LEGAL CENTRES

related to the relative proportions of specialist and generalist centres.

Education and reform activities are often undertaken on behalf (or with the involvement) of identifiable groups within the population or in particular areas of law. Therefore specialist centres, because of the way their client communities are defined, may be the primary providers of CLE services to that population. Generalist centres on the other hand, may find themselves only providing services to the relatively small proportion of this identifiable population that lives within the geographic boundaries that define the centre's client population. The tendency arises then, to combine with other centres, that also provide services to that identifiable population in other geographic areas, to undertake group education and reform projects.

There are innumerable possible explanations for the other differences noted between States. Most of these explanations will revolve around differences in the client communities and the problems they face in each State. Similarly, differences in the availability of other service providers in each State will have a significant impact. One explanation for the relatively low level of education activities undertaken in South Australia is the fact that the Legal Services Commission undertakes a relatively high level of education activities. Legal centres just simply do not have the resources to put to unnecessarily duplicating the work of the Commissions.

The explanations given above concentrate on what an economist would call the demand side of the equation. Similarly it could be argued that these differences are the result of supply side factors. The availability of funding, volunteers, committed management, and assistance from established centres are all possible influences. There is no doubt that these factors do have an impact at each centre, but they are unlikely to be the cause of statewide effects.

Implications

The differences between States highlighted in this article are perhaps one of the strongest reasons for continuing with current funding arrangements, which emphasise the role of Legal Aid Commissions and State-based decision making. Each State, while maintaining a common framework, has developed its own strategies and structures for dealing with the tremendous workload placed on centres. Attempts at planning on a national basis, particularly proposals to rationalise specialist centres, will impact not just on the particular centres concerned, but will have effects on the complex relationships that have developed between centres at a State level.

The proposal to rationalise specialist centres is in my view a dangerous attack on both the autonomy of legal centres and the judgment of Legal Aid Commissions. It strikes at the heart of the community basis of the legal centre movement, and is another example of governments' general inability to accept that communities can make rational planning decisions about their need for services.

It is clear that New South Wales would be particularly affected by any rationalisation of specialist centres. Personally, I have very little idea of whether a network of specialist or generalist centres is the most appropriate way of meeting the needs of the people in Sydney and New South Wales. I do know that the Legal Aid Commission of New South Wales and the local community are in a far better position to judge the situation than either myself or someone in Canberra.

KEITH WILLIAMS

Keith Williams is the Co-ordinator for the National Association of Community Legal Centres (NACLC).

Note: I have refrained from making any comments about Tasmania or the Northern Territory not because they are unimportant, but as I have not been to either, any impressions would be meaningless. I have not commented on the ACT as it has only one legal centre.

LETTER

Dear Editor,
My name is Craig Minogue. I am, much to my chagrin, a prisoner in Her Majesty's Prison Pentridge.

I write to advise you of a situation that I believe should be brought to the attention of members of the legal profession who have, or will have, clients in the Victorian prison system.

It had been the practice for some years that mail to and from 'prisoners' private legal representatives' was 'exempt mail' and was not opened for inspection.

Director-General's Rule No. 1.8 was amended on 22 April 1992. This rule amended the criteria for exempt mail and dropped mail to and from lawyers.

This mail is now opened for inspection. It is claimed that mail is not routinely read by prison staff. What weight is to be given to this claim would be a matter for the individual practitioner and client to decide.

From a prisoner's point of view I would give no weight to the claim that mail is not routinely read.

On the subject of privileged communication between lawyers and clients in Victorian prisons, it is presumed that the professional visits area at Pentridge is routinely monitored by listening devices. The area has even been nicknamed 'The American Embassy' because of the presumed array of listening devices. Whether this presumption is well founded or not may never be known. However, the presumption by prisoners that their every word is going down on tape must hamper the client/lawyer relationship.

Further on this point, papers being given to prisoners at Pentridge are taken from the lawyers to an unknown place and checked. Legal papers and instructions are routinely taken from prisoners in police and office of corrections cells as they wait to go to court.

To go back to the issue of the legal mail being opened, I only learned of this change to the Director-General's Rules after some weeks of complaints about my legal mail being opened. The practice of routinely opening legal mail appears to have started full-time over the past few weeks.

