

Literature Review

A Literature Review: examining the literature on how to measure the 'successful outcomes': quality, effectiveness and efficiency of Legal Assistance Services.

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**By Dr Liz Curran
Curran Consulting: Enhancing Justice and Human Rights**



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Project Brief

This is a literature review as per the brief from the Attorney-General's Department in email exchanges is as follows.

This literature review will examine research, studies, reports, reviews and evaluation and other material both nationally and internationally around legal assistance service evaluations on the following:

'Successful Outcome'

Quality

Efficiency

Effectiveness

Definitions

Legal Aid – This refers to Legal Aid Commissions set up under statute around Australia. There are eight legal aid commissions around Australia.

Legal Assistance Services – This refers to the full range of services provided by Legal Aid Commissions, Community Legal Centres, Aboriginal and Torres Strait Islander Legal Services and Family Violence Prevention Services.

Community Legal Centres – These are independently operating not-for-profit community organisations providing legal and related services to the public focussing on disadvantaged people and people with special needs.

Community Legal Education (CLE) – This is the provision of information and education to members of the community on an individual or group basis, concerning the law and legal processes and the place of these in the structure of society. The community may be defined geographically, by issue or specific need. CLE increases the ability of community to understand and critically assess the impact of the legal system on them and their ability to deal with and use the law and the legal system.¹

Early Intervention - Early Intervention involves legal services provided to assist people to resolve their legal problem before it escalates, such as legal advice, minor assistance and advocacy other than advocacy provided under a grant of legal assistance.

Prevention - Preventative legal services are legal services that inform and build individual and community resilience and capacity through community legal education, legal information and referral, or law reform and legal policy development.

Holistic Service – this is where a service that looks at the client as a whole to assist with their legal and non-legal issues, wellbeing and empowerment. The service is tailored to assist the person with their specific issues in connection rather than in a fragmented or piecemeal way.

¹ CLEWS Working Group, National Association of Community Legal Centres, 2009, Guidelines for the Management of Community Legal Education <http://www.naclc.org.au/cb_pages/files/13%20National%20CLE%20Guidelines%20%28Oct%202009%29%282%29.pdf>.

Commonwealth matters – these are the areas that have been determined by the Commonwealth Attorney-General’s Department as areas of Commonwealth priority and are usually identified in the funding and service agreements between the Commonwealth, States/Territories and Legal Assistance Services.

Mixed model – this involves Legal Aid Commissions delivering legal services through a blend of in-house salaried lawyers and grants to private law firms.

Abbreviations

ADR – Alternative Dispute Resolution

ATSILS – Aboriginal and Torres Strait Islander Legal Service

CLC – Community Legal Centres

DV - Domestic Violence

FDR - Family Dispute Resolution

FVPLS – Family Violence Prevention Legal Services

LA ACT – Legal Aid ACT

LAC – Legal Aid Commission

LA NSW – Legal Aid NSW

NPA – National Partnership Agreement on Legal Assistance Services

ToR – Terms of Reference

VLA – Victoria Legal Aid

Executive Summary

This Literature Review has examined a significant number of research, reports, evaluations, reviews, academic writing, studies and submissions. Some of the key lessons that these documents reveal are detailed in this Executive Summary. Some conclusions and their basis are summarised in the section entitled, ‘Conclusion – An Overview of the Findings of this Literature Review’.

Some documents were provided directly to the researcher and to the Attorney-General’s Department by the Legal Assistance Sector but have not been included in this Literature Review as they were outside its scope. However, many are useful and are discussed in this Literature Review.

This Literature Review highlights that legal assistance work is not only complex but that it is also complicated. Forty-seven international studies and ninety-one national studies were considered in the course of the conduct of this literature review.

The selection criteria for determining the ‘usefulness’ of the reports/reviews/evaluations/studies was as follows:

- Written in the last decade.
- The Document/Study examines outcome, quality, effectiveness and efficiency or a combination of these considerations.
- The study sets out a clear question to be answered and the methodological approach was relevant to being able to answer the question asked.
- The method for extracting information or data was effective and relevant to the information sought.
- The questions asked of participants in the instruments used were relevant.

- The data collected was sufficiently clear in eliciting the information sought.
- Given the complicated and complex nature and diversity of the legal services and the clients served, the methodology was likely to reveal the reasons behind the responses or approach that the service adopted in terms of the considerations listed above.
- A number of approaches were taken to verify, complement and unpack the reasons for the answer and included a blend of quantitative and qualitative data rather than reliance on quantitative data or one method.
- The approach taken is relevant and of assistance in the context of the NPA and the Attorney-General's 'Strategic Framework on Access to Justice in the Federal Civil Justice System'², the COAG Reform Agenda and to social inclusion and Indigenous disadvantage.

Significant difficulties are identified in much of the domestic and international literature in the measurement of outcome/results, quality, efficiency and effectiveness.

The literature domestically and internationally, identifies the lack of a common language with which to articulate results, the lack of a framework in which to capture them and the difficulties in being able to measure and prove success. Where such results based measurement exists it will often need to be descriptive, subjective and there is a risk that cannot be avoided, of its being anecdotal and vague.

Each program must be first understood to be able to inform how to identify and define outcomes and measure these and ensure adaptive learning and adaptive management processes rather than these being fixed and remote from the realities of practice.³

Any approach must be able to adapt and incorporate changing realities and demands on the services that are being examined.⁴

There is no one way which can make it easy to achieve a successful outcome. Good practice informed by good training, cultural awareness, sensitivity, adaptability and flexibility are key factors in effectively reaching and targeting vulnerable and disadvantaged groups. Legal assistance services operate at different levels. Within a legal assistance service different objectives and intentions can sit behind each program. Therefore, they cannot be measured as a 'lump' without first understanding the very nature, diverse ways of engaging that are required to target different client groups, complexity, layers and imperative and funding requirements that drive each of the many parts.

² See Attorney-General's 'Strategic Framework on Access to Justice in the Federal Civil Justice System', <<http://ag.gov.au/a2>>

³ See M Barendrecht, J Mulder, T Giesen & the Study Group Access to Justice, 'How to Measure the Price and Quality of Access to Justice', November 2006, 21. They examine the significant hurdles for measurement and conclude 'measuring access to justice is a challenge.'
<<http://www.tilburguniversity.nl/faculties/law/research/tisco/research/projects/access/papers/06-11.pdf>>; 'Overview of the United Nation's Development Programs's (UNDP) Approach to Measuring Capacity' Capacity Development Group, Bureau for Development Policy, United Nations Development Program, June 2010 and Dr P Downes, 'Measuring Outcomes in Relation to SCP Core Elements, NEWB, Green Street, Educational Disadvantage Centre, St Patricks College, UK, 13 January 2011.

⁴ 'Overview of the UNDP's Approach to Measuring Capacity' Capacity Development Group, Bureau for Development Policy, United Nations Development Program, June 2010

Accountability and transparency are important. Measurement of legal assistance services should be done in a way which does not divert essential and scarce resources away from service delivery. If data is only quantitative and concerned with aggregated statistics that drive an efficiency agenda, they risk compromising programs of service delivery that work effectively and can make inroads. The international literature discussed urges caution in this area.

The international humanitarian research on outcome or results based measurement stresses that any evaluation should encompass realistic measurement of things that are within a services' function and ability to control (in this case legal assistance services) and within their resources to provide.

The National Partnership Agreement (NPA) requires a shift in operations of legal assistance services that is more holistic and this differs from traditional legal service delivery. Some services have already embraced this approach or it has informed their approach for some time. For others, it requires a difference in approach.

Legal assistance services already collect significant data (some more than others) for a range of instrumentalities because many have to report to various levels of government and statutory authorities. Some including Legal Aid Commissions and ATSILS already report on cost efficiency and effectiveness e.g. Australian National Audit Office (ATSILS), Auditor General (LACs), various Government Departments, Parliamentary Committees (ATSILS) and in Annual Reports. Community Legal Centre programs are sometimes evaluated by Legal Aid Commissions which administer their funding. This information can be useful to inform evaluations so as to reduce imposing or duplicating any additional layers of reporting and to reduce the burden of reporting on services. CLC Annual Reports already contain useful information⁵ some have case studies and illustrations of the impacts of their service. These are not always available on line.

Other instrumentalities and agencies can also affect how legal assistance services are able to control and effect change. These must be considered before reaching conclusions about a service/program's effectiveness. With surprising consistency, the national and international research noted that often, despite very committed and relentless endeavours by legal assistance services to bring about better outcomes for their often poor, vulnerable or disadvantaged clients, these could be significantly hampered because of limited resources, few staff, lack of additional support service access which these client need, uncertainty due to short term or irregular funding or overwhelming legal need.

Some of the national evaluations reported that statistics kept by LACs, ATSILSs and CLCs currently, reveal little about the contexts, challenges and rationales behind why and how the services are delivered.

Studies that involve 'Client Satisfaction Surveys' are problematic if applied to the legal assistance sector, in view of the overriding obligations of the legal profession under the various legal professional legislation and conduct rules which impose duties and obligations which can conflict with what a client might want or expect (for example, the paramount duty to the court).

⁵ For example see the Annual Report, Prisoners' Legal Service Queensland 2010 – 2011 and Annual Report, West Heidelberg Community Legal Service, 2009-2010, Annual Report of the Footscray Community Legal Service 2010-2011; Annual Report of the Redfern Community Legal Service 2010-2011.

There is no framework for defining good practice for Community Legal Education (CLE). Exploring different models and approaches has started to be developed by the National Association of Community Legal Centres to examine models, their effectiveness and impact.

Recent research suggests in measuring legal assistance services for quality and effectiveness the examination of the process legal services engage in/undergo with client /community (e.g. a good client interview, holding authority to account, providing a voice for clients, and holistic responses) and their quality assurance criteria, where it does exist should be considered, developed if it does not and be clearly articulated. Then assessments can be made as to how these are applied in practice. There is a view in many of the academic writings (discussed in this literature review) that if quality legal work is undertaken this is the most likely way of affecting better or 'positive' outcomes.

Summarising some of the more useful methodologies some or all of the following were in the design:

How to Measure Quality/outcome and effectiveness

1. Strategic Plan and operation plans of the legal assistance service and Annual Reports were reviewed and understood as part of setting the scene for the evaluation.
2. A 'Conversation' with agency staff and management being undertaken to improve understandings of the role and function and scope of the service and what is within its control and attributable to it.
3. Focus Groups held with the support staff/practitioners providing the on-the ground service/program to identify and define the outcomes particular to the service under examination and what are the elements or surrogate indicators of such an outcome including what quality assurance measures that are relevant to ensuring such quality and outcomes. Ascertaining what quality assurance mechanisms are in place and how these are adhered to. In some evaluations agencies did not have any 'good practice' or 'quality assurance frameworks' in place that were tested against the practice and so these may need to be developed in consultation as part of a research process.
4. Stakeholder interviews informed by 2 & 3 above.
5. Interviews with clients and lawyers after the same client interview informed by 2 & 3 above.
6. Survey/Questionnaire of client feedback about the service's treatment of them at interview and in the course of the matter.
7. On-line surveys on quality and approach in service for practitioners both private and public who deliver legal assistance services. For clients on-line surveys can risk missing many of the target clients of legal assistance and given difficulty with on-line surveys for this group.
8. Case Studies can be collected from the service providers or from clients about their experiences through the interview, survey and focus group tools discussed in 2,3,4,5 6 and 7 above.

The research consistently state that to be effective measures/indicators need to be:

- Relevant

- Useful and measurable
- Achievable
- Practical to measure
- Within the service or practitioner's control and influence.

How to Measure Efficiency

1. Summarise the reviews and reports of the Australian National Audit Office, Offices of the Auditor Generals, Annual Reports and CLSP Plans for 'cost efficiency'.
2. Such measurement should only complement the information gathered above from the measures for quality, outcome and effectiveness (1)-(8) rather than drive it. This author is mindful of the dangers underlined in both domestic and overseas research which notes the risks of 'cost efficiency' being seen in a vacuum from the realities on the ground with the cost efficiency measures leading to a correlating reduction in quality and the effectiveness of service delivery.⁶
3. This Literature Review reveals that significant measures and data are already in place to examine efficiency and in many cases 'cost efficiency'. To replicate these is unnecessary duplication. This literature review strongly recommends that rather impose a further burden of reporting on LACs, community legal centres and ATSILS (especially given the range of examinations the latter undergo currently from different government departments and state and commonwealth instrumentalities additional to the Attorney-General's Department) such existing and regularised studies be considered as the investigation of efficiency.

Scope of this Literature Review

A literature review is a critical survey and assessment of the existing materials dealing with research, knowledge and understanding in a given field. In this case, the evaluations and research around legal assistance services and their 'successful outcomes', quality, efficiency and effectiveness will be considered as stated in the project brief.

