal education and law reform

A significant result of the review of the clinical program in 1990/91 was the determination to develop a range of community development programs that could be managed by students on clinical placement at the Centre. The realisation of this aim was tied in with the introduction of the intensive subject and the commencement of the Freehills secondment.

The various projects were developed in consultation with the Kingsford Legal Centre Advisory Committee and were managed by law and social work students under the supervision of Paul, John and Mick.

The philosophy of the community development program is to

- develop a range of legal information and resources which will be available to KLC clients and local residents.

- actively disseminate such information to the local community in a way which is accessible, useable and promotes access to and rights under the legal system.

- allow law students the opportunity to undertake a non-casework task which provides some preparation for non-traditional areas of legal practice such as Government agencies, legal aid and community legal centres.

- encourage co-operation between students from differing disciplines and increase mutual knowledge and recognition of skills and practice.

The following projects under the community development program have commenced in 1992/1993:

**Local environment**

Students have developed a liaison with local resident environment action groups. Priority resident concerns are identified, and legal remedies considered. An issue of current concern is the monitoring of sewage disposal at the Malabar outfall.

**Abuse of the elderly**

This project has involved community research and education in relation to the rights of elderly persons in the community. The project targets a variety of manifestations of abuse which range from discrimination to financial rip-offs, psychological and physical abuse. Students have completed some preliminary research including a review of relevant legislation. On the basis of research and community consultation, the project aims to provide to the elderly information on rights, through print resources and seminar presentations to residents.

**Kooloora Community Outreach**

This project works with the Kooloora Community Centre, a neighbourhood centre in the large Department of Housing estate at Malabar. The aim of the outreach project is to identify legal needs of public housing tenants and develop strategies to broadening tenants access to legal services. The project grew from a study conducted by a social work/law student, Pia van de Zandt, which found that residents at the Malabar housing estates had limited knowledge of or access to legal services.

The project ran a fortnightly advice "clinic" at the Kooloora Centre in 1992 on a trial basis. In 1993 the project plans a series of workshops on issues relevant
to public housing tenants in areas such as tenants' rights and credit and debt problems.

Legal rights and responsibilities of youth
The project works to educate youth in the community about the legal system and their rights. In 1992 the project ran a series of workshops for Youth Week, for the Circuit Breaker Program for adolescents from non-English speaking backgrounds, and for Randwick Boys High. Students have developed resource materials as a result of this initial series of workshops as a basis for future educational work with youth. It is planned that this material will be presented to youth groups through a variety of teaching methods including role plays, discussion and audio-visual displays.

Legal problems of people from Non-English Speaking Backgrounds (NESB)
The main focus of this project was access to interpreters within the legal system and the Courts, particularly the Family Court. Students arranged meetings with representatives of ethnic communities, the Ethnic Affairs Commission (NSW) and interpreters. They identified the practical difficulties in the notion of a "right" to an interpreter and confusion in the responsibilities of and relationships between different agencies. With the advent of "user pays" principles for Government interpreting services, the question is who is the user: the Court or the client?

Child care centres
This project has involved a number of presentations at child care centres on legal issues relevant to child care centre customers, staff and employers. In 1992 a needs analysis survey was conducted of child care centres in the local area to identify legal training needs. Users of child care centres have requested seminars on a variety of legal issues, especially family law and duty of care issues.

In addition to the projects, the Centre was able to make a number of law reform submissions. With the assistance of a law student, Dani Tracey, the Centre made a submission to the Law Reform Commission of New South Wales on its Scrutiny of the Legal Profession reference, commenting particularly on the complaints mechanism.

The Centre offered comments on a discussion paper issued by the Law Reform Commission in relation to the Anti-Discrimination Act 1977. The Centre's comments related in particular to the manner in which the powers and functions of the Anti-Discrimination Board are defined and carried out, and to the way in which proceedings in the Equal Opportunity Tribunal are described and are in fact carried out.

