

FLS DRUG OUTREACH LAWYER NAMED 'WORKER OF THE YEAR'

FLS is proud to announce that outgoing Drug Outreach lawyer Hui Zhou received the Worker of the Year Award from the Yarra Drug and Health Forum in March.

The award recognises Hui's outstanding contribution to the provision of legal services to community members affected by alcohol and other drugs.

During her four years as Drug Outreach lawyer, Hui took on around 800 cases, many involving multiple and complex legal problems, each requiring great commitment, patience and ingenuity to obtain good legal outcomes. This is in addition to the countless informal legal

information sessions conducted with workers and potential service users en route to outreach locations.

FLS congratulates Hui whose commitment to the principles of empowerment and non-discrimination towards her clients has been exemplary, and is evident in the high regard with which she is held by her clients and by other workers on the ground.

In May, Fitzroy Legal Service welcomed Jane Vasey as the new Drug Outreach lawyer.



FLS Drug Outreach worker Hui Zhou receives her 'Worker of The Year Award' alongside Kasey Elmore, NSP Worker at North Richmond Community Health, and Bernie Geary.

TIME FOR A RETURN TO VISIONARY DRUG AND ALCOHOL POLICY

Fitzroy Legal Service continues to advocate for public health approaches towards drug use and associated harms.

In May, the City of Yarra voted 6-1 in favour of opening a Safe Injecting Facility in a bid to improve public amenity, and reduce public drug use and overdoses in the local area. The Yarra Drug Health Forum had previously commissioned a report exploring the viability and potential of such a facility to reduce a range of harms.

FLS made submissions to Council supporting the proposal on the basis of considerable evidence that it would be a more effective way to reduce the harms associated with illegal drug use than adopting a 'law and order' approach.

The submission argued that positive outcomes from the criminal justice system are achieved mainly when resources are

allocated to addressing the underlying causes of offending, for example, through engagement with treatment, counselling and housing support.

Contact with the criminal justice system alone may have limited impacts on entrenched drug dependence and related offending, and can increase the risks of re-offending, especially where a prison sentence is involved.

Australia has a history as a leader in implementing visionary harm minimisation policies and a Safe Injecting Facility in Yarra would not be the first in the country – one has been operating in Kings Cross in Sydney for the past ten years, saving lives and providing referrals to rehabilitation services for many more.

Australia was also one of the first countries in the world to introduce a

needle exchange program, a decision that is widely credited as minimising the tragic effects of the HIV/AIDS crisis in this country.

A study by the Department of Health and Ageing in 2009 found that needle exchange programs prevented 32,000 HIV infections and almost 100,000 hepatitis C infections. Furthermore, it is believed the needle exchanges led to healthcare savings of over \$1 billion.

The introduction of a Safe Injecting Facility would bolster safe injecting practices, reduce health costs and deaths from overdose, increase public safety, and provide an avenue for people seeking rehabilitation.

A return to a visionary public health approaches to drug dependence is in the interests of everyone in the community.

FIGHTING BACK AGAINST SEX SLAVERY

In October 2010 Fitzroy Legal Service, with the support of Project Respect, led a landmark case that awarded almost \$30,000 in compensation to a victim of sex slavery.

The fact that the case is only the second of its kind highlights many of the problems faced by women trapped in the sex trade who are seeking escape and a legal remedy.

The victim in this case, was lured to Australia on the false promise of legitimate work but on arrival was told she owed \$40,000 in expenses and had to pay the debt by working in a brothel. She was threatened with violence against herself and her family if she did not comply. And so she endured a grim and torturous three months working 18 hour shifts, seven days a week, servicing ten men a day and the profit had to go straight to paying off her 'debt'.

The threat of violence, the infliction of emotional trauma and social isolation are some of the tactics employed by traffickers to prevent women from

speaking out or seeking help. But the legal system also lets them down.

The award of compensation is significant because it was made by the Victims of Crime Assistance Tribunal (VoCAT) which makes it both legally and symbolically important because it acknowledges the women as victims of crime and not just 'witnesses' in a criminal case.

Victims of trafficking experience immense physical, psychological and social harm and are reluctant to seek justice under the *Crimes Act* for fear of repercussions. They are more likely to utilize victims of crime compensation schemes as they are then not required to testify against the traffickers, and can remain in a relatively safe physical and emotional position, particularly if they have either fled the circumstance of enslavement, or have paid off their debts.