The focus of this review will be on Commonwealth areas. The literature review does however examine some good methodological approaches that pertain to evaluations of areas of State jurisdiction for example, the 'Review of the Children's Court Assistance Scheme' Matrix on Board for Legal Aid NSW.⁷

The author notes that this literature review will not be examining evaluations or methodological approaches that best measure 'cost efficiency' as such assessment would require a familiarity and expertise in economics which the author does not have. This project will however examine 'efficiency'.

The policy frameworks including the Attorney-General's 'Strategic Framework on Access to Justice in the Federal Civil Justice System'⁸, the COAG Reform Agenda as to social inclusion

⁶A Trude and J Gibbs, 'Review of Quality Issues in Legal Advice: measuring and costing quality in asylum work', Lawyers Defending Human Rights, Refugee and Migrant Justice undertaken by the Information Centre About Asylum and Refugees and the Immigration Advisory Service, City University, London, March 2010.

⁷ C England and P Porteous, Managements Support Services NSW, Matrix on Board, 'Review of Children's Court Assistance Scheme', Final Report, Legal Aid NSW, September 2011.

⁸ See <<http://ag.gov.au/a2>>.

and Indigenous disadvantage, academic research and evaluations undertaken by and of legal services both domestically and internationally are considered.

The review will identify standout contributions and analyses and evaluate the most appropriate methodologies and approaches for a review of legal assistance services mindful of the limited resources of the service agencies. These reviews or reports will be set out in three tables. The first table is a summary of all the research, the second table summarises the national research and the third the international research. Some materials considered in the course of the literature examination have not been included as they were not relevant/useful.

The selection criteria for determining the 'usefulness' of the reports/reviews/evaluations/studies was as follows:

- Written in the last decade
- The Document/Study examines outcome, quality, effectiveness and efficiency or a combination of these considerations
- The study set out a clear question to be answered and the methodological approach was relevant to being able to answer the question asked
- The method for extracting information or data was effective and relevant to the information sought
- The questions asked of participants in the instruments used were relevant
- The data collected was sufficiently clear in eliciting the information sought
- Given the complicated and complex nature and diversity of the legal services and the clients served, the methodology was likely to reveal the reasons behind the responses or approach that the service adopted in terms of the considerations listed above
- A number of approaches were taken to verify, complement and unpack the reasons for the answer and included a blend of quantitative and qualitative data rather than reliance on quantitative data or one method
- The approach taken is relevant and of assistance in the context of the NPA and the Attorney-General's 'Strategic Framework on Access to Justice in the Federal Civil Justice System'⁹, the COAG Reform Agenda as to social inclusion and Indigenous disadvantage.

This literature review will set up the theoretical framework and place the research in context. It aims to extend the work of others but to also avoid their mistakes.

It will:

- Examine what approaches were taken and conclusions reached in the various studies being considered, by whom and when
- Ascertain whether these approaches/conclusions are in agreement or in conflict with each other

⁹ See Attorney-General's 'Strategic Framework on Access to Justice in the Federal Civil Justice System', <<http://ag.gov.au/a2>>

- Discuss and identify the main issues or controversies which surround the issue of evaluating legal assistance services
- Identify significant gaps, patterns and links in previous research and possibilities.
- Identify the most important studies, concepts and methods in the field using the selection criteria outlined above
- Look at research design and methodology with a critical eye
- Investigate the best approaches and any new approaches which emerge from the literature review.

A letter to Community Legal Centres and Legal Aid Commissions was sent by the Attorney-General's Department in mid December 2011 asking the services to provide any of their own evaluations along the lines of the above either in the immediate, past or upcoming by 23 December 2011. Many of these evaluations/reviews are not publically available. Where this documentation was not forthcoming in the timeline for this literature review, the literature review did not cover these studies.

Introduction and Background

Whilst accountability and transparency are important, the measurement of legal assistance services should not come at the cost of diverting essential and scarce resources away from service to the most disadvantaged. One service can have a number of funders each with their own accountability requirements such as Territory/State Governments and the Commonwealth Government. Forty-seven international studies and ninety-one national studies were considered in the conduct of this literature review. This literature review reveals that many legal assistance services are already reporting on how they deliver legal assistance services in terms of 'cost efficiency and effectiveness.' For example, the Legal Aid Commissions are audited by the state Auditor's General and Aboriginal and Torres Strait Islander Legal Services are already having facets of their work examined and measured by the Australian National Audit Office and the Department of Finance and Deregulation. These other measurement processes need not be duplicated and could be useful. Then service agencies will then be better placed to better target their services to the disadvantaged and vulnerable people rather than duplicating the existing measurement of services.

Disadvantage and Social Exclusion

A key focus of legal assistance services in Australia is on addressing social exclusion and targeting services to the disadvantaged.

'Disadvantage' in legal assistance services can be described as involving or including the presence of some or one of these factors:

- drug addiction
- mental illness
- language difficulty
- literacy
- intellectual Disability
- Indigenous (ATSI)
- refugee/ asylum seeker
- newly arrived people
- poor people

- inter-generational disadvantage including people with a poor education, low income, poor health, no-one with a job in immediate family and a lack of connectedness
- chronic disease
- ill health
- fragmented or non-existent family support
- age: young – old
- gender
- sexuality
- HIV/Hep/Aids
- institutionalisation from a young age
- repeated prison stints in adult- youth life cycle
- unwanted/unloved
- conflict of cultures
- domestic violence
- child abuser
- child abuse victim
- physical disability – mild to severe.

In some cases, the clients of legal assistance services may have more than one of these issues. The complex nature of legal assistance service clients is recognised in international research.¹⁰

In many ways, the NPA requires a shift in operations of legal assistance services that is more holistic and this differs from traditional legal service delivery. Some services have already embraced this approach or it has informed their approach for some time. For others, it requires a significant difference in approach. For this reason, the NPA will need time to be embedded into practice. International research, particularly from the United Kingdom (discussed later in this literature review) cautions against expecting outcomes in time frames which are too short, in order to be able to notice inroads which may develop with more time.¹¹ To allay the warnings about measuring results prematurely a focus could be on

¹⁰ A Buck, N Balmer and P Pleasence, 'Social Exclusion and Civil Law: Experience of Civil Justice Problems among Vulnerable Groups' (3) *Journal of Social Policy and Administration*, June 2005,302, 318-320; R Moorhead, M Sefton and G F Douglas, 'The Advice Needs of Lone-parents' 34 *Family Law* 2004, 667 and A Buck, P Pleasence, N Balmer, A O'Grady and H Genn, 'Lone-parents and Civil Law: An Experience of Problems and Advice-seeking Behaviour' 38(3) *Journal of Social Policy and Administration* 2004, 253-269; S Ellison, L Schetzer, J Mullins and K Wong, *The Legal Needs of Older People*, New South Wales Law and Justice Foundation, New South Wales 2004, (The New South Wales Law and Justice Foundation <http://www.lawfoundation.net.au/report/older>); C Couranelous, Z Wei and A Zhou, *Justice Made to Measure: New South Wales Legal Needs Survey in Disadvantaged Areas*, New South Wales Law and Justice Foundation, 2006 <<http://www.lawfoundation.net.au/report/survey2006>>; New South Wales Law and Justice Foundation, 'On the Edge of Justice: the legal needs of people with a mental illness in New South Wales, 2006'; 'No Home, No Justice? The legal needs of homeless people in New South Wales, 2005 and 'The Legal Needs of Older People in New South Wales (2004)'; 'Access to Justice and Legal Needs, Stage 1, Public Consultations, New South Wales Law and Justice Foundation, 2003 and Qualitative Legal needs Survey: Bega Valley (Pilot), New South Wales Law and Justice Foundation, 2003. See <<https://www.lawfoundation.net.au/publications>>.

¹¹ M Smith and A Patel, 'Using Monitoring Data: Examining Community Legal Advice Centres Delivery', Legal Services Commission, London, June 2010 and A Trude and J Gibbs, 'Review of Quality Issues in Legal Advice: measuring and costing quality in asylum work', Lawyers Defending Human Rights,

practices that are adopted and integrated that enable the key planks of the NPA to be achieved rather than expecting outcomes prematurely. These practices could explore approaches which include social inclusion, joined up services, holistic approaches to problem solving and client centred approaches. Most of the legal assistance service evaluations examined have not had these approaches as a focus or consideration in their Terms of Reference (ToR).

Any good examination of legal assistance services must be mindful of the setting and of the role and obligations of lawyers both under legislation, rules of conduct and their legal ethical and other responsibilities that flow (detailed later in this literature review). Surveys described as 'client satisfaction' surveys can distort the role and picture of the function of legal services.

The NPA expires on 30 June 2014 and requires the demonstration of six aspects of legal assistance services:

- Increase their focus on early intervention and prevention services
- Encourage greater collaboration among legal and other service providers
- Find better ways to help people resolve their legal problems
- Address social exclusion including Indigenous disadvantage
- Adopt a more holistic approach to resolving people's legal problems
- Improve targeting of services to disadvantaged communities and the wider community
- Support the principles of the Australian Government's 'Strategic Framework for Access to Justice in the Federal Civil Justice System'.

Most of the reviews/reports/evaluations/studies considered in this literature review did not have the first five aspects factored into their measurement tools or into their Terms of Reference (ToR). This literature review will therefore try to identify possible ways of ensuring quality service and continuing improvement that could incorporate these five aspects in the design of an evaluation framework.

In a recent research report by Curran for Legal Aid ACT into the quality of their legal services and outcome measurement due for release in early 2012¹², service providers stipulated that because the disadvantaged and vulnerable are the people legal aid is targeted to assist and due to the challenges this presents - quality service is imperative. Many of the five aspects were incorporated into this project's design even though they had never been actively measured before.

Interestingly, not only are legal assistance services being asked to measure and report on 'outcomes' but other service delivery and humanitarian agencies are increasingly being asked to report and measure results based outcomes world-wide. Surprisingly, very little outcome/results based measurement has actually been undertaken internationally or

Refugee and Migrant Justice undertaken by the Information Centre About Asylum and Refugees and the Immigration Advisory Service, City University, London, March 2010.

¹² L Curran, "I can now see there's light at the end of the tunnel", Legal Aid ACT: Demonstrating and Ensuring Quality Service to Clients", Legal Aid ACT, 2012.

domestically although there is some literature on how one might go about it. These studies are discussed in this literature review.

The NPA states the 'Objective' in Clause 15 of the Agreement is to ensure 'A national system of legal assistance that is integrated, efficient and cost effective, and focussed on providing services for the disadvantaged Australians in accordance with access to justice principles of accessibility, appropriateness, equity, efficiency and effectiveness.'

Clause 16 of the NPA identifies what the Commonwealth considers to be the 'successful outcomes' of Legal Aid Commissions providing efficient and cost effective legal assistance services for disadvantaged Australians in accordance with Commonwealth legal aid service priorities:

- a. Earlier resolution of legal problems for disadvantaged Australians that, when appropriate, avoids the need for litigation
- b. More appropriate targeting of legal assistance services to people who experience, or are at risk of experiencing, social exclusion
- c. Increased collaboration and cooperation between legal assistance providers themselves with other service providers to ensure clients receive 'joined-up' services provision to address legal and other problems, and
- d. Strategic national responses to critical challenges and pressures affecting the legal assistance sector.

The recent research report by Curran¹³ identified the outcomes sought to be achieved by first defining what the 'outcome' is before working out how it is achieved so that it could be measured. This produced some precise and exacting indicators that, if they are present, are a 'surrogate' indicator that the outcomes as defined and relevant to legal assistance services are being achieved. Similarly, Trude and Gibbs make some suggestions about what constitutes good approaches to lawyering which, with some tweaking, might also inform any research evaluation design trying to tackle an inclusion of the first five aspects mentioned above.¹⁴

The NPA identifies a number of ways/outputs by which the objectives and outcomes of the Agreement will be achieved:

- a. legal assistance providers increasing the delivery of preventative, early intervention and dispute resolution services
- b. comprehensive legal information services and seamless referral for preventative and early intervention legal assistance services within each State and Territory
- c. delivery by State and Territory Legal Aid Commissions of efficient and cost effective legal assistance services provided in accordance with Schedules A and B, consistent with the access to justice principles of accessibility, appropriateness, equity, efficiency and effectiveness, including:

¹³ L Curran, "I can now see there's light at the end of the tunnel", Legal Aid ACT: Demonstrating and Ensuring Quality Service to Clients", Legal Aid ACT, 2012.

¹⁴ A Trude and J Gibbs, 'Review of Quality Issues in Legal Advice: measuring and costing quality in asylum work', Lawyers Defending Human Rights, Refugee and Migrant Justice undertaken by the Information Centre About Asylum and Refugees and the Immigration Advisory Service, City University, London, March 2010, 40-44.