One of the law students in the clinical program, Lil Cullen, prepared under the supervision of the Centre a response to the Law Reform Commission's Issues Paper on People with an Intellectual Disability in the Criminal Justice System.

Another student in the clinical program, Sacha Molitorisz, drafted for the Centre a submission in response to the Attorney-General's Issues Paper on Review of the Bail Act.

The Centre contributed substantially to the submission made by the Combined Community Legal Centres Group of New South Wales in response to the Attorney-General's Issue Paper on a Review of the Victims Compensation Act.
Community Legal Education

In addition to the various community projects that have been developed over the year the Centre’s solicitors have responded to numerous requests for legal education. In all, the Centre in 1992 addressed over 400 people on 14 different occasions in groups ranging from 8 to 100.

Topics covered included common law liability for child care workers and social workers, social workers as witnesses, legal rights and responsibilities of youth, wills, estates and funerals, the position of older people in the nineties, and family law issues for sole parents.

Law School Teaching
Consistent with the Centre’s commitment to pursue integration of clinical method in the Law School, the clinical supervisors contributed to teaching of other subjects in the undergraduate curriculum.

Role-play classes were part of Melinda Jones’s Law Lawyers and Society subject, the object being not so much to teach interviewing and negotiating skills as to highlight aspects of professional practice.

We conducted classes in Owen Jessep’s Family Law subject on domestic violence, and in Gary Charny’s Trial Process subject on Local Court procedure.

The most significant cooperative effort involved the Immigration Law subject, taught by Kathryn Cronin. As happened successfully 1991, Kathryn’s students took instructions for the Centre in a number of immigration matters and then prepared appropriate advices and applications under the supervision of Kathryn and the Centre’s solicitors.
Kingsford Legal Centre Design Project

Third year students from the School of Architecture at the University of New South Wales undertook as a design project the design of new premises for the Centre. They were under the supervision of John Gamble and Dr Bruce Judd, and used as the site a vacant block of land very near the present site of the Centre. Simon Rice and Mick Hillman attended a meeting of all the students to brief them, as a client would brief an architect for a particular job. The students took a keen interest in the particular needs of the Centre, and all visited the Centre from time to time to get a clear understanding of its operation.

The designs were exhibited in the middle of the year and were highly regarded by the staff of the Centre. Many of the students had managed to combine thoughtfully the various demands on the Centre’s space: legal education, social work education, community service and legal practice.

Towards the end of 1992 the exercise was being repeated for final year architecture students.
Committees, Research and Authorship

Simon Rice was at different times in 1992, a member of:

- Redfern Legal Centre Publishing Management Committee
- Lawyers' Practice Manual Editorial Committee
- Alternative Law Journal Editorial Collective
- Practice Issues Sub-Committee of the Combined Community Legal Centres' Group (NSW)
- Funding Sub-Committee of the Combined Community Legal Centres' Group (NSW)
- Law Foundation of NSW Legal Education Advisory Committee
- Centre for Legal Education Standing Committee on the Teaching of Professional Responsibility
- UNSW Law Dean's Advisory Committee
  UNSW Law School Curriculum and Teaching Committee
- Legal Aid Commission of New South Wales - Commissioner
- Special Purposes Funding Sub-Committee of the Legal Aid Commission

During 1992 Simon published articles and comment:

- "Independent Financial Advice and the Case of Beneficial Finance and Karavas" (1992) 3 J Banking and Finance Law and Practice 112
- "Prospects for Clinical Legal Education in Australia" (1991) 9 J. Professional Legal. Ed. 155
- "Rights to Free Speech and to Demonstrate" (1992) 7 Campaign for Criminal Justice Bulletin 1 (with Joyce Grant)
- "Community Legal Centres: Two views of the National Agenda" (1992) 17 Alternative Law Journal 120

Paul Batley was at different times in 1992, a member of:

- Campbelltown Legal Centre Management Committee
- Consumer representative, Privacy Commissioner's Consultative Committee on the Credit Reporting Code of Conduct
- Secretariat Management Committee
- Prisoners' Committee

John Godwin was at different times in 1992, a member of:

- Committee member of the AIDS Council of New South Wales Inc.
The postcard receipt rate was up by approximately 70% over 1991 figures, due in large part to the rare occurrence of most members of staff being able to take annual holidays, and the phenomenon of the seconded solicitors taking off overseas as soon as they had survived the rigours of Kingsford Legal Centre.

