



Justice for our people AJAC Newsletter



News and information from the NSW Aboriginal Justice Advisory Council

Community | Leadership | Respect | Safety | Justice

Volume # 5 July - August 2008

A warm welcome to the 'winter edition' of the newsletter!

The variety of articles in this edition once again shows how the AJAC is casting a wide net in our attempt to implement the Aboriginal Justice Plan (AJP). It is quite difficult and resource intensive playing a consistent role in the numerous agencies responsible for delivering services to Aboriginal people and communities in NSW. A lot of our time is spent attending the co-ordinating meetings of the agencies to ensure that the AJP is considered in their approach and that there is as little duplication as possible. Whilst it is not always possible to physically be at the meetings we do always get the minutes and provide any feedback we can.

A couple of staff changes have meant that we do this differently over the next month or so but the strength of the AJAC team means we will still be able to maintain our presence and strength. First, we bid farewell to Gayle Kennedy – thanks for your amazing contribution – who retired since our last newsletter. Second, Samantha Joseph is on a secondment to the Crown Solicitors Office for six months and finally, Linda Crawford will be acting in the Senior Policy officer position. Thanks everyone for your hard work.

Next update in the warmer months!

Terry Chenery

Executive Officer

Aboriginal Justice Advisory Council

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Happy Naidoc 2008

The AJAC celebrated NAIDOC 2008 *Advance Australia Fair?* by attending a number of events, including the NSW Attorney General Departments flag raising ceremony on Monday 7 July. We congratulate the NAIDOC award recipients and look forward to NAIDOC 2009.

Newsletter Anniversary!

This edition marks the one-year anniversary of our new look newsletter.

At AJAC we recognise the importance of sharing information to a wide audience to raise awareness of issues affecting policies, procedures and legislation affecting Aboriginal people as well as updates on services and programs that assist Aboriginal people and a raft of other things.

We aim to spread the word wide, which is why our readership is broad. Our distribution list currently reaches about 250 people and organisations, including Aboriginal community members, public service employees, community sector employees and corporate practice employees. Our newsletter aims to provide

articles that are informative, succinct and relevant.

This new look arose as we were aware of our involvement in providing independent advice on issues affecting Aboriginal people, sat on a range of committee's and conducting research and we wanted people to know what was going on.

The newsletter continues to grow, as do we! If you would like to contribute an article please feel free to call us on (02) 8688 8106.

Samantha Joseph

Acting Senior Policy Officer,
Aboriginal Justice Advisory Council

Seido Juku inter dojo tournament

On 10 May, the annual Seido Juku inter dojo tournament was held at the Australian Seido Juku headquarters in Darlington. The event was attended by over 150 people of whom 80 competed. Competitors and spectators attended from Victoria, the NSW Central Coast and the Sydney metropolitan area.

Corey Sherriff and Richard Chan-Hampton (pictured below) represented Seido Kazoku Aboriginal Program in junior shiai (non opponent sparring). They were brave little karateka (participant) and both won medals. Richard won gold and Corey won silver. More importantly though, the boys competed against other little karateka in a spirit of respect and friendship.

Some of the money raised at the tournament will be donated to the Seido Juku Aboriginal Program in an effort to encourage more Aboriginal children to participate in a sport other than football. It is hoped this program or something similar can be expanded into Victoria and AJAC is currently working on this, so watch this space for updates.

Linda Crawford

Policy Officer, Aboriginal Justice Advisory Council



Inter Dojo tournament L-R Corey, Linda & Richie.
Photo Miklos Farago

Wills Project

The Aboriginal Wills project is being carried out by Professor Prue Vines of the Faculty of Law University of NSW and the Public Trustee in association with the Indigenous Law Centre (UNSW), the Aboriginal Programs Unit of Attorney General's NSW and the Aboriginal Justice Advisory Council (AJAC).

A number of meetings have been held with people in Aboriginal communities to establish what the specific concerns of Aboriginal people are about when someone passes away. The researchers were aware of a number of issues, including problems with disputes over burial, mis-matched kinship patterns between Aboriginal people and the law which applies to them, and the passing of secret information for

the purposes of customary law. The findings of the researchers so far include some which are consistent with our expectations, but also some surprises.