- i. preventative legal services such as community legal education, legal information and referral
- ii. early intervention legal services such as minor assistance and advocacy and other advocacy other than that provided by a legal aid grant
- iii. dispute resolution services, duty lawyer services, litigation services and post resolution support services.

The NPA states (Clause 18-20) that performance will be evaluated against the broad sector reform which promotes client-centred focus and includes comprehensive access to information, seamless referral, improved coordination and targeting of services between legal assistance providing and linking legal assistance services with other services to ensure 'joined up service delivery. Some of the elements identified here also pertain to the quality of services provided. These become relevant when examining issues around the quality of the legal service provision. In such an examination, the five aspects referred to earlier (and not directly considered in many of the evaluations to date) may find a place.

As indicated in the discussion of international literature and research below, social researchers have been trying to ascertain how to measure outcomes as a results based measurement of impacts on people's lives in a way that goes merely beyond numerical measurements which are very limited in what they tell us about the nature and effectiveness of the service being delivered. This is no easy task.

The International Literature

Measuring 'successful outcomes'

The 'theory of change' approach which underpins some of the move towards results based or outcome evaluations gaining currency amongst service and government alike is in essence about examining what sort of a difference a service makes. The theory is based around post-positivist approaches which believe that science and knowledge provide the impetus for change and progress.¹⁵ By analysing situations, the theory believes, we can understand, plan and act. Then it suggests evaluation of these based on an original plan or strategic document. It is a 'top down' problem solving approach that involves determining what tools and techniques are necessary to get desired outcomes and assumes that agencies can control the change process. However this approach has been discredited in recent studies discussed below.

Recent work looking at working with the most socially excluded and the disadvantaged has argued strongly that managerial approaches including setting targets are exceedingly dangerous and can actually set service agencies up to fail by being disconnected from the reality of what actually has to be done or what is realistic to be done in the context of the available resources and staffing.¹⁶

¹⁵ Evaluation Framework, Program Effectiveness Team, World Vision Australia, Melbourne, February 2008, 8.

¹⁶ For interesting discussion from the United Kingdom about barriers to service delivery see the following 'Time Well Spent' - articulating the value of the local, one-to-one advice relationship in achieving both better outcomes and value for money; 'Nottingham Systems Thinking Pilot'. <<http://www.lawcentres.org.uk/publications/category/Research/>>. The latter document notes over

Mowles, Stacey and Griffin¹⁷ warn funders and agencies trying to report and comply with measurement of outcomes and results of the dangers. They note that managerial methods have been adopted often uncritically from the private sector and are now ubiquitous across a wide range of organisations and in expectations from funding bodies. Mowles, Stacey and Griffin observe that when applied to processes of social interaction like human development (or services)¹⁸ these methods have severe shortcomings. The methods overlook or fail to understand unanticipated contextual, unforeseen and contingent circumstances in the more abstract and de-contextualised planning processes which see them as 'noise' which needs to be managed away.¹⁹ They note that staff tend to be rewarded by managers on the basis of being able to deliver since they are bound by the public promises of transformation their organisations have agreed they will make and contractual obligations with funders.

Mowles, Stacey and Griffin observe that such approaches do not accept or deal with the realities of practice which should be appreciative of the unexpected, more tolerant of ambiguity, paradox and acknowledge the power differentials and imbalances at play. They argue for new tools of genuine dialogue and holistic analysis which may be uncomfortable because it is. They note that attention to the inherently paradoxical and transformative nature of everyday experience is needed.

There is considerable research (referred to in the section of this literature review on disadvantage and social exclusion) on access to justice, legal need and advice seeking behaviours that reveals that the work of legal assistance services is subject to significant variability depending on the client group and systemic intervening factors which a service is unable to influence. Mowles Stacey and Griffin warn that there are often 'unanticipated, contextual and contingent unforeseen circumstances' and 'unexpected ambiguity, paradox and the power differentials and imbalances at play'.²⁰

Clearly often the complex and diverse nature of the legal assistance service, the clients they serve and the setting they are in are not straightforward and will be complex and complicated. For this reason, the 'theory of change' and the 'experimental design' approach (discussed below) are not ideal.

The 'Experimental Design' involves the use of questionnaires and structured interviews to explore relationships between variables. It does this by comparing experimental groups with control groups and or random selection of participants in both the control group or in the experimental group. This approach is not suited to legal assistance evaluations which involve

40 per cent of the capacity of advice agencies is spent dealing with work generated by the failure of external organisations.

¹⁷ C Mowles, R Stacey and D Griffin, 'What Contribution Can Insights From the Complexity Sciences Make to the Theory and Practice of Development Management', *Journal of International Development*, Vol, 20 804-820 Copyright 2008, John Wiley & Sons Ltd, 804-820.

¹⁸ Brackets inserted by the author.

¹⁹ C Mowles, R Stacey and D Griffin, 'What Contribution Can Insights From the Complexity Sciences Make to the Theory and Practice of Development Management', *Journal of International Development*, Vol, 20 804-820 Copyright 2008, John Wiley & Sons Ltd, at 808.

²⁰ C Mowles, R Stacey and D Griffin, 'What Contribution Can Insights From the Complexity Sciences Make to the Theory and Practice of Development Management', *Journal of International Development*, Vol, 20 804-820 Copyright 2008, John Wiley & Sons Ltd, 804 at 809 and 810.

an analysis of so much complexity and diversity. In fact, one study examined in the United States failed as it could not find a 'control group'.

Another identified approach to evaluation is 'The Most Significant Change Technique (TMSCT).' This is a participatory form of evaluation that uses a story approach to explore the impact of a service or program. This challenges the conventional evaluation so commonly used and discussed above with its focus on predefined indicators. TMSCT is a process that ensures that the many stakeholders, including client, community, service providers and government are involved in deciding on what kind of impact and change is important and records and reflects on these. Case studies are often used in this approach.

'Survey Research' involves the use of questionnaires and structured interviews to collect quantitative data at a single point in time which is examined to identify patterns and relationships.

The 'Case Design Approach' involves a range of qualitative and quantitative evaluation methods including interviews, questionnaires, participant observation (difficult in legal assistance research due to client professional privilege issues) and document analysis. It focuses on a very in-depth analysis of a case or service program and examines these to develop in depth understandings rather than causal explanations. Such approaches reveal particularity and diversity and are good at enabling greater sense to be made of a situation that might not be evident with a more superficial study. These might be suited to legal assistance evaluations that seek to examine outcome, quality and effectiveness.

'Participatory action research' involves the evaluator working with the client/service/community to identify research questions, to collect the data and analyse it. This approach sits within a critical theory which is designed to contribute to learnings and empower people in the process and into the future by learning about their situation and working with the service/community/client to work out ways of making improvements. It uses 'quality criteria' which involves reliability, measurement validity, credibility, transferability, dependability and confirmability. It requires that the participation be authentic and ensures that the cause and effect relationship holds.²¹

A blend of these last four research approaches – survey research, case design, participatory action research and TMSCT were favoured by this author, Curran and utilised in the 2011 study for the LAACT.²²

A useful resource in relation to measuring capacity has been developed by the United Nations Development Program.²³ This material stresses the lack of a common language with which to articulate results, the lack of a framework in which to capture them and the difficulties in being able to measure and prove success and where it does exist the need often for it to be descriptive, subjective and the risk that cannot be avoided of its being anecdotal and vague. They warn each program must be understood to better inform and

²¹ Evaluation Framework, Program Effectiveness Team, World Vision Australia, February 2008, 10 and 11-13.

²² L Curran, "I can now see there's light at the end of the tunnel", Legal Aid ACT: Demonstrating and Ensuring Quality Service to Clients", Legal Aid ACT, 2012.

²³ 'Overview of the UNDP's Approach to Measuring Capacity' Capacity Development Group, Bureau for Development Policy, United Nations Development Program, June 2010 and Dr P Downes, 'Measuring Outcomes in Relation to SCP Core Elements, NEWB, Green Street, Educational Disadvantage Centre, St Patricks College, UK, 13 January 2011.

ensure adaptive learning and management processes rather than being fixed and remote from the realities of practice. Any approach must be able to adapt, hear and incorporate changing realities and demands.²⁴ The United Nations Development Program highlights the difficulties of the task and the possibility that measuring outcomes/results will not always be an exact science. They stress that measurement must go beyond an increase in input resources and completion of activities.²⁵

The United Nations Development Program (UNDP)²⁶ has developed a series of indicators that are a useful starting point for measuring legal assistance service outcomes suggesting the following:

1. The defining of capacity development strategies
2. Defining baselines for each indicator
3. Defining targets for each indicator.

Within this User's Guide they provide a table on 'Inclusion, Participation, Equity and Empowerment' enabling environments. Many of the items listed on page 47 could be utilised in any examination of legal assistance services' efforts to avert social exclusion, community development and in the conduct of community legal education evaluations in Australia.

In looking at social exclusion it is important to note that some clients:

- Cannot read or write
- Cannot speak the language or read and write in their own language
- Some clients may not be amenable to responding to written requests for information such as people with a mental illness
- Live in remote and isolated parts of the country or are homeless or have multiples of these issues.

Large proportions of legal assistance clients fall into categories of disadvantage and so the use of surveys and written questionnaires may mean these clients miss out on giving feedback altogether. Given they are the target of legal assistance service delivery and the delivery of quality legal services it would miss valuable insights from these client's perspectives if the selected methodologies did not include them. Focus groups, interviews or forums appropriate for the relevant target client groups to give feedback might be appropriate in these cases.

The World Bank 'Handbook' recommends a participatory approach involving key stakeholders.²⁷ Why? Because setting goals in isolation from what is being done and what has to be done and by those who do it might lead to a 'lack of

²⁴ 'Overview of the UNDP's Approach to Measuring Capacity' Capacity Development Group, Bureau for Development Policy, United Nations Development Program, June 2010, 10.

²⁵ 'Overview of the UNDP's Approach to Measuring Capacity' Capacity Development Group, Bureau for Development Policy, United Nations Development Program, June 2010, 6.

²⁶ 'Capacity Assessment Methodology User's Guide', Bureau for Development Policy, Capacity Development Group, United Nations Development Program, New York, January 2008.

²⁷ J. Z Kusek & R C Rist, 'A Handbook for Development Practitioners: 10 Steps to a Results Based Monitoring and Evaluation System', The International Bank for Reconstruction and Development, The World Bank, 2004, 58.

ownership' on the part of the main internal and external stakeholders. The World Bank Handbook recommends a participatory and consultative process be done in all stages in the identification of goals, objective, what outcomes look like and the steps necessary to get there i.e. building the indicator system.

The trend towards 'outcomes' measurement has been met with some trepidation in Europe.²⁸ A tension between 'top down' and 'bottom up' approaches has been identified in the setting of targets and indicators. Efforts to balance the need for a national picture but draw meaningful conclusions from the measurements can come into conflict. Care is needed in extrapolations as distortions can result.

David Bunham²⁹ has also written about the vexed issues of measuring 'outcomes'. He warns that it is critical to define the outcome before it can be measured. He notes that this is not an easy task and that this is why it has not been tackled. Bunham states that outcomes can be influenced by factors external to a service and can impose significant burdens on service providers to gather data which can distract from service delivery itself. He notes that once obtained, such data can be difficult to interpret. He suggests that the funder, service and client may all have different views on what constitutes an outcome. Finally, he stresses that views of a service user are critical in any discussion.

In determining an outcome Dawn Smart states an 'outcome' needs to be:³⁰

- Relevant
- Useful and measurable
- Achievable
- Practical to measure
- Within your control to influence.

Paul Bullen³¹ observes the following need to be considered as a starting point:

- What are the outcomes we are trying to achieve (and any unintended outcomes)?
- The extent to which we are achieving these outcomes (including showing a cause and effect link between the services provided and the outcomes achieved).

Bullen agrees with Bunham in noting that clients will have a more accurate and reliable picture of what has been achieved by a particular service. This is likely to allow them to make better judgments about the value of the service and also make better choices about

²⁸ 'Key Messages from the Debate so far', The Four Countries Adult Care Information Network (ACIN) United Kingdom, November 2006.

²⁹ D Bunham, 'Measuring Success: How can we Develop an Evidence base for Measuring Outcomes' Lancashire County Council and Community Service, 14 August 2011.

³⁰ D Smart, 'Ask the Expert' USA National Resource Centre, 2004. <www.ccfbest.org/outcomemeasurements/issuesandchallenges.htm>

³¹ Paul Bullen, Management Alternatives for Human Services <<http://www.mapl.com.au/evaluation/eval4.htm>> Undated.

services. Practitioners will be better able to monitor and reflect on their work because they will have measures of what has been achieved. Services that want to continuously improve the quality of their services will have information about the effectiveness of the services provided. This information can be used to monitor the effects of improvements to service processes. Accordingly, Bullen states that good studies will examine the perspectives of the service user and the providers of the service.