Human trafficking is a Commonwealth offence but there is no national system of compensation – whether a person can receive compensation or not is determined under vastly different state-

based schemes. For instance, a victim of trafficking in Tasmania could only receive a maximum of \$30,000 compensation while in Victoria it's \$60,000.



Fitzroy Legal Service, Project Respect and other organisations continue to lobby for national harmonisation of victims of crime compensation schemes as well as allowing victims of trafficking the same protection as vulnerable witnesses as complainants in sexual offences.

STRENGTHENING VICTIMS OF CRIME COMPENSATION

Making an application to the Victims of Crime Assistance can be a bewildering, and difficult process for a person who is still experiencing the trauma of being a victim of crime. But for many victims it is far more preferable than seeking reparations through civil or criminal proceedings.

VoCAT plays an invaluable role in the validation and acknowledgement of the harm suffered and is critical in assisting victims to pay for medical, psychological and other costs associated with the crime.

In recognition of this, Fitzroy Legal Service is calling for the VoCAT system to be strengthened and better resourced, allowing victims greater access to compensation.

Among other things it's seeking:

- » **Compensation for loss of earning capacity** – applicants who are unemployed are unable to benefit from the current provision that recognises loss of earnings for up to two years. This takes into consideration the fact that some victims are unable to gain employment as a *result of the crime*.
- » **Better resources for the Tribunal and a faster resolution of cases** – due to the current backlog and the fact that many FLS clients can't afford private health cover, applicants are reluctant to undertake medical procedures because they can't afford to pay upfront.
- » **The power for the Tribunal to award a sum of money for activities** – currently, victims must supply quotes for activities (gym memberships, training courses etc) that will help them recover from the crime. But for a number of FLS clients, particularly those who have suffered sexual abuse, this has proved to be a disempowering process. Many would prefer to choose their own activities, suitable to them, and that could best assist them to heal. It would be more empowering for victims to be given a sum of money with which they *could choose activities* appropriate to them.

THE LAW HANDBOOK ONLINE EDUCATION PORTAL LAUNCH

Fitzroy Legal Service together with Holmesglen TAFE recently launched its latest offering from the Law Handbook Online – a new Education Portal for schools and TAFE Institutes. The service was thrilled to have Magistrate Greg Connellan present at the launch where he delivered an inspiring speech about the need for community legal education.

The portal features four contentious case studies examining how the law responds to emerging social issues. The case studies cover contemporary legal and social issues relevant to young people, including move on laws, juvenile crime and sentencing, climate change and Indigenous rights.

Each case study is complete with background notes, lesson plans and a role play that has students act out different community opinions and reach their own decision using legal and democratic mechanisms.

FLS Executive Officer Robin Inglis says it gives students a practical introduction to the law and shows them how they can participate in law reform.

“This is a first. We hope the directory will encourage greater connection between TAFEs and schools with their local community legal centres and give students a real taste of the law in daily life,” he says.

The portal also features a directory to the educational services offered by community legal centres, the Courts, parliament and government agencies.

Developed with the assistance of a working party comprising of Holmesglen TAFE, Social Education Victoria, Victoria Legal Aid, Law Institute Victoria and Springvale Monash Legal Service, the Education Portal will change the way students think about the law and introduce them to the drama of democratic debate and community advocacy.

It will allow students to experience a practical, hands-on approach to the law and our legal system and is a must

for those interested in understanding how the law is used to address current social issues.

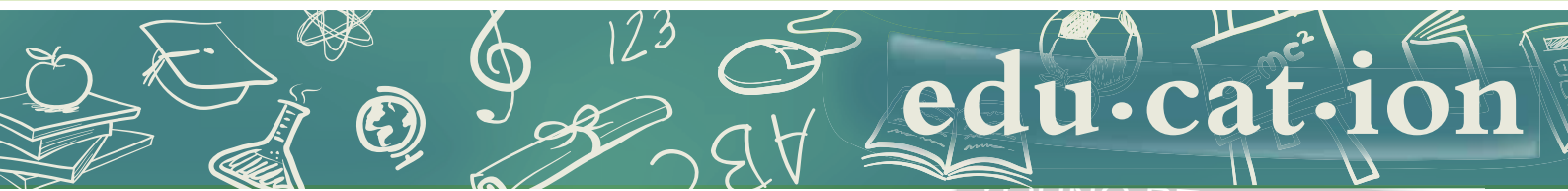
A regional launch of the Eduport was held in March at Warnambool TAFE with the assistance of the South West Community Legal Centre’s Centre for Social Justice and Human Rights. Judge John Bowers gave an interesting and reflective talk to launch to the web site.