There was very strong agreement, particularly from female Elders, that disputes over burial of bodies was a very big problem. Associated with this was a very high level concern that burial funds were either inadequate or were actually 'ripping people off'. A major concern amongst respondents was that after-death disputes were developing into major family feuds.

Many people were under the impression that they do not own enough property to make a will. It also became clear that some agencies were under the same impression and had reinforced this idea. Many of our respondents were also under the impression that a will passed on both property and debts. These misunderstandings appear to have contributed to Aboriginal people's reluctance to make a will.

The idea of protecting customary law was regarded as significant as a backstop, but as having some inherent dangers eg what if a person made a will saying they owned something, but the community disagreed. However, respondents were interested in the possibilities of being able to protect secret knowledge and pass it on.

The consultation phase of the research is now coming to a close. The next phase is to develop protocols for the taking of instructions and precedents for making wills in a culturally appropriate way, and take these back to the community. These will then be made available to Public Trustee lawyers who make free wills, and later, to as many lawyers as possible so that making culturally appropriate wills are easily available to all Aboriginal people.

Professor Prue Vines
Faculty of Law, University of NSW

Interns

In the last issue of the AJAC newsletter it was mentioned that the Aboriginal Justice Advisory Council (AJAC) was to host two interns from the United Kingdom. After 3 months travelling around South America we arrived in Sydney in mid May and began a month long internship at the AJAC which subsequently resulted in us being employed by the AJAC for a short term to conduct particular research.

Let us formally introduce ourselves: we are Anna Pendlebury and Elizabeth Rowlands. We are Masters in Criminology and Criminal Justice graduates from Kings College London, and through a contact at the university we learnt about AJAC and asked if they would like some interns!

We are currently helping the Crime Prevention Division, on behalf of the AJAC, in their research into Aboriginal men and juveniles in custody and their over-representation within the criminal justice system. This work is following on from the AJAC's *Speak Out, Speak Strong* research.

We have enjoyed being heavily involved in structuring the survey for this research as well as preparing consent, information and ethics forms. This project has given us the opportunity to meet many representatives from different government departments who are keen to be involved in this important research.

We are both interested in how crime affects society, particularly its young people so we are pleased to be involved in this project. Elizabeth is currently looking to a future involved within research, particularly issues involving illicit substances or Social Policy/Governance issues relating to the criminal justice system. Anna has a particular interest in the juvenile justice system, with a particular interest in restorative justice.

It is a unique chance for us to be here and hope to have the opportunity to be involved with other projects whilst being able to learn about another country and cultures so thankyou AJAC!

Anna Pendlebury & Elizabeth Rowlands
Aboriginal Justice Advisory Council

Youth Justice Conferencing

Earlier this year AJAC was invited to participate in a youth justice conference as a specialist Aboriginal representative. The Department of Juvenile Justice through its Youth Justice Conferencing Directorate, is responsible for the operation of Part 5 of the *Young Offenders Act 1997 (NSW) (The Act)*.

The Act inter alia, provides for police to warn and caution young people as well as youth conferencing as early intervention options for young offenders. When police arrest a young person they must first consider whether the child is eligible for youth justice conferencing. The young person must admit the offence and consent to participate in youth conferencing. (Source www.djj.nsw.gov.au/conferencing_scheme.htm).

Section 37 (3) of the Act sets out the criteria to be applied before recommending youth conferencing, they include; seriousness of the offence, degree of violence involved, harm caused to any victim, criminal antecedents and number of previous cautions or youth conferencing dealt with under the Act and any other matter the official thinks appropriate in the circumstances.

A conference is a formal meeting conducted in a relaxed setting having the full weight of the court underpinning the decisions reached within the conference. The young person was accompanied by his mother, schoolteacher and youth worker. Also in attendance were a police officer, the convenor from the Department of

Juvenile Justice, two Aboriginal representatives including the AJAC, and the victim.

The victim took the opportunity to give full expression of their experience during and after the incident and confronted the young offender in an atmosphere of trust and safety. The young offender responded and apologised to the victim for the harm caused. Other members of the conference had the opportunity to participate and all participants of the conference including the young offender agreed to an outcome Plan for the young person. Follow up finds the young offender fulfilling the obligations of the recommendations of the conference.