Bullen also warns:

- Where it is not possible to prove cause and effect relationships do not use outcome measure to judge your performance. Rather use outcome measures to help you ask good questions.
- Don't just focus on the outcomes to be achieved, have processes in place to identify and document unintended outcomes.

The useful World Bank Handbook suggests that a careful institutional assessment of the service/agency being examined should occur before any measurement is undertaken. This ensures that there is a real capacity of the users to actually create, utilise and sustain the system. The World Bank Handbook endorses an approach which is responsive to the needs of its users (which in this case includes the staff delivering the services and the clients who use the service), determines the resources available to build and sustain the system, and assess the capacities of those who both use and produce the information.

The World Bank Handbook warns against approaches that try to set indicators in a vacuum from what the desired outcomes might be because it is the outcome not the indicators that will produce the best benefits. This is why it is not advisable to try to decide to use measures such as time costing or activity reporting as measures unless those approaches are exact measures for demonstrating what the organisation is seeking to achieve and whether it has achieved it. They may measure time and the number of actions taken but do they demonstrate that such time and activity was of a kind that lead to a quality outcome that aligns with the strategic aims and objectives of the organisation.³²

The World Bank Handbook suggests an approach which first examines what it is that you want, the desired outcome and then works out the steps that are likely to get you there as a more useful approach.

A Harvard Business School article by Ebrahim and Rangan states such measures of outcome/results need to align with the actual goals of the organisation and be reasonably within the control of the organisation to influence. They note that 'organizational efforts beyond this scope are a misallocation of scarce resources'.³³ The article warns that a key challenge in such measurement lies in the 'thorny issue of causality: impacts are likely to be affected by multiple factors and multiple actors'.³⁴ Ebrahim and Rangan state that ability to attribute long term results to interventions is severely limited as so many other factors can be involved.

³² J. Z Kusek & R C Rist, 'A Handbook for Development Practitioners 10 Steps to a Results Based Monitoring and Evaluation System', The International Bank for Reconstruction and Development, The World Bank, 2004, 57.

³³ A Ebrahim and V K Rangan, 'The Limits of Non Profit Impact: A Contingency Framework for Measuring Social Performance', Harvard Business School Working Paper, May 2010, 4.

³⁴ A Ebrahim and V K Rangan, 'The Limits of Non Profit Impact: A Contingency Framework for Measuring Social Performance', Harvard Business School Working Paper, May 2010, 4 at 8.

Ebrahim and Rangan³⁵ also observe that outcomes that are harder to measure are policy advocacy and civil rights. Both are areas that community legal centres, ATSILS and Legal Aid Commissions have as part of their core work. They note that making a difference in these spheres can take a long time, and in some cases, decades. They note that having influence is a vague concept and that often a coalition of actors is involved.

The need for the documentation of work done such as submissions, responses made, legislation resulting and administrative changes brought about also often involve other players. With the limited archiving space (most legal services need to keep client advice and case files for seven years) and resources to record law reform activities over the time that it often takes for reform to occur presents huge issues as to administrative burdens for agencies such as CLCs.³⁶

Goldberg and Predeoux³⁷ have actually completed a study looking at outcomes and seeking to measure these. This becomes relevant as it is one of the few attempts internationally in the legal assistance services field. Care must be taken though in taking research from a jurisdiction like the United States of America (USA). This jurisdiction is different to Australia particularly in terms of the history, structure, funding and context of legal assistance services. Extrapolating from such research can be dangerous. The model of legal aid services in the USA is quite different to Australia's following the legal service reforms by President Regan in the 1980s. These 'reforms' limited funding, proscribed and limited the nature of services that would be provided. The USA also does not have a similar 'mixed model' (i.e. the blend of salaried and private lawyers who share legal aid work service delivery, for example Legal Aid ACT, Victoria Legal Aid and Legal Aid NSW). Their CLCs suffered greatly from the 1980 reforms with many folding and many of the services to the poor and disadvantaged are run through law school clinical legal education programs and pro bono or philanthropic funding rather than government funded programs as in Australia. Studies in the USA note this variation in funding and models has led to fragmentation and gaps in service delivery.³⁸

Nonetheless, a solid attempt was made in Goldberg and Predeoux in the USA to undertake research to identify outcomes and to measure them. Their research highlights how difficult it is to determine outcomes and measures in legal assistance services. Many of the outcomes identified are useful. However some of the outcomes used have the problems of attribution discussed by Bullen and Bunham and are therefore inexact and risky. Setting such broad definitions for 'outcome' can set a service up to fail. If the delivery is not within the agencies control but relies on other external factors outside the agencies control or sphere of influence it becomes an unfair test. For example, 'clients of legal assistance services have an increase in security in achieving and protecting their basic needs and human rights including food, shelter, health care, safety and family relationships'. Whilst being a noble outcome, it was definitely beyond the function, role or scope of a legal service agency to deliver.

Outcomes which are utilised by Goldberg and Predeoux in their evaluation included:

- whether clients gained knowledge to solve problems

³⁵ A Ebrahim and V K Rangan, 'The Limits of Non Profit Impact: A Contingency Framework for Measuring Social Performance', Harvard Business School Working Paper, May 2010, 4, at 9- 32.

³⁶ L Curran, 'CLCs Lead on Law Reform', *Law Institute Journal*, Melbourne, April 2008.

³⁷ J Goldberg and S Predeoux, 'Maryland Legal Aid Outcomes Survey – Measuring the Impact of Legal Aid's Services for Older Adults', Maryland Legal Aid, July 2009.

³⁸ National Evaluation of the Legal Assistance for Victims Program, Institute for Law and Justice and the National Centre for Victims of Crime, 24 January 2005. <<http://www.wily.org>>.

- whether clients obtained a legal resolution
- whether clients obtained access to the legal system or an intended benefit of the law
- whether clients had their voice heard in the legal system.

Case studies of these outcomes were also collected. These were based on lawyer feedback.

The results based research examined throughout this literature review consistently reiterates the dangers of outcomes being decided upon that are unconnected and divorced from the nature of the actual work and functions of the service that is being measured.

In summary, those who undertake results or outcome based research in the development sphere such as the World Bank and the UN Development Program suggest that any research model/evaluation undertaken should first fully investigate the nature of the type of the service (in this case, legal assistance services) in all of its complexity and diversity is the critical first step before one can effectively, accurately and efficiently measure its impact, results or outcomes.

The intent and rationale behind each part of a service can be so different and the outcomes sought vary from section to section (given the rationale and different policy settings); the nature of the work is difficult, technical and complex. This means that for any outcome to be realistic and for any measurement to be reasonably linked to the outcome sought, then the full appreciation of the nature of the services provided becomes critical/essential before any imposition of a definition of outcome or its measurement can be imposed. This no doubt equally applies to other providers of legal assistance services just as it does to human services who are being asked to measure outcomes and quality.

Although much of the international material on outcomes and or results based measurement is still in its infancy there are some useful web sites which have started work on how to approach outcomes/results based reporting and finding indicators. These sites are footnoted below.³⁹

Ebrahim and Rangan⁴⁰ discuss the need to gather data that is meaningful and has purpose otherwise it becomes a time and resource intensive but useless exercise. They also warn

³⁹ Howard Family Research Project Evaluations <http://www.hfrp.org/publications_resources>. This work mainly looks at school based issues and some family communications issues. These are not so relevant to legal assistance services. However, there is a word document on the site which explores advocacy evaluations that may be useful. Also see <<http://www.evaluationinnovation.org>>. This site has some articles which may be relevant around advocacy evaluation. The Julia Hoffman 'Composite Model Tools' also may be relevant in relation to planning for continuous progress monitoring. Again, caution is needed as the items suggested could be very burdensome on the legal aid sector. <<http://www.aspeninstitute.org/policy-work/apep>. There is an advocacy progress planner tool and a useful document on basic background to evaluation but note that this is within a USA context, see <<http://www.fip.continuousprogress.org/node/57>. There is also some international work on Indigenous legal need, see <<http://www.jcu.edu.au/ilnp>. The national evaluation of the Legal Assistance Institute for Law and Justice is also worth considering, with a caution that this is a United States jurisdiction namely, Alexandria, Virginia <<http://www.wilj.org>>. Libby Maynard from the CLCs sector was embarking on a study tour looking at evaluations of advocacy at the time that this literature review was being finalised. She may be worth contacting to discuss her findings.

⁴⁰ A Ebrahim and V K Rangan, 'The Limits of Non Profit Impact: A Contingency Framework for Measuring Social Performance', Harvard Business School Working Paper, May 2010, 1- 35.

that any attempt to measure outcomes must be aligned with an agencies strategy and mission and the systems and measurements which support such alignment. They warn that the problems (discussed earlier in this literature review) with causal logistics and strategy make socially driven organisations fundamentally different to profit driven ones.⁴¹ These can be easier to measure as a result of savings and profits. Social outcomes can be difficult to gauge especially with limited resources and the limits to the ability to measure outcomes. They observe that many outcomes can often only occur over a longer time than most accountability measures are concerned with. This is consistent with the views of Smith and Patel's findings which will be discussed later in this section.⁴²

One of the performance standards for Community Legal Advice Centres in the United Kingdom is that the outcomes of cases achieve 'substantive benefit' for the client. Whether a client has received a substantive benefit is based on the outcome reported for the client.⁴³ This new development in the United Kingdom has seen the Legal Services Research Centre (LSRC) tackle issues around measuring performance and outcomes in recent times.

Smith and Patel of the LSRC state that any evaluation report must be read in conjunction with the other client focussed studies, which together provide a more comprehensive picture of what services have delivered for clients.⁴⁴

In determining an organisation with a 'mature, functioning results based monitoring and evaluation system' (often referred to as a Measurement and Evaluation (M&E) system) the World Bank identifies the following need to be present:

- A prepared workforce
- A secure workforce
- Quality workplaces.

The World Bank discusses 'tunnel vision' as an obstacle to good M&E systems. They state that data results should shed light on areas previously unknown and not fully understood. If improvements are to be made and real outcomes achieved then an ability to face up to and shed light on areas previously unknown is essential.⁴⁵

Role of lawyers, advice and representation or information and referral service only – dangers of 'client satisfaction' tools in legal service measurement

The international literature warns about the significant difficulties involved in measuring access to justice⁴⁶ and also that care also needs to be taken in assessing whether the

⁴¹ A Ebrahim and V K Rangan, 'The Limits of Non Profit Impact: A Contingency Framework for Measuring Social Performance,' Harvard Business School Working Paper, May 2010, 35.

⁴² M Smith and A Patel, 'Using Monitoring Data: Examining Community Legal Advice Centres Delivery', Legal Services Commission, London, June 2010.

⁴³ M Smith and A Patel, 'Using Monitoring Data: Examining Community Legal Advice Centres Delivery', Legal Services Commission, London, June 2010, 14.

⁴⁴ M Smith and A Patel, 'Using Monitoring Data: Examining Community Legal Advice Centres Delivery', Legal Services Commission, London, June 2010.

⁴⁵ J. Z Kusek & R C Rist, 'A Handbook for Development Practitioners: 10 Steps to a Results Based Monitoring and Evaluation System', The International Bank for Reconstruction and Development, The World Bank, 2004, 125-145.

⁴⁶ M Barendrecht, J Mulder, T Giesen & the Study Group Access to Justice, 'How to Measure the Price and Quality of Access to Justice', Netherlands, November 2006.

relevant legal assistance service or part of that service being evaluated/examined is in fact engaged in the provision of legal advice or merely information and referral. This has significant implications for how a service might be measured. It may or may not, and bring into play the issues around confidentiality and professional indemnity insurance that some evaluations have identified as issues that need to be considered in advice and representation.⁴⁷ National studies have raised this need for care. It is critical that services set up to provide information and referral only, do not inadvertently stray into providing legal advice due to the insurance and legislation guarding against such intrusions to protect clients in the various legal professional regulations. In Australia this is particularly relevant given the different State and Territory regulatory regimes.