The project was funded by the Legal Services Board.



Judge John Bowers at the regional launch of the Eduport (photo courtesy of the Warnambool Standard)

THE LAW HANDBOOK




Magistrate Greg Connellan and FLS Publications Co-ordinator – Marlena Pitrone, at the launch of the Education Portal



Steve Maude – Teacher and team leader; Leone English – Dean Faculty of Health Science, Community Studies & Education; Margaret Brabham Field – Placement Coordinator; Marlena Pitrone – Publications Coordinator, Fitzroy Legal Service

YOUNG PEOPLE AND MOVEMENT



This is a set of three lessons examining the law made, using Victoria's new Movement for Young People, as directly affect young people, as were passed by parliament in 2008. The lessons can be used as a series or individually.

The focus of the lessons is to explore conflict and develop strategies to contesting views. Students will have an appreciation of the role of a democratic society.

[Read more...](#)

INDIGENOUS RIGHTS AND THE LAW




This is a set of three lessons examining the legal perspective of Indigenous land rights. The lessons can be used as a series or individually.

The focus of the lessons is on developing an understanding of Indigenous land rights and cultural ownership of the land. It outlines the struggle by Aboriginal people and federal government succeeding state and federal government introduced to the land rights struggle people and competing interests for the land.

[Read more...](#)


JUVENILE CRIME AND SENTENCING



This is a set of four lessons examining the law of sentencing in the children's court in relation to juvenile crime. Students are introduced to sentencing options. The lessons explore the punishment system, its impact on the effectiveness in crime prevention and the victims in the process. The final lesson examines perceptions of crime and how this impacts sentencing.

[Read more...](#)

CLIMATE CHANGE AND THE LAW



This is a set of three lessons examining a landmark environmental case where greenhouse gas emissions from climate change were taken into consideration in a planning matter for the Hazelwood Coal fire.

The focus of the lessons is on developing an understanding of how environmental issues are dealt with in a legal environment.

WELCOME TO OUR NEW PRACTICE LAWYERS...

CORDELL SCAIFE

Cordell joins us from Queensland where for the past seven years he's been doing criminal defence work for Aboriginal Legal Services and, more recently, native title negotiations for the Cape York Land Council. On his return to Melbourne he was thrilled to join the team at Fitzroy Legal Service, an organisation he's long admired for its grassroots advocacy work.

Much of his day-to-day practice work involves clients with serious mental health issues, property and traffic offences, young people and intervention orders.

Cordell says that one of the big differences he's noticed in Victoria compared to Queensland is the strength of restorative justice practices.

"The Neighbourhood Justice Centre in Collingwood and specialist courts are clearly where the benefits of the criminal justice system are to be found because they deal with the underlying causes of offending," he says.

"It really pays off on an economic and social level but also on an individual level and I've seen this happen already in the six months I've been here, where people have been able to turn their lives around and not get stuck in a pattern of long-term offending".

But the removal of suspended sentences for serious offences and the proposal to remove them altogether is a major concern.

"The alternative of prison is highly detrimental to people with mental health issues or drug addiction, and those experiencing trauma or homelessness and it's damaging to the community as well".

SARAH NICHOLSON

Sarah has worked in the community legal sector for over 10 years. Prior to coming to FLS Sarah was a policy officer at the Federation of Community Legal Centres working on policing, child protection and anti-terrorism law. Sarah was involved in setting up and managing Youthlaw, a state-wide specialist legal service for young people and has also worked as a lawyer at North Melbourne Legal Service.

Sarah's legal work at FLS involves mostly criminal matters, victims of crime compensation, unpaid fines and intervention orders.

Sarah says that it's Fitzroy Legal Service's holistic approach to justice that makes us different to others.

"We might see someone with what appears on the surface to be a pretty straightforward criminal matter in legal terms but then you find out that they might be experiencing a whole lot of other issues in their life. They might be a victim of crime themselves, they might have issues with drugs or alcohol or they might have accumulated a whole lot of unpaid fines," she says.

"Our approach is to connect them with support services and not just deal with the surface issue".

But she says the increasing tendency to deal with offending behaviour through infringements rather than taking people to court is causing real problems for marginalised people.