Linda Crawford
Policy Officer, Aboriginal Justice Advisory Council

Evaluation Of The Guide To Legal Services For Aboriginal People In NSW And Act

In our previous newsletter, we reported that an evaluation of the *Guide to Legal Services for Aboriginal People in NSW and ACT (the Guide)* was being conducted. The purpose of the evaluation was to determine if the *Guide* was useful and to gather information on how to improve it.

The evaluation has been lead by the Aboriginal Legal Service (NSW/ACT) Limited (ALS), with the support of the NSW Legal Assistance Forum (NLAF) and its sub-group, the Project Advisory Group (which includes the Law and Justice Foundation of NSW (LJF) and the NSW Aboriginal Justice Advisory Council (AJAC).

An evaluation report prepared by Jacqueline Gerber, Policy Officer at the AJAC will soon be published. The report will be used to inform the further development of the *Guide*, providing recommendations on how to improve and update its distribution, content and formatting,

to support its value as a comprehensive referral tool for Aboriginal people seeking low cost legal services (especially in civil law) in NSW and the ACT.

The evaluation of the *Guide* acknowledges the goals, principles and strategic directions of the *NSW Aboriginal Justice Plan (AJP)*, *Two Ways Together* and the *NSW State Plan*, in tackling the over-representation and disadvantage of Aboriginal people in the criminal justice system, by improving the quality of legal services available to them and developing safer communities in metropolitan and regional areas of NSW and the ACT.

This evaluation was undertaken to:

- determine the strengths and shortcomings of the *Guide* as a resource for stakeholder organisations and
- identify how to improve the *Guide* in terms of its accessibility, use and value for Aboriginal people seeking legal information, support and assistance in their area.

The four key research questions addressed in this evaluation were:

- How broadly was the *Guide* distributed?
- Is the *Guide* used for referrals to legal services, and by whom?
- Are users having any difficulties using the *Guide*?
- How could the content and format of the *Guide* be improved?

The project obtained and collated feedback from a cross section of 506 key Aboriginal and non Aboriginal organisations and individuals, identified by the Aboriginal Legal Service (NSW/ACT), who were sent the *Guide* in late 2006 and surveyed approximately fifteen

months later about their use of the publication. The evaluation process ran from January 2008 to February 2008. One hundred and fifty responses were obtained during this period. All stakeholders were surveyed via a paper questionnaire posted and/or emailed to them. A follow up telephone questionnaire was conducted soon afterwards, targeting a random selection of 50 stakeholder organisations that had not responded to the postal questionnaire.

Many of these organisations expressed a definite interest in using the *Guide* with their clients. Indeed, 87 of the 150 respondents (58%) specifically requested that one or more copies of the report be forwarded to them. It should be noted here that as this evaluation received 150 responses from a total number of 506 stakeholders that were sent the *Guide* (30%), we do not know if the (70%) of organisations who did *not* respond to the survey, either received the *Guide* or are using it.

Overall, the *Guide* is considered to be a comprehensive, culturally appropriate and useful publication that is used amongst a diverse range of legal and non-legal organisations across urban and rural NSW. Its success to date can be bettered by considering the feedback obtained in this evaluation from respondents who have used the *Guide*.

While the *Guide* was appreciated once it was received by organisations, this evaluation suggests that there is further work to be done to ensure that the *Guide* is distributed to relevant organisations, particularly Aboriginal organisations, and the report lists a number of practical solutions that address the document's shortcomings.

In summary, for those organisations who use the *Guide*, the evaluation confirms that the *Guide* is a well respected and useful publication that deserves ongoing funding to ensure it

remains up-to-date, user-friendly and widely circulated amongst stakeholder organisations assisting Aboriginal people to access legal services in NSW and the ACT.

Jackie Gerber

Policy Officer, Aboriginal Justice Advisory Council

Taking Justice into Custody

New Research on the Legal Needs of Prisoners

On 21 July 2008, the NSW Attorney General John Hatzistergos launched the Law and Justice Foundation of NSW research report on the legal needs of prisoners in NSW. *Taking Justice into Custody* explored on the capacity of prisoners in NSW to get legal information, advice and representation, about their criminal, civil and family law issues.

The study included in-depth interviews with 67 prisoners and ex-prisoners, including Aboriginal and non-Aboriginal men and women. The research team visited urban and rural correctional centres, and spoke with prisoners on remand, sentenced inmates, inmates on protection, newly arrived prisoners, old timers, and people who had been released from jail in the previous two years.