'Client satisfaction surveys' are often used to evaluate simple services that provide market research on clients of simple services such as the provision of retail services like clothing or cosmetic sales or help-lines for computer customers. Often they relate to a service received on-line or by phone by a telecommunications company or financial service.⁴⁸ Borrowing approaches from such industries, unless they are very limited in the scope and there is a simplicity of service or goods being delivered, are likely to distort findings. Such nomenclature is important as it can distort people's perception of what is being evaluated, and in the legal assistance sector, the actual role and function of a lawyer becomes confused as it is not always going to 'satisfy' a client as legal advisers cannot be a mere 'mouthpiece'. This is explicitly discouraged by the conduct rules and duties of the legal profession. Rules and duties are often formulated to protect the client in the longer term. Where the evaluation responses required are 'satisfied' or 'not satisfied' they further distort client understandings of the role and function of legal services. In using any models from other evaluations therefore, considerable care and sophistication in approach in the design of questions and their relevance to the legal assistance service sector needs to be taken. Many of the studies using the phraseology 'client satisfaction' examined were from private law firms whose focus was on commercial marketing. Concerning is that some legal aid instrumentalities have also utilised this nomenclature.⁴⁹

<<http://www.tilburguniversity.nl/faculties/law/research/tisco/research/projects/access/papers/06-11.pdf>>. See also in relation to civil justice J Verdonchot, M Barendrecht, L Klaming and P Kamminga, 'Tisco Working Paper Series on Civil Law and Conflict Resolution Systems', No007/2008, Netherlands, 10 November, 2008 Version:1.0 http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1298917. The latter authors note the 'problems associated with neutral evaluations of outcomes, the ambiguity of outcomes, and the relative weight of each criterion in different settings.' Again the Verdonchot et al report's remit is broader than legal assistance services but the issues they grapple with many of which remain terribly complicated demonstrate the challenges of measuring outcomes and access to justice.⁴⁷ C England and P Porteous, 'Review of the Children's Court Assistance Scheme', Final Report, Legal Aid NSW, Matrix on Board, 20 September 2011, 29-40.

⁴⁸ For example, many 'free' trial on-line 'client satisfaction' surveys are made available by various companies such as <[https:// about.com](https://about.com)>; or <<https://www.surveymshare.com/templates/basicdemographics.html>>. These may not be appropriately converted to a legal aid service context without considerable care being taken in design and questions for the reasons reflecting the make-up of disadvantage of many legal aid clients referred to earlier in this literature review.

⁴⁹ 'LAO Common Measurement Tool Overview of 2009 Results', Quality Service Office, Legal Aid Ottawa, March 2010; Queensland Legal Aid Report Card, Annual Report 2009-2010; LSS Client Services Survey, M Bacica and J Winram, Legal Services Survey, Synovate, Canada October 2007; A Munday and A Rutkay, 'Client Satisfaction Survey and Measurement', Legal Aid WA & Data Analysis Australia Pty Ltd, June 2004 and Idaho Legal Aid Client Satisfaction Survey, Idaho Legal Aid Services, 2011. <<http://idaholegalaid.org/ClientSatisfactionSurvey>>

The international 'client satisfaction' studies examined for this literature review highlight that there are also dangers in any approach involving the taking of feedback from clients which does not fully reflect the function/duties of a lawyer. Some clients will not like what they hear from a lawyer providing independent competent advice. The client may believe that they are right and the other side is wrong, that the law ought not work the way it does or that the lawyer's role is just to be a 'mouth piece' for the client. Their role is to advise based on a client's circumstances of their position at law. The client may not be happy or 'satisfied' with the advice.⁵⁰ This advice may not always meet the client's expectations. Fundamentally, lawyers are 'officers of the court'. The legislation, namely the Legal Profession Acts and the rules of conduct made under this legislation clearly state that lawyers are given a license to practice at the behest of the court and as such, have duties to the court not to mislead it or misrepresent the law. They also have duties that relate to the integrity of the legal system. This is a higher duty than those to the client.⁵¹ This is not commonly understood by the wider community including clients, and can be a cause of 'client dissatisfaction'. This is why the use of this terminology in any instruments is problematic in relation to legal assistance services.

Often in such scenarios the client is angry with the advice and will walk away unhappy. It is not uncommon for such a client to shop around for legal advice that suits them and then when no lawyer will do so, often find themselves self represented.⁵² In such a case the client will not be 'satisfied' with the legal service but the lawyer has done exactly what a good lawyer should do according to the legislation and conduct rules. Rules developed over time to protect the client and the integrity of the legal system overall.

Many of the international and domestic studies analysed in the course of this literature review used the language 'client satisfaction'.

Bacica and Winram in Canada have conducted a Legal Services Society 'Client Services Survey'.⁵³ They use the problematic 'client satisfaction' phraseology and get into difficulty when clients are asked about the court representation and advice aspects of the service. Although some of the questions around 'helpfulness' and having things 'clearly explained' are useful, the study by using the term 'satisfaction' and examining case outcome ventures into heavily perception based and risky areas. The failure to grapple with the complexity of the legal process makes this study unhelpful. (See question results to F2 on page 37 of their report on the findings.) To overcome this difficulty perhaps a better terminology than 'client satisfaction' is 'client feedback'. This can then explore the level of 'quality' of the service or as client feedback on the service.

Clients responding to surveys/questionnaires when framed in this way are then encouraged to think more reflectively on the service rather than their own wants and wishes, the win or loss of the unwinnable case - areas that might not always be within the remit/scope or the ability of the service to influence. It is also important to think carefully about using a simple survey format to glean information about what is a complex and lengthy court process when

⁵⁰ This would be contrary to the *Australian Solicitor's Conduct Rules*, Rules 1-11, 30.

⁵¹ *Legal Profession Act (2006) ACT, Legal Profession Act 2004 (Vic) and The Australian Solicitors Conduct Rules* <<http://www.lawcouncil.asn.au>> and the various legal professional regulations across the country also available through the Law Council of Australia link.

⁵² A Lamb and J Littrich, 'Lawyers in Australia,' Federation Press, NSW, Second Edition, 2011, Ch 8, 155.

⁵³ A Munday and A Rutkay, 'Client Satisfaction Survey and Measurement', Legal Aid WA & Data Analysis Australia Pty Ltd, June 2004.

so many variables affecting a 'case outcome' can apply as the responses to the researchers F2 framework indicate.

Mechanisms other than surveys can be better able to adapt where complexity and complicated aspects are being examined. Such alternatives include in depth interviews or focus groups. The risk is that the statistics gathered in surveys are not in fact representative of the information they are seeking to gather and hence have little empirical value or precision.

In a recent Idaho Survey⁵⁴, although called 'Client Satisfaction' it avoided using the term 'satisfaction' in most of its questions save for a statement ranking of 'I am completely satisfied with the ILAS service'. This survey is a useful one. Some of the statements put to the survey participants centred around the explanation of the process and whether the clients felt better off as a result of using the service.

The importance of recognising the strengths and weaknesses of different approaches and of using multiple approaches to complement each other or reduce distortions is key when what is being measured is complicated and complex. Many surveys tools cannot gather detailed information about context and circumstances unless extensive open questions are used and many survey tools have limited capacity for this. Qualitative approaches may be a better compliment where such complexity is evident. Perhaps even 'snap shots' rather than ongoing reporting requirements for legal assistance services may be appropriate as ways to minimise intensive reporting requirements given limited staffing, resources and the need to deliver the actual service to community.

Measuring Quality of Legal Assistance Services

An excellent report in terms of evaluating quality issues in legal advice is Trude and Gibbs report entitled, 'Review of Quality Issues in Legal Advice'.⁵⁵

The report although based in the United Kingdom (which does not have a tradition of the 'mixed model' of legal aid service delivery as in Australia) has some suggestions relevant for an Australian context. It is important to note that this report is largely critical of the approach in the United Kingdom. Trude and Gibb's view is that in the drive for 'cost efficiency', quality has been compromised. Any consideration of this report should be mindful of the different context in the United Kingdom with recent cuts in 2011 to its legal aid budget of one-third.⁵⁶

Trude and Gibbs note that quality of legal representation and advice are important in asylum seeker cases as they relate often to life and liberty. Although the report is specific to asylum seekers, the broader findings on what is needed for quality advice and effective and efficient representation are applicable to the legal assistance sector in general.

⁵⁴ 'Idaho Legal Aid Client Satisfaction Survey', Idaho Legal Aid Services, 2011.

<<http://idaholegalaid.org/ClientSatisfactionSurvey>>

⁵⁵ A Trude and J Gibbs, 'Review of Quality Issues in Legal Advice: measuring and costing quality in asylum work', Lawyers Defending Human Rights, Refugee and Migrant Justice undertaken by the Information Centre About Asylum and Refugees and the Immigration Advisory Service, City University, London, March 2010.

⁵⁶ For a detailed explanation of the United Kingdom's Legal Aid model and some concerning recent changes under reforms to the civil justice system introduced by the Cameron Government in 2011 see R Smith, 'Legal Aid in England and Wales: Entering the Endgame' Justice Journal, London, Spring 2011.

Their methodology for the study was as follows:

- Analysis of costs and quality of the work of a number of legal aid providers in three regions of the United Kingdom
- In-depth interviews with stakeholders including decision-makers
- An examination of the findings of the Solihull evaluation.⁵⁷

The Trude and Gibbs literature review draws on existing evidence to identify the key elements indicative of high quality legal service. They also examine findings from an evaluation of a pilot early advice service in Solihull.⁵⁸ Trude and Gibbs identify three key elements of quality legal advice and representation as:

1. Professionalism and expertise enabling the full factual and evidentiary basis of a case at the earliest opportunity
2. Quality of the one-to-one relationship creating trust and confidence in the legal representative as, if this exists, the client is more likely to be confident in the case outcome but also to assist cooperate in achieving it
3. Representation and advice which have time to present the case and do items 1 & 2 above.

Trude and Gibbs also note that good indicators of quality should also include the professional obligations of lawyers.⁵⁹ In addition, evidence of the following was found to determine quality:

- The identification of legal and evidentiary issues
- Instructions of appropriate experts and advocates to avoid delays in preparation and dissatisfaction leading to non-cooperation by clients
- Use of tactical judgement
- Exploration of every reasonable legal avenue.

A critical finding of the Trude and Gibbs report is that 'poor quality work costs much more in the longer term to the public purse and in human terms to individual asylum seeker applicants'.⁶⁰

The Report is critical of the Legal Services Commission's (LSC) Graduated Fee Scheme, introduced in 2007 with hourly rates. They argue such short term cost saving ends up costing more in the longer term. The problem identified in such a structure is that it pays providers

⁵⁷ J Aspden, 'Evaluation of the Solihull Pilot for the United Kingdom', Border Agency and the Legal Services Commissioner', The Stationary Office, London, 2008.

⁵⁸ J Aspden, 'Evaluation of the Solihull Pilot for the United Kingdom', Border Agency and the Legal Services Commissioner', The Stationary Office, London, 2008.

⁵⁹ A Trude and J Gibbs, 'Review of Quality Issues in Legal Advice: measuring and costing quality in asylum work', Lawyers Defending Human Rights, Refugee and Migrant Justice undertaken by the Information Centre About Asylum and Refugees and the Immigration Advisory Service, City University, London, March 2010, 8.

⁶⁰ A Trude and J Gibbs, 'Review of Quality Issues in Legal Advice: measuring and costing quality in asylum work', Lawyers Defending Human Rights, Refugee and Migrant Justice undertaken by the Information Centre both Asylum and Refugees and the Immigration Advisory Service, City University, London, March 2010, 1.

identical fees, reducing the incentive to strive for higher quality. This forces the choice between financial survival and responsibility to clients thus incentivising low quality work. They state that the LSC's method of setting the fees had little historical data on which it is based with actual input from those with direct experience of legal service delivery.

Trude and Gibbs in discussing how quality might be measured lament the failure of the LSC to proceed with the 'Carter Reforms.' These Carter reforms were to provide and implement key quality assurance safe guards to underpin the other recommendations of Carter for the reform of legal aid work (remembering that the United Kingdom does not have Australia's 'mixed model.') The authors of the report refer to Lord Carter's warning that a failure to implement quality assurance safeguards places the whole justice system at risk.⁶¹ Lord Carter provides useful criteria for quality in legal aid. It is extracted on page 9 of the Trude and Gibbs Report.

Trude and Gibbs also criticise the new 'peer review' model in the United Kingdom as they state it lacks the quality assurance reference points Carter suggests and only picks out the elements of a case without being a file review of time spent or examines a case in its entirety. Such 'case splitting' by the LSC in its examination of quality fragments the cases being examined and loses the context and sense of quality required overall for an outcome. Trude and Gibbs also criticise the 'peer reviews' perimeters for their limited focus on the recent public service reforms agenda rather than on quality of the service. The recent public reforms framework has also been criticised by the New Economics Foundation in the United Kingdom.⁶²

The LSC in the United Kingdom has developed some useful statements that can be included in surveys, questions and interviews with lawyers and clients around quality and outcome.⁶³ However the warnings of Trude and Gibbs that care is needed in ascertaining relevance, context and the dangers inherent in some of the approaches need to be heeded. Any extrapolation from the LSC instruments for measuring efficiency needs to be mindful that the system in the United Kingdom for legal aid service delivery is very different to Australia.