"For example, the charge of drunk in a public place now attracts a infringement worth nearly \$500 when previously it was dealt with in open court. Most people who we see with these fines have no capacity to pay and have other significant problems in their life that are just compounded by receiving fines. People with a mental illness or homeless people come into FLS with hundreds of unpaid fines. This becomes a really serious issue because once it escalates to a certain level, the legislation provides for jail time."

"It's not necessarily good that things are being dealt with through the infringements system because it criminalises marginalised people and does not allow for the causes of the offending to be addressed."

The other issues that Sarah has noticed in her short time with FLS is the difference that specialist problem solving courts such as the Neighbourhood Justice Centre are making. "When I was last practising in criminal law the NJC didn't exist. The NJC makes a real difference for marginalised people as it has the

capacity, legal authority and the services to address the causes of offending and improve people's lives. The support services now available at other courts make a difference for our clients but the flexible approach at the NJC results in better outcomes for our clients and for the community as a whole through reduced reoffending."



Cordell Scaife & Sarah Nicholson, FLS Practice Lawyers

GOVERNMENT'S SENTENCING SURVEY PROBLEMATIC

The Government's sentencing survey has raised a few questions about reliability and representativeness. Research has demonstrated that when asked abstract questions about sentencing most people say sentencing is too lenient. However asked about a concrete case and given more detail most people are more compassionate and interested in rehabilitation options and may be less punitive than magistrates'. Hopefully the government survey on sentencing will try to capture both these aspects of public sentiment.

A parliamentary review of sentencing is urgently needed in Victoria as the prison population continues to grow – over the past decade, Victoria has increased its prison numbers by 50%.

During this time, both major Victorian political parties have embraced policies that will result in more money being spent to build more prisons. This is despite the fact that crime rates have dropped in Victoria per head of population.

FLS Executive Officer Robin Inglis says the effectiveness of the present policies deserves review.

"Locking up more people each year should be a wake up call to the community urging us to rethink our strategies. An ever increasing prison population is not a recipe for more of the same policies," he says.

"Government's around the world, including New South Wales and the United Kingdom, are starting to embark on a path of review. It would be financially and socially responsible for Victoria to follow suit".

UK Justice Secretary Ken Clarke in June 2010 questioned the orthodoxy of continuing to build new prisons. UK

prison numbers have increased by 100% over the last 18 years. In January 2011 he announced closure of some small prisons and a reduction of 3000 in prison numbers.

There are at least three reasons that a parliamentary review of sentencing in Victoria should urgently occur:

1. Australia hasn't had a prison population this high for nearly a century. Why? What are the alternatives?
2. Community views on sentencing are more complex and compassionate than simplistic surveys indicate.

When given information about a specific case the majority of people would choose a sentence which was similar to a judge or magistrate. Tabloid treatments of crime don't tap into community interest in rehabilitation and prevention ideas.

3. Prisons are expensive, difficult to operate safely and create a series of downstream costs for governments and communities.

It is vital that we stop the alarming trend of simply building more prisons. A joint parliamentary committee review could provide an opportunity for community inclusion and a review of the facts.

KEEP JOBWATCH ALIVE!

Victoria's only free specialist employment legal service, JobWatch, is facing closure after the state government confirmed its funding would end on 30 June.

Fitzroy Legal Service Executive Officer Robin Inglis called on the state government to keep JobWatch alive.

"Tens of thousands of vulnerable workers will miss out on vital legal advice and employment protection if JobWatch closes," he says.

The service performs a critical and unique role in helping Victorian workers. It ensures workers receive their proper pay and entitlements, protects against unfair dismissal, addresses discrimination, bullying and sexual harassment and promotes workplace health and safety.

The expertise of JobWatch, which assists around 11,000 Victorians a year, is also relied on by community legal centres across the state.



FITZROY LEGAL SERVICE INC.

PO Box 297
124 Johnson Street
FITZROY VICTORIA 3065

Phone: (03) 9419 3744
Fax: (03) 9416 1124
Email: enquiries@fitzroy-legal.org.au

▲ FITZROY
▲ LEGAL
▲ SERVICE INC.

Clients should not act only on the basis of material contained in this newsletter because the contents are of a general nature only and may be liable to misinterpretation in particular circumstances. Changes to legislation occur quickly. Do not act on any of the contents of this newsletter without first obtaining specific advice from a lawyer.