

Foreword

Access to Justice and Legal Needs (A2JLN)

The objects of the Law and Justice Foundation of New South Wales are to contribute to the development of a fair and equitable justice system and to improve access to justice by the community, particularly by economically and socially disadvantaged people.

In 2002, the Foundation commenced the A2JLN research program to provide a rigorous and sustained assessment of the legal and access to justice needs of disadvantaged people and the broader community. This work aims to assist government, community and other organisations to develop policy and plan service delivery. It is a challenging program, involving an interconnected set of research projects and employing a range of qualitative and quantitative methodologies.

The A2JLN program has a number of important features that distinguish it from many other studies undertaken to date in Australia and internationally. To begin with, it adopts broader definitions of ‘legal need’ and ‘access to justice’, going beyond the common, narrower approach of ‘access to a lawyer’ or ‘access to a lawyer in a court’. It examines the ability of disadvantaged people to:

- obtain legal assistance
- participate effectively in the legal system
- obtain assistance from non-legal advocacy and support
- participate effectively in law reform processes.

Secondly, the program is the first to incorporate data collected from legal service providers, original legal needs surveys and targeted qualitative studies in three separate but interrelated methodological streams. Thirdly, the program includes a specific examination of the ability of disadvantaged people and other members of the community to participate in law reform processes as an essential element of the access to justice matrix.

The legal needs survey methodology is a vital component of the A2JLN program. This methodology provides the means for largely overcoming the methodological challenges of legal needs research (such as non-representative sampling, reliance on people knowing what a ‘legal’ need is, under-reporting of certain legal problems, etc). In addition, it yields data that can provide a deeper understanding of the complexities of legal need and the interaction of the law with the community. Importantly also, legal needs surveys can often provide a basis for comparing findings across jurisdictions, as well as a basis for monitoring change over time in the same jurisdiction.

Legal Australia-Wide Survey (LAW Survey)

The present report is one in a series of nine reports that provides the initial findings of a national survey of legal needs — the LAW Survey. The series consists of a report on Australia as a whole and a report on each state/territory.

The LAW Survey deals with key questions that go to the heart of understanding the legal and access to justice needs of the community, and how to address these needs. It assesses the prevalence of legal

problems across the community, and the vulnerability of different demographic groups to different types of legal problems. It examines the various adverse consequences that can accompany legal problems, as well as the responses people take when faced with legal problems and the outcomes they achieve.

Significantly, incorporating 20 716 interviews across Australia, the LAW Survey is the largest legal needs survey to date conducted anywhere in the world. It provides an unrivalled dataset for the ongoing investigation of the types of legal problems that are often captured by smaller surveys in insufficient numbers for meaningful analysis, such as rare legal problems and the legal problems experienced by minority demographic groups.

The report series brings together the results of the detailed analysis of the data from the LAW Survey with the most up-to-date review of the leading legal needs research internationally and in Australia. Not surprisingly, there are many consistencies — and some differences — across time and across jurisdictions.

There are, for example, many consistent findings with the Foundation's 2006 NSW Legal Needs Survey conducted in six disadvantaged regions and reported in *Justice made to measure*. People with a disability are still identified as a group highly vulnerable to a wide range of legal problems. In addition, however, other vulnerable groups, such as single parents, are now identified through the more sophisticated approach of the LAW Survey.

It is not, of course, to be expected that a survey as sweeping as this will yield a simple list of recommendations that will solve all legal problems in all jurisdictions. Such a list is never possible. However, the report provides important results. For example, it identifies key themes, such as the importance of individual capacity in resolving legal problems. Indeed, reading the report, one can't help feeling that something of a 'two-speed' system of legal service delivery may be appropriate: a heavily targeted and even case-managed approach to meeting the complex needs of the small minority of the community that experience the large majority of legal problems, and a much 'lighter' model for the rest.

Perhaps more importantly, the concluding chapter of each of the nine reports describes a 'holistic' system of legal and related services that would seem to be a most appropriate approach to address the diverse range of legal needs in the community. This holistic system will hopefully become a key input into the strategic planning for legal assistance policy and service delivery in all jurisdictions. Such jurisdictional planning might 'hold up' the current provision of legal services to the proposed system to identify areas of coincidence and areas of divergence. Inevitably there will be gaps — gaps that may only be filled with more resources.

However, it may not always be a question of resources, but rather one of changing approaches, changing modes of service delivery, even changing the targets of some of these services.

The LAW Survey has been an enormous undertaking for the Foundation, and I congratulate the research team for their skill and persistence in the face of the technical challenges they confronted. I also particularly thank the Legal Aid commissions of all states and territories for their ongoing support and commitment to improving the evidence base upon which service delivery decisions can be made. Not only were they joint funders of the project, they provided the impetus to extend what was going to be a NSW-wide survey into a national project.

There is much to glean from this report, and this will no doubt come from careful consideration at both the strategic and operational levels. While this report clearly 'stands on its own', it should

nevertheless still be read in the context of the other eight reports from this survey, and from the other main reports produced in the A2JLN program, including:

- *Stage 1: Public consultations* (2003)
- *Stage 2: Quantitative Legal Needs Survey, Bega Valley (Pilot)* (2003)
- *Data digest* (2004)
- *The legal needs of older people in NSW* (2004)
- *No home, no justice? The legal needs of homeless people* (2005)
- *Justice made to measure: NSW Legal Needs Survey in disadvantaged areas* (2006)
- *On the edge of justice: the legal needs of people with a mental illness* (2006)
- *Taking justice into custody: the legal needs of prisoners* (2008)
- *By the people, for the people? Community participation in law reform* (2010).

Geoff Mulherin

Director

Law and Justice Foundation of New South Wales

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