Other relevant issues in assessing quality are discussed by Trude and Gibbs which include component elements to ascertain quality and some indicators.⁶⁴ They discuss process

⁶¹ Lord Carter of Coles, 'Lord Carter's Review of Legal Aid Procurement, Legal Aid: A Marker Based Approach to Reform', 2006, House of Lords, Britain.

⁶² J Collins et al, 'Unintended Consequences: How the Efficiency Agenda Erodes Local Public Services and a New Public Benefit Model to Restore them', New Economics Foundation, London 2007.

⁶³ See <http://www.legalservices.gov.uk/cioivil/forms/specialist_quality_mark.asp>.

⁶⁴ A Trude and J Gibbs, 'Review of Quality Issues in Legal Advice: measuring and costing quality in asylum work', Lawyers Defending Human Rights, Refugee and Migrant Justice undertaken by the Information Centre About Asylum and Refugees and the Immigration Advisory Service, City University, London, March 2010, 39-45.

elements of quality evaluation.⁶⁵ They also identify some ‘adviser features’⁶⁶ of quality. These coincidentally line up with those in Curran’s research for LAACT in 2011.⁶⁷

The usefulness of the Legal Services Commission’s approach, particularly its codes has also been questioned as ‘end point codes’ may not be at the end point and so can distort the data.⁶⁸ Concern about this has also been raised by Smith and Patel.⁶⁹ The LSC also often lacks a clear understandable and applicable definition for outcome and so the data can often be distorted by attributing accountabilities to services which are outside their control such as case outcomes. This is dangerous for any service being measured. Again a selection of approaches used overseas requires great caution and a critical eye is needed rather than replication.

R Barendrecht, Mulder and Giesen⁷⁰ and Laxminarayan⁷¹ through the Netherland ‘Measuring Access to Justice Project’ have done work examining procedural quality, cost and outcome quality. They suggest assessing informational justice outcomes around how processes are explained; interpersonal justice outcomes around respect and the treatment by the service/s; equality of outcomes, namely the explanation of what occurred, and the transformative quality outcomes, namely the ability of parties to move forward. Characteristics of a ‘Quality Evaluation’ have been identified as impartiality, usefulness, stakeholder involvement, technical adequacy, feedback and dissemination and value for money.

The next section identifies some useful studies and approaches to measuring the quality of a legal assistance sector. Trude and Gobbs refer to ‘The Effective Lawyer Communication Project’ undertaken in 2003 by Glasgow Graduate School of Law and others⁷² as a useful way of looking at quality approaches. This project looked at effective legal communication, listening skills, positive and appropriate body language, availability, thorough evidence gathering, professional and neutral interpreter use and other key aspects of quality legal assistance.

⁶⁵ A Trude and J Gibbs, ‘Review of Quality Issues in Legal Advice: measuring and costing quality in asylum work’, Lawyers Defending Human Rights, Refugee and Migrant Justice undertaken by the Information Centre About Asylum and Refugees and the Immigration Advisory Service, City University, London, March 2010, 44, 48 and 60.

⁶⁶ A Trude and J Gibbs, ‘Review of Quality Issues in Legal Advice: measuring and costing quality in asylum work’, Lawyers Defending Human Rights, Refugee and Migrant Justice undertaken by the Information Centre About Asylum and Refugees and the Immigration Advisory Service, City University, London, March 2010, 60-61.

⁶⁷ L Curran, “‘I can now see there’s light at the end of the tunnel’, Legal Aid ACT: Demonstrating and Ensuring Quality Service to Clients”, Legal Aid ACT, 2012.

⁶⁸ ‘Towards a Business Case for Legal Aid’, Citizen’s Advice, Paper to the Legal Research Centre’s International Conference, July 2010.

⁶⁹ M Smith and A Patel, ‘Using Monitoring Data: Examining Community Legal Advice Centres Delivery’, Legal Services Commission, London, June 2010.

⁷⁰ M Barendrecht, J Mulder and I Giesen, ‘How to Measure the Price and Quality of Access to Justice?’ <<http://tilburguniversity.nl/faculties/law/research/tisco/research/projects/access/papers/06-11.pdf>

⁷¹ M Laxminarayan, ‘Measuring Access to Justice for Victims of Crime’, Paper to the Victims in Europe Conference, Portugal, 2009. <<http://www.tilburguniversity.nl/faculties/law/research/tisco/research/projects/access/publications/laxminarayan-june-2009.ppt>>

⁷² A Trude and J Gibbs, ‘Review of Quality Issues in Legal Advice: measuring and costing quality in asylum work’, Lawyers Defending Human Rights, Refugee and Migrant Justice undertaken by the Information Centre About Asylum and Refugees and the Immigration Advisory Service, City University, London, March 2010, 9.

The United Kingdom has three key experts on the delivery of professional and quality legal services. They are Avrom Sher, Professor Alan Paterson and Richard Moorhead. These academics have written and researched professional legal services extensively and this literature is highly relevant for informing studies on legal assistance services and their quality and effectiveness.⁷³ They have observed that it is easy to determine competence but harder to evaluate attitude and motivation. Lord Carter has also noted the difficulties in examining quality.

Lord Carter states:

‘Measuring the quality and impact of guidance interventions...[is]... multi-faceted and complex. Given that guidance is a human activity, subject to degrees of unpredictability and uncertainty (particularly in relation to individual values, attitudes, beliefs and behaviours), it is unsurprising that its quality assurance and impact are difficult, sometimes impossible to measure.’⁷⁴

R Moorhead and M Robinson⁷⁵ have observed that the ‘advisers own skill and expertise served as the strongest indicator of how clients would be dealt with’. This author had the opportunity of discussing Moorhead’s research with him in Cardiff in 2007. Moorhead explained that his research demonstrated the disparity between the identification by lawyers of the problem the client wanted resolving and the actual legal problem the client initially wanted help with. Interviews were conducted with the lawyers after interviewing clients and then with clients with follow up six months later. Often, even after six months the lawyer had still not identified the issue the client was seeking their assistance for. The study highlighted the real dangers of poor listening skills and an absence of lawyers checking they had clearly understood the facts and what the client was seeking. This use of an instrument that involves interviewing lawyers and clients after interview has been utilised in recent studies by Noone and Digney⁷⁶ and Curran⁷⁷ and are discussed later in this literature review’s consideration of National studies.

The World Bank warns that if stakeholders, such as staff, are to trust the information then they must take ownership of the findings and agree to incorporate what has been learned into ongoing and new policies, programs and projects. In terms of how to approach the measurement of legal assistance services it is critical to work with them and involve them in the study. It notes that creating a façade of involvement is a sure way of generating hostility and that sharing information, involving and discussing the issues a service confronts with the stakeholders is key if the measurements are going to be accepted, participated in and in the

⁷³ A Paterson and A Sherr, ‘Peer Review and Quality Assurance- the emergence of peer review in the legal profession’, International Legal Aid Conference, Antwerp, June 2007 and A Sher and R Moorhead et al, ‘Assessing and Developing Competence and Quality in Legal Aid- Transactional Criteria’, Volume 2 *The Quality Agenda*, HMSO, London 1994.

⁷⁴ Lord Carter of Coles, ‘Lord Carter’s Review of Legal Aid Procurement, Legal Aid: A Marker Based Approach to Reform’, 2006, House of Lords, Britain, 8.

⁷⁵ R Moorhead and M Robinson, ‘A Trouble Shared – legal problems clusters and advice agencies’, DCA Research Series 8/06 Department of Constitutional Affairs, London (2006).

⁷⁶ M Noone and K Digney, ‘It’s Hard to Open up to Strangers’ ‘Improving Access to Justice: The Key Features of an Integrated Legal Services Delivery Model’, Research Report, Legal Services Board and La Trobe University, September 2010.

⁷⁷ L Curran, ‘“I can now see there’s light at the end of the tunnel”, Legal Aid ACT: Demonstrating and Ensuring Quality Service to Clients’, Legal Aid ACT, 2012.

longer term remain sustainable. This is consistent with the adoption of the participatory action research. Other tips include:

- Data be presented in a short and crisp manner and be relevant to the target audience
- Only important data or information requests should be presented
- The data may have to be packaged and formatted differently according to the interests, preferences and capacity of each audience⁷⁸
- Personnel briefings especially to staff and management to keep them updated.
- Follow-up and feedback. This involved for example if tools are needed to improve service delivery then mechanisms are required to ensure the tools have been put in place and are working or appropriate.
- Comparisons of data over time are critical. Providing data for a specific quarter or year by year is itself not useful but where data can be collected and compared over time it can be useful
- Always report against the baseline and intermediate measurements to determine whether progress has been sustained, whether there was a short spurt of improvement or whether early improvements have all disappeared.

The World Bank suggests uses can include:

- Responding to elected officials and the public demands for accountability
- Helping formulate and justify budgetary requests
- Helping to make operational resource allocation decisions
- Triggering in depth examinations of what problems exist and what corrections are needed. If something goes wrong it does not mean the whole approach is wrong and many a good program is thrown out and gains lost. It may mean a refining is required
- Helping provide services more efficiently (researcher would add effectively).
- Supporting strategic and long term planning efforts
- Communicating better with the public to build trust.

Some of the research on client service and what clients want in a service⁷⁹ can include:

- Choice
- Flexibility
- Information
- Being like other people
- Respect and being heard
- Fairness and no discrimination

⁷⁸ See also UNDP 'Capacity Assessment Methodology User's Guide', Bureau for Development Policy, Capacity Development Group, New York, January, 2008.

⁷⁹ 'Real Voices, Real Choices- a consultation with service users', The Commission for Social Care Inspection UK, March 2006.

- Cost and value
- Safety.

Other suggestions include⁸⁰:

- Responsiveness
- Empathy
- Involvement
- Accessibility
- Listened Carefully
- Kept me up to date
- Explained things clearly & in a way I understood so I knew what to do/what was going on/going to happen⁸¹
- Discreet atmosphere
- Helpfulness of staff⁸²
- Provided with relevant information in a timely way.⁸³

As stated earlier, the Legal Services Commission in the United Kingdom has developed self assessment checklists and Client Feedback Questionnaires in multiple languages for their 'Specialist Quality Mark' applications.⁸⁴ These relate mainly to organisational approaches of the law firms, in the United Kingdom's context of legal aid service delivery which contracts out its legal assistance services to mainly private firms.⁸⁵ Some of the material provided may be useful but again this author stresses the need for care given the difference in jurisdiction. Also this material is heavily procedural rather than actual practice based and reflective of the nature of the services being delivered and the requirements imposed by the government contractor. Caution in using the LSC materials as tools in Australia is needed.

Some international evaluations of legal aid services have also been undertaken in Canada⁸⁶ and New Zealand. These jurisdictions do not operate within the history of a 'mixed model' of

⁸⁰ Dr Matthias Killian, 'To pay or not to pay? The impact of Individuals on the perception of the legal system', Solden Institute for Law Practice, University of Cologne, Paper to the International Legal Aid Conference, Cambridge (2010).

⁸¹ Suggested by the researcher, Dr Curran

⁸² Suggested by the researcher, Dr Curran

⁸³ Suggested by the researcher, Dr Curran

⁸⁴ See <http://www.legalservices.gov.uk/cioivil/forms/specialist_quality_mark.asp>

⁸⁵ L Curran, 'Ensuring Justice and Enhancing Human Rights: Improving Legal Aid Service Delivery to Reach Vulnerable and Disadvantaged People', La Trobe University & Victoria Law Foundation, 2007, 13-14; R Moorhead and R Harding, Quality and Access: Specialist and Tolerance Work under Civil Contracts, Stationary Office, Norwich, 2004.

⁸⁶ C Meredith and P Malpass, 'Evaluation of the Legal Aid Ontario Pilot Staff Family Law Offices', FLO ARC Applied Research Consultants, Ontario Legal Aid, August 1999. This report methodology included phone surveys, a mail survey, consideration of cost data for service of the private bar by comparison to the new work being done in-house, interviews with stakeholder and 'client satisfaction' surveys. It was not useful as its focus is narrower and on costs comparisons of the private bar to in-house. The focus of this study is on costs contrasts and so it is also not relevant to any NPA Review. As with the New Zealand Public Defenders Office private lawyers interviewed were neutral in their response to

legal aid services as Australia. Therefore extrapolating from these studies is cause for caution similar to that of studies from the United Kingdom and the United States. Possibly as a result of the different systems and their histories, many of the studies in these countries find stakeholders in interviews with the private profession reveal resistance to any expansion of salaried lawyer schemes because they see them as taking away their private sources of work.⁸⁷ This is despite the fact that many of the ventures into salaried lawyer pilots have often been found to fill gaps which were not filled by the private profession with a failure by them to assist the disadvantaged appropriately or to work in an early intervention/prevention and holistic model of service.⁸⁸ Many private firms in these countries (due to their historical model of legal aid services which are largely run by tender or contract) do not view their role or function as broadly as the NPA envisages given that they are largely run as businesses and do not see a role in filling in gaps in services to those most in need.