Postcards were received from destinations as diverse as Byron Bay and Fremantle, Tokyo and Prague.
Panels, Conferences

Simon Rice was a panellist at the Lexpo '92 Pro Bono Forum. In a joint presentation with Andrew Durbach of the Public Interest Advocacy Centre, Simon commented on the uncertain definition of pro bono work, and queried the extent to which pro bono work is able to guarantee access to the courts. He also discussed the type of work that can be done pro bono, extending beyond litigation to lobbying, reform and policy work.

Both John Godwin and Simon spoke at the National Community Legal Centres' Conference in Canberra. John co-presented two workshops on HIV/AIDS and the Law, concentrating on policy issues for legal centres and practical issues for legal service delivery to people affected by HIV/AIDS. Simon spoke of the procedural barriers that confront complainants seeking a remedy for unlawful discrimination.

In June 1992 Simon attended a conference of the International Sociological Organisation's Working Party on Legal Aid. The conference was in Aix-en-Provence, and Simon presented a paper on the place of community legal centres in legal service provision in Australia.

The Continuing Legal Education Administrators' Conference was held in September 1992. Simon joined Rob Ferguson, Managing Director of Bankers Trust Australia, in giving a presentation on what clients want from their lawyers.
The Year to Come

There have been major developments in the way in which the Centre functions, both in delivering a legal service and in conducting legal education, in 1990-92. We look forward to consolidating those changes in 1993.

While we will continue to tinker with the organisation of the office and to enhance resources whenever possible, we look forward to further developing the major initiatives of 1992: the secondment, the intensive subject and the community development projects.

Student Gareth Lewis who received an honourable trophy for his time at the Centre
Students at the Centre

The following students worked at the Centre at different times in the Summer Session 1991-92, and in Sessions 1 and 2 of 1992:

Judit Albecz
Sandra Butler
Geoff Chan
Paul Chan
Maggie Cheung
Thomas Chiu
Chris Chow
Rose Coelho
John Dietrich
Andrew Hills
Jane Hogan
Katie Lahodny
Colleen McCullum*
Sean Mah
Fiona Marks
Bernadette Ross
Antonin Sebesta
Jill Sleeman
Sweenee Tay
Claudia Towers
Pia Van der Zandt
Karen Wilcox
Anne Wills
Amalia Windsor
Eleanor Alexander
Hannah Alexander
Stephen Aroney
Jacqueline Barrett
Adeline Cheng
Robert Buonamono
Suseela Durvasula
Malcolm Fielding
Bruce Fischer
Aubrey Fritzeshanks
James Johnson
Tim Lai
Sharad Loomba*
Simeon Michaels
Jason Opperman
Yury Reznik

Michael Riches
Evan Ruth
Marilyn Scott
Hoon Sim
Susannah Swan
Vanessa Titchmarsh
Alison Urquhart
Michael Westbury
Vincent Wong
Heather Anderson
Antony Barach
Lawrence Blumberg
Jane Bradley
Dianne Bruning
Lil Cullen
Sonya Daly
Philip Dicalfas
Lester Fernandez
Jane Flower
Wendy Ford
Simon Griesz
Gary Hooper
Gareth Lewis*
Mei Loke
Sacha Molitorisz
Elizabeth Panovska
Sean Rheuben
Paul Sheiner
Sourina Simmalavong
Helen Spowart
Sarah White

*For reasons best not disclosed publicly, these students received the Centre's perpetual trophy for an outstanding or memorable contribution to the Centre.