The report has highlighted the range of legal issues that people face as they move through the incarceration process. To begin with people often come to prison with a range of outstanding civil and family law problems, as well as their criminal law issues. Being put in gaol can then result in more issues – like the placement and care of children, housing issues and unmanaged debts. Once in prison people may need to deal with bail, prison disciplinary matters and issues with classification. Upon release people may have to comply with parole conditions, experience discrimination or find themselves faced with victims compensation restitution debts and outstanding fines and other debts.

The study explored the range of opportunities for prisoners to access legal information and assistance to deal with all of these issues. The research indicated that prison libraries, Corrective Services welfare, program and custodial staff and even other inmates are sources of legal information. Law Access and visiting legal services provide legal assistance. The Prisoners Legal Service, Legal Aid more generally, the Aboriginal Legal Service (ALS), some community legal centres, and private lawyers provide legal advice and representation.

However, while these opportunities exist, they are vulnerable to being compromised. They may be compromised by:

- limited prisoner capacity (including limited literacy skills, lack of trust in the law and histories of marginalisation from mainstream processes)
- by the systemic environment (limited access to telephones and face to face contact, limited resources to provide legal assistance services)
- by convoluted pathways to assistance (needing to rely on others, including custodial staff, to complete even simple tasks), and
- by prison culture (which may make an inmate reluctant to seek help from a custodial officer).

The report has highlighted a range of strategies to overcome these barriers and improve access to justice for people in prison. Some of these strategies are already being implemented. For instance, prisoners can now call Law Access – a legal information and advice line for free from prison. The number is on all prisoners' phone cards. Law Access have Indigenous Customer Service Officers to assist Aboriginal and Torres Strait Islander people. Legal Aid is also producing DVDs containing legal information, which will be available in all prisons. The ALS

Field Officers continue to visit prisons in NSW. Electronic copies of the summary report and full report are available at <http://www.lawfoundation.net.au/publications>. Hard copies can also be ordered from the Foundation by contacting (02) 9221 3900 or emailing publications@lawfoundation.net.au

Suzie Forell

Law and Justice Foundation of NSW

Retirement

We bid sad farewell to the AJAC Policy Officer Gayle (Beryl) Kennedy. Gayle, born in Ivanhoe and a member of the Wongaibon Clan of the Ngijaampaa speaking nation of NSW, worked at AJAC since its inception in 1993.

She was instrumental in conducting important research projects, as well as preparing submissions on a range of topics that aimed to improve the *status quo* for Aboriginal and Torres Strait Islanders.

Gayle is an accomplished writer and, in 2006, received the David Unaipon Award for her fictional novel *Me, Antman and Fleabag*. We wish Gayle every success in her future pursuits and wish to thank her for her commitment and hard work.



Gayle Kennedy

2008 Justice Awards – Improving access to justice

The Aboriginal Justice Advisory Council will attend the 2008 Justice Awards with Terry Chenery the Executive Officer selected as a panel member for the Aboriginal Justice Award.

Established in 1999 by the Law and Justice Foundation of NSW, the Justice Awards offer a unique opportunity to recognise the efforts of individuals and organisations working to increase access to justice, particularly for socially and economically disadvantaged people in NSW.

The Aboriginal Justice Award - sponsored by the NSW Attorney General's Department - honours outstanding commitment to improving access to justice for Aboriginal people in NSW.

Past winners of the Aboriginal justice Award include Lester Bostock, Hewitt Whyman, Paul Teerman and Elsie Gordon.

For more information contact

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Book now for the **2008 Justice Awards** presentation dinner Wednesday 29 October 2008 Parliament House, Sydney

Credit card bookings and payments can be made online at www.lawfoundation.net.au/justice_awards or you can download a copy of the invitation for other payment.

Tickets: \$95 or \$60
(community sector/students/unwaged)

Next edition

Our next newsletter will be available December 2008 - January 2009.

Information

If you would like to get further information or make a comment on any of the issues raised in this newsletter, or would like to discuss the work of the AJAC, please feel free to contact us:

**Telephone 02 8688 8106 or
email contact_ajac@agd.nsw.gov.au.
Be sure to check out the website
www.lawlink.nsw.gov.au/ajac.**

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