Measuring Effectiveness

As stated earlier a very useful research paper on the monitoring of legal services has been written by Smith and Patel.⁸⁹ It is a detailed report. It should be noted that significant funding is invested in legal aid service research in the United Kingdom by comparison to Australia and has been for well over a decade.

In seeing how effective legal advice centres (CLACs) are in the United Kingdom the researchers asked the following good questions:

1. How successful have the CLAC services been in delivering general and specialist help advice?
2. What is the profile of cases that have been delivered via these new services?
3. To what extent have the CLACs been able to provide a full range of services from initial diagnosis through to representation?
4. Is there any evidence that CLACs are providing integrated services to clients, addressing the multiple problems which clients may have?
5. To what extent have the services in CLAC areas differed from services being delivered in other areas?

the service whilst other indicators revealed a general view of its effectiveness. See also A Currie, *Legal Aid Delivery in Canada: Past Experiences and Future Directions*, Research and Statistics Division, Department of Justice, Canada, 1999 which sets out a very different legal aid context in Canada to that of Australia highlighting a need for caution in transporting approaches from foreign jurisdictions without care due to the differences in history and context.

⁸⁷ See in 'Evaluation of the Public Defender's Service Pilot', Final Report, Legal Services Commission, New Zealand, 1 May 2008. Here responses by private law firms to the model of the Public Defenders Office in New Zealand were sometimes negative despite other views which revealed the pilot is effective in reaching and working for vulnerable and disadvantaged clients, meeting unmet legal need. Some in the private profession did not embrace the Pilot as it was perceived that the Pilot would take work away from the private profession. This was despite the evidence that the pilot was providing legal representation in instances where there was a gap in services that the private profession were prepared to provide. .

⁸⁸ 'Evaluation of the Public Defender's Service Pilot', Final Report, Legal Services Commission, New Zealand, 1 May 2008.

⁸⁹ M Smith and A Patel, 'Using Monitoring Data: Examining Community Legal Advice Centres Delivery', Legal Services Commission, London, June 2010, 10.

Noting that CLACS in the United Kingdom are governed, funded and operate very differently to legal assistance service in Australia, some of the studys' approaches are still nonetheless useful.

Smith and Patel identify problems which are also likely to arise in such evaluation such as:

- Considerable variation in the amount of data available at the client level for different time periods and for different CLACs
- Considerable time lags between the opening of a case and the submission of closed record reporting information
- The data provides only a partial picture of service delivery.

Their evaluation report was within a frame of pre-determined and detailed targets. They note that the data was limited, for example, people with clusters of problems presented problems in analysis because of the way the data was collected and the timing of the advices.

Any examination of this report will reveal how detailed the targets were but similarly the dangers highlighted earlier by Mowles, Stacey and Griffin⁹⁰ namely, having targets that are pre-determined and in isolation from the way that services need to be delivered to be effective. Overall, the evaluation of performance of the CLACs with respect to the substantive benefit target was found to be very good but in difficult circumstances.⁹¹

Again the serious difficulties in attempts to measure integration of services, effectiveness and outcomes was noted and the challenge given the limitation on how data could be gathered, collected and whether the relevant data could be kept, or the concepts measured, the consistency of data that can be collected and the compromises made in funding the support for that data were reported.⁹²

There were some studies from the United States examined as part of the literature review. Given the legal aid system in the United States is so vastly different to Australia being characterised by limited government funding, a reliance on the pro bono efforts of the private bar and a reliance on law school clinics, caution is needed. One evaluation of the Legal Assistance for Victims Program⁹³ notes that the program itself in assisting collaboration and partnerships was positively evaluated but that the systemic barriers caused by this blend of the private bar, law clinics and some funded domestic violence services still left high levels of unmet legal need, fragmentation of service delivery, limited resources and problems in recruiting and retaining professionals to work in and with the program. The methodology of the evaluation was largely quantitative being survey based and using 'client satisfaction' approaches that have already been negatively critiqued. The authors themselves note that their methodology was problematic and that decreases in

⁹⁰ C Mowles, R Stacey and D Griffin, 'What Contribution Can Insights From the Complexity Sciences Make to the Theory and Practice of Development Management', *Journal of International Development*, Vol, 20 804-820 Copyright 2008, John Wiley & Sons Ltd.

⁹¹ M Smith and A Patel, 'Using Monitoring Data: Examining Community Legal Advice Centres Delivery', Legal Services Commission, London, June 2010, 28 and 35.

⁹² M Smith and A Patel, 'Using Monitoring Data: Examining Community Legal Advice Centres Delivery', Legal Services Commission, London, June 2010, 37-38.

⁹³ National Evaluation of the Legal Assistance for Victims Program, Institute for Law and Justice and the National Centre for Victims of Crime, 24 January 2005. <<http://www.wily.org>>.

funding for the Legal Services Corporation in the United States and in other services created further obstacles in the research.

The United Kingdom Report by Buck et al contains some extremely useful research on tailoring and targeting of services and a good methodology for how to examine this.⁹⁴

Measuring Efficiency

The problem identified with the LSC approach (as Trude and Gibbs have ascertained)⁹⁵ is that a focus on efficiency and 'best value for money' overlooks that greater efficiency and likely effectiveness is created if quality time is permitted to be spent on cases. Trude and Gibbs observe a failing in the LSC's thinking is that they aim to achieve 'value for money' through efficiency gained by reducing time spent on each case and therefore costs. Trude and Gibbs see this as problematic in terms of quality and outcomes and this was confirmed by their research findings as discussed above.

When examining efficiency of legal assistance services care is needed. Sometimes an over concern with efficiency can actually erode the outcome and be counterproductive or even reduce the good work possible.⁹⁶

In Canada, an examination of internet based and telephone based legal assistance services has been undertaken.⁹⁷ Whilst some have argued electronic based services have increased efficiency and 'customer satisfaction' the concern about such approaches is that quality or the service suffers and that the drive to 'cost efficiency' comes at a cost where quality and the appropriateness of the service delivery for the client can be lost.⁹⁸ In Australia, Giddings has also noted that injecting resources into electronic based services can divert resources from those who are socially excluded and who cannot actually access/use the services.⁹⁹

K Joffe of the Arch Disability Law Centre in Canada argues that any service delivery must be guided by the unique position of the service, in this case clinic, in its community.¹⁰⁰ Whilst

⁹⁴ A Buck, M Smith, J Sidaway and L Scanlan, 'Piecing it Together: Exploring one-stop shop legal service delivery in Community Advice Centres', Legal Services Commission (Legal Service Research Centre) June 2010.

⁹⁵ A Trude and J Gibbs, 'Review of Quality Issues in Legal Advice: measuring and costing quality in asylum work', Lawyers Defending Human Rights, Refugee and Migrant Justice undertaken by the Information Centre About Asylum and Refugees and the Immigration Advisory Service, City University, London, March 2010, 1.

⁹⁶ J Collins et al, 'Unintended Consequences: How the Efficiency Agenda Erodes Local Public Services and a New Public Benefit Model to Restore Them', New Economics Foundation, London 2007.

⁹⁷ C Lafortune, 'Applying New Client Service Technologies', Legal Aid Ontario, 2011.

⁹⁸ K Joffe, International Legal Aid Group Newsletter, 27 July 2011

<<http://www.ilag.org/newsletterstories.php?id=39>>.

⁹⁹ See the body of work from Dr Jeff Giddings of Griffith University Law School. His research over the past decade includes evaluations of self-help kits. For example, J Giddings and M Roberston, 'Large Scale Map or the A-Z? The Place of Self Help Services in Legal Aid, Vol 30 No 1, *Journal of Law and Society*, March 2003. See also a recent paper delivered to the National Community Legal Centres Conference 17-20 October 2011 on self help kits by M Lawler and J Giddings. Giddings' research and evaluations have identified many issues with these modes of assistance and the often fragmented nature of the assistance they provide and the difficulties such tools present for people experiencing various forms of disadvantage.

¹⁰⁰ K Joffe, International Legal Aid Group Newsletter, 27 July 2011

<<http://www.ilag.org/newsletterstories.php?id=39>>.

Joffe acknowledges phone and internet advice services can assist those in remote and rural communities, the elderly and people with disabilities who cannot leave their homes, Joffe notes that often they can come at the cost of in-person services which can in the long term also reduce the very access and barriers to communication that in-person services only, can overcome. Joffe stresses that the organisation of how services are delivered needs to be based on local community need and the vagaries of different client groups which can require different responses such as the elderly, persons with disabilities, injured workers or geographically defined groups.

Joffe observes that to be effective such services will often have governance structures which are close to the communities they serve. In this way they can be guided by their community. This may explain different operational approaches which can go beyond information provision by phone and internet to information in a variety of settings that suit the relevant community, CLE, law reform, advocacy as well as traditional advice and representation. It can be dangerous to ignore such elements that may be critical to quality and effective service delivery for these small community based services on the ground of 'cost efficiency'. This situation is similar for CLCs in Australia.¹⁰¹ Community responsiveness may lead to effectiveness and quality and a concern with efficiency without careful consideration of the reasons for the approach can be counterproductive.

Joffe states:

'Attention must be paid to the ways in which legal aid and clinic¹⁰² work is measured and evaluated. Inappropriate measurements may erode systemic legal work, ultimately harming low-income clients and communities. If we want to preserve a strong legal aid system, any shift towards telephone and internet based services must be implemented in a way that supports the unique kind of community lawyering practices by Ontario legal clinics.'¹⁰³

The National Literature

Measuring successful outcomes

The Legal Services Board of Victoria has a useful guide to community service evaluations¹⁰⁴ as does Clare Keating of 'Effective Change'.¹⁰⁵

The Productivity Commission's 'Measurement Framework' was also considered in this literature review. The Productivity Commission also struggles to give concrete suggestions as to how to conduct such 'outcome' or 'impact' research. Some of its key suggestions are themselves vague and offer little guidance on how an outcome based measurement would occur. For example 'exerting influence', 'connecting community and expanding networks' (for example you might expand the network but is it actually having an impact?), 'enhancing community endowment in skills and knowledge assets.' There is no guidance given on how to measure whether these are occurring. The Productivity Commission observes that

¹⁰¹ <<http://www.naclc.org.au>>

¹⁰² Analogous to some extent to CLCs in Australia.

¹⁰³ For more information about legal aid clinics in Ontario see L Abramowicz, 'The Critical Characteristics of Community Legal Aid Clinics in Ontario' 2004, 19 *Journal of Law and Social Policy*, 70 and for information about CLCs in Australia see M Noone and S Tomsen, 'Lawyers in Conflict: Australian Lawyers and Legal Aid', The Federation Press, 2006, Chapter 7, 199- 230.

¹⁰⁴ See <http://www.lsb.vic.gov.au/documents/LSB_Evaluation_resource>.

¹⁰⁵ <<http://www.effectivechange.org.au>>.

engagements which facilitate the connection of community members and networks be measured but again does not indicate how.¹⁰⁶ The Productivity Commission's recommends that any evaluation include interviews with stakeholders in evaluating/measuring performance.

ATRD has developed a 'Performance Monitoring Matrix' in a Report.¹⁰⁷ This author notes that some of the suggested indicators of success and performance indicators for measurement are beyond the scope of what a legal service can realistically be expected to achieve. For example, percentage of matters by impact level (matter complexity) in family law and family law violence. What is considered to be the 'impact' is undefined and how it will be measured/evaluated still remains vague.

The researcher is concerned of the need for the measures to be:

- Relevant
- Useful and measurable
- Achievable
- Practical to measure
- Within the service or practitioner's control to influence.

What is relevant here is Bullen's warning that where it is not possible to prove cause and effect relationships do not use outcome measures to judge performance.¹⁰⁸ Rather he suggests one should not just focus on the outcomes to be achieved, but should set up and have processes in place to identify the elements for the outcome to be achieved and also document unintended outcomes.

The Australian Research Alliance for Children (ARAC) has examined outcomes measurement for community organisations such as those in the legal assistance sector and this work is a critical document to consider as it raises the many challenges involved in 'outcome based' measurement.¹⁰⁹

ARAC identified the following barriers to outcome measurement in the community sector:

- There are a varied range of clients, programs and services influencing outcomes measurement and achievement
- A range of complex social issues are being addressed
- The system is in a constant state of change with needs and circumstances changing (this includes those of clients and services and the funding of programs)

¹⁰⁶ Contribution of the Not-for-profit sector, Ch 3 'A Measurement Framework' Productivity Commission, 11 February 2010, 41, <http://www.pc.gov.au/__data/assets/pdf_file/0010/94555/07-chapter3.pdf>

¹⁰⁷ ARTD Consultants, 'Developing a Performance Monitoring Framework for Community Legal Centres', Final Report October, 2008. It is noted that on examining the ATRD website, there is no explanation of what the 'ATRD' stands for hence the acronym is used here.

¹⁰⁸ Paul Bullen, Management Alternatives for Human Services
<http://www.mapl.com.au/evaluation/eval4.htm>

¹⁰⁹ 'Measuring Outcomes of Community Organisations', the Australian Research Alliance for Children and Youth, 2009.
<http://www.aracy.org.au/cmsdocuments/ARACY_Measuring_outcomes_of_community_orgs_ARACY_background_paper_june_2009.pdf>

- There is a culture of non-measurement in some community organisations
- The motivation and capacity to measure outcomes is affected by their size and specificity of focus.

Like Smith and Patel¹¹⁰ the ARAC also warns against attempting to measure outcomes too early and before sufficient time has elapsed for elapsed changes to be observable. They state that such premature measurement could lead to measurement of outputs instead of outcomes. They note that many studies do not take a forward looking approach and rely instead on retrospective measurement and data collection. This limits what can be extracted from existing data. This is a problem that has been identified as an issue in much of the research and evaluations examined for this literature review. Much of the data required to inform outcomes measurements or quality or service provision is not kept by the courts or the agencies or if it is it is incomplete or not in the form that such research needs.

ARAC argues that any measurement of outcome needs to have its focus on explaining how rather than identifying what, and that services needed practical support and resources to be able to participate in such studies. They argue the key factors influencing outcome achievement should be the focus and that descriptive measurement is useful. For example case studies. This aids understanding in how the effects have occurred in a way that quantitative data cannot.

In summary, qualitative data by its nature gives a capacity to delve more deeply into the reasons behind the statistics. It enables a deeper understanding of the processes undergone, impediments experienced and what works well, when and why. It provides much richer information to guide how results are achieved and how aims can founder.

Interviews with lawyers after interview and with clients after the same interview/advice session are a good method of seeing whether a good interview as an outcome took place and whether holistic approaches, early intervention and prevention and effective problem solving and good client communication were demonstrated in practice. Such focus groups are incredibly useful for understanding the service and gaining feedback on why and how things are done and interviews can act as a compliment as they provide rich and informative mechanisms for an evaluation.¹¹¹

Good policy is informed not just by quantitative data and yet traditionally quantitative data is what is relied on as it is easier to measure and gather. Its limitation is that it tells little about the story of how results are achieved and the journeys necessary.

Measuring Quality of Legal Assistance Services

A Munday and A Rutkay in their survey work for Legal Aid WA looked at the Alternative Dispute Resolution Family Conferencing Program with 252 clients participating surveying clients from 1 July 2003 – 30 April 2004.¹¹² The study also examined Legal Aid Advice and

¹¹⁰ M Smith and A Patel, 'Using Monitoring Data: Examining Community Legal Advice Centres Delivery', Legal Services Commission, London, June 2010.

¹¹¹ For assistance with a design approach utilising these see L Curran, "I can now see there's light at the end of the tunnel", Legal Aid ACT: Demonstrating and Ensuring Quality Service to Clients", Legal Aid ACT, 2012.

¹¹² A Munday and A Rutkay, 'Alternative Dispute Resolution Family Conferencing Program Review', Legal Aid WA, 2004.

Grants of Aid surveys examining 3,653 for legal advice and 406 grants of aid. There was also an 'Online and Print Publications Users CLC Survey' conducted as part of the study. Munday and Rutkay asked some useful questions around the way in which a service treated their clients and delivered their service. Again the problem with this survey is that it uses the 'satisfaction' with the service as the test as opposed to the experience by the client of the service. Question 5 for example reveals again the difficulty with use of a survey tool for complex areas of the practice of law with the statement, 'Overall, I felt confident my lawyer was looking after my interests'. Although the lawyer must act in the 'best interests of the client' this is trumped by 'duties to the court' and 'duty to advise' as discussed above.

T Smith in her evaluation also lists a series of matters which are integral to good practice which are worthy of consideration.¹¹³

Measuring Effectiveness

A recent review by England and Porteous of the Children's Court Assistance Scheme (CCAS) conducted by Legal Aid NSW is a useful study in terms of approaching a measurement of a service's effectiveness.¹¹⁴ It has a range of methodologies including a narrow literature review of strategic and operational documents, interviews with stakeholders and an on-line survey although it did not include focus groups or case study extraction. It was also conducted on-site.

Although it was not a Commonwealth program under examination by the CCAS Reviewers, England and Porteous, some of the approaches taken may be useful. The task set was for the study to 'evaluate and report on the nature and effectiveness of the services provided across the court in which it operates.'¹¹⁵ The approach taken was iterative, with a review of court data and records, progress report and records kept of the CCAS, funding agreements, and interviews with legal stakeholders, CCAS workers, a literature review and preparation of the findings to the CCAS Working Party and the Legal Aid Board.

The study examined the objectives of the program. These were to provide young people and their families/carers with information about court processes, informal counselling and referral to support services, mediation or accommodation services. The program is not supposed to provide legal advice but rather to facilitate a smoother court process. The program has five auspicing bodies which are CLCs and operates in eight Children's Courts.

The study was to:

- look at the various models and how they operated
- examine progress reports
- look at the provision of services to Aboriginal young people
- examine safety and health and occupational issues
- examine confidentiality

¹¹³ T Smith, 'Evaluation of Queensland Public Interest Law Clearing House Incorporated Homeless Persons' Legal Clinic and the Refugee Civil Law Clinic', PILCH and Encompass Family and Community PTY Ltd, November 2011, 6.

¹¹⁴ C England and P Porteous, 'Review of the Children's Court Assistance Scheme', Final Report, Legal Aid NSW, Matrix on Board, 20 September 2011.

¹¹⁵ C England and P Porteous, 'Review of the Children's Court Assistance Scheme', Final Report, Legal Aid NSW, Matrix on Board, 20 September 2011, 5.

- look at professional indemnity insurance implications of recording young people's information
- look at the resource used for law reform and community legal education
- explore any measures that would increase efficiency or effectiveness
- review the service agreements.

England and Porteous note that there is varying nomenclature across the agencies and that different models were operating across the different courts. This was related to resources, available staffing available and the nature of the work and clients coming through the courts. They noted that consistent definitions in any study need to be provided so that people are not discussing or implying different meaning to phrases or terminology used. Without such consistency clearly people can be at cross purposes as different labels can attach different meanings to different people.

The methodological approach taken included:

- site visits to each auspiced body
- in depth interviews with 20 key stakeholders
- an on-line survey of 83 stakeholders
- the literature review of program guidelines, progress reports, court data, CCAS data, funding agreements and the legislation
- A briefing paper for the Board and Working Party.

The researchers found that there were significant problems in relying on both court and CCAS data. Not all data was collected consistently or regularly. England and Porteous found much of the data collected is affected by the staffing levels, business and pressured environments in which both the courts and the legal assistance service operated. They noted that accordingly caution was required in interpreting any conclusions being drawn from such data. England and Porteous note that it appeared greater case work was undertaken than that which was always recorded and suggested adapting information gathering forms and having clearer operating procedures.

England and Porteous also noted the limitations of CLSP Progress Reports (the narrative reporting system used by CLCs) for gathering the data required to determine efficiency and effectiveness. They looked at the various CLCs funding and how many FTE were provided and how many people assisted, but noted this data was not comprehensive.

The reality is that data collection is more likely to occur if the material being gathered is seen as important, relevant and easy to maintain by those expected to gather the data. In this case at least 13,268 young people were assisted annually according to the data and yet in the on-line survey stakeholders estimated that between 75%-100% of the young people and their families before the court were being seen by the CCAS. This highlights the need for complimentary research approaches to be taken to gain a clearer picture than just the recorded data which is subject to the vagaries listed above. Although this study noted that CLCs recorded the number and type of workshops, written materials developed, campaigns and TAFE training no evaluation of this work and its impact for the participants in the CLE was undertaken.

A range of concerns were raised in the evaluation study by England and Porteous around a lack of resources, limitations on the funding of staff and the program, geographical challenges and a lack of consistent training and use of experience and expertise by some of the CLCs but not others. These were all considered to reduce effectiveness, coverage and efficiency. England and Porteous suggest more clarity around the setting out of what constitutes quality in the operating principles would assist so that there is clarity and consistency around expectations and then these might assist in measurement.¹¹⁶

Measuring Efficiency

Legal Aid Commissions are regularly audited by the state/territory Auditors' General in terms of 'ensuring that legal assistance is provided in the most effective, efficient and economical manner'. These existing reviews examine the service as a whole without distinguishing between Commonwealth and State/Territory matters, examining overall efficiency of the agencies looking at procedures and processes for legal assistance, procedures and processes for managing legal assistance, relevant budgetary information, relevant reviews and reports, a list of key agency personnel and an on site conduct of the review using the Australian Auditing Standards.¹¹⁷

These examinations are intensive and detailed and this author sees any further reporting requirements other than those reflecting on 'outcomes' and 'quality' are likely to be a duplication when existing tax-payers' money is already being utilised to examine and report on 'ensuring that legal assistance is provided in the most effective, efficient and economical manner.' Rather than duplicating and imposing a further reporting requirements on LACs around efficiency these reviews could be considered as a part of a review of efficiency. Such examinations are required of Legal Aid Commissions as public sector entities and include examinations of governance issues, risk management and other control structures including human financial and other resources, information systems, performance measures, reporting and monitoring systems, probity and legal compliance. ATSILS also have facets of their work examined and measured by the Australian National Audit Office and the Department of Finance and Deregulation ascertaining again their effective and efficient delivery.

A study undertaken for the Attorney-General's Department by Crockett in 1995¹¹⁸ tackled the now redundant debate about in-house versus private practitioner legal aid delivery.¹¹⁹ The report contains some discussion around 'cost efficiency'.¹²⁰ There is some helpful discussion around definitions of 'cost efficiency' on pages 100 - 105 of Crockett's Report. As this author does not background in economics this literature review whilst it has considered 'efficiency' it does not examine 'cost efficiency'.

¹¹⁶ C England and P Porteous, 'Review of the Children's Court Assistance Scheme, Final Report, Legal Aid NSW, Matrix on Board, 20 September 2011, 40-41.

¹¹⁷ By way of example, in the Australian Capital Territory *Auditor- General Act 1996* and see also 'Conducting a Performance Audit' and 'Performance Audit Stages', ACT Auditor General's Office <<http://actauditorgeneral.act.gov.au>>

¹¹⁸ A Crockett, 'Cost Comparison Project, Attorney-General's Department,' Final Report, June 1995.

¹¹⁹ See M Noone and S Tomsen, 'Lawyers in Conflict: Australian Lawyers and Legal Aid', The Federation Press, Sydney 2006, Part 2 139- 198 and the difficulties encountered in the United Kingdom with its limited model see R Smith, ILAG Newsletter, November 2011.

Legal Aid Commissions (LAC)

This section will detail some evaluations undertaken by Legal Aid Commissions (LACS) of their own programs but also of community legal centres which are administered on behalf of State/Territory and the Commonwealth Government by LACS. LAC's often conduct studies on the efficiency and effectiveness to evaluate new pilots and ongoing programs under the existing funding and service agreements.

In addition, some other documents that are essential background reading are footnoted below.¹²¹ They relate to the nature, history and context of legal assistance services in Australia.

The current evaluations of LACs and by LACs vary. Some are mainly descriptive of programs and what they do. Some are more relevant in a policy context in outlining the stresses and strains and a need for reform such as in the care and protection of children. The latter are not really relevant evaluations for the examination of outcome, quality, and effectiveness under consideration in this literature review. Therefore these evaluations (unless an aspect in the methodology is worthy of note) are not discussed.

Many of the evaluations examine cost efficiency of programs already, some note the limitations to service delivery effectiveness and quality created by a lack of resources, infrastructure support, systemic barriers to access to justice and funding and issues retaining and attracting relevant practitioners with the necessary skills and expertise.¹²² All of these factors are extremely relevant to issues of quality and effectiveness. Most of the reports lacked sufficient examination of quality in the examination of cost efficiency. The reports lack the explanations of the understandings or reasons behind some of the expenditures. The reasons for the way things need to be done in order to ensure quality of care for clients and which have been found through practice and consultation with communities of need so as to be more effective are rarely examined in any detail. This may be due to the over reliance on quantitative data. It would suggest that further research needs to be undertaken across the legal assistance services to complete the story often left untold by the statistics. Then issues such as outcome, early intervention and prevention impacts and quality of care for clients will be able to be better explained and will place the statistics into context. Statistics on their own or when aggregated can easily mislead or distort matters which are

¹²¹