Now that legal mail is opened I, and I am sure a lot of other prisoners, believe that it is not possible to have a private conversation or give private and privileged instructions to lawyers whilst a prisoner.

I hope this information will be of some interest to you.

Craig Minogue
Coburg

BRIEFS

effectively, is part of the Secure Services Unit — the maximum security unit run by Disability Services at Kingsbury which currently caters for intellectually disabled prisoners who have been detained at the governor's pleasure or who have required a transfer from the prison environment.

Although admission to the program is theoretically 'voluntary', coercive measures are all too easily available. The proposals mention 'clarification' of the power of the Department of Health and Community Services (the responsible government department) to 'prescribe place of residence and participation in specified programs for some clients who are on community dispositions' and there has been at least one public statement by senior departmental officials that offenders who refuse to be admitted into or comply with the program may be refused access to *all* services offered by the Department.

Although the special residential unit is anticipated to serve no more than a handful of offenders in the community, the assumptions underlying its establishment reflect repressive attitudes towards the intellectually disabled generally. There is, once again, a resort to indeterminate detention in conditions which, in many cases, are even more restrictive than those which once characterised large congregate-care institutions. There is a rather arrogant presumption that service providers can take the place of sentencing courts — they know which offenders might have 'deserved' imprisonment, even if the courts have refused to sanction this disposition for them, and this effectively results in both prisoners and non-prisoners undergoing exactly the same sentence.

Most importantly, it is the offenders themselves who are condemned as 'dangerous', 'anti-social' or 'having a behaviour problem'. The very existence of a secure 'service' is a temptation to ignore all the other factors which have contributed to the 'dangerousness' of the intellectually disabled: the stereotypes of them as being impulsive and without a social conscience, the continuing desperate shortage of an appropriate range of community accommodation and support systems and, as has been shown by the recent inquiries into the Victorian institutions located at Pleasant Creek, Sunbury and Ararat, the continued crowding of them into under-resourced large facilities where they are subject to daily physical, emotional and sexual abuse. Given these conditions, it is understandable that intellectually disabled offenders sometimes exhibit frightening or inappropriate social behaviour: they have managed to learn no other way and have been given no opportunity to do so.

It is not surprising that Disability Services Victoria have refused to engage in any consultations with other service providers or with the intellectually disabled themselves regarding these new proposals. Such draconian measures, under the guise of a 'service delivery system', obviously require maximum secrecy and as little as possible in the way of community involvement. Yet, even though the bureaucrats involved are now saying that there will be no changes to the system as proposed (which is estimated to cost almost $2 million in the first instance), it may not be too late to voice a protest. The advances made in the last ten years should not be sabotaged by those who would revive the myths and prejudices of the previous two centuries.

Bill Glaser teaches in the Department of Psychiatry at the University of Melbourne and has a special interest in intellectually disabled offenders.

LETTER

Dear Editor,

I write in response to Michael Mansell's letter dated 21 September 1992 (written on behalf of the Aboriginal Legal Service).

I support what Brian Simpson has already said in reply (October 1992 issue). Surprisingly, my article was not written with a view to endorsing *any* particular political agenda, including Mr Mansell's. It was an attempt to inform readers about some of the *legal* implications of *Mabo*.

As for the point about 'taking large chunks' from the judgments — slightly more than 5% of the article is made up of quotations from the case. Given that the article had to address, to some degree, what was actually said by the High Court in *Mabo*, I make no apologies for this.

Mr Mansell goes on — 'it was not surprising to see that Gordon Brysland's article was developed along pretty "safe" lines when considering that a good deal of assistance for his article was taken from ATSIC'. This is wrong. Mark Treloar of ATSIC read a draft of the article *after* it had been presented as a paper to the Aboriginal Economic Development Office in Perth. He also provided background information about the Kimberley claims (an exceedingly minor point, taken in context).

Had Michael Mansell bothered to speak to Mark Treloar or me, he could have found this out. If Mr Mansell wants to have a go at ATSIC on political grounds, he should do so directly, rather than insinuating that my views are really just those of that organisation.

The main reason I didn't deal with the political implications of the case is a simple one. It is for Aboriginal groups themselves to determine what direction they should take post-*Mabo*, *not* for people like me to presume to tell them what to do.

Gordon Brysland
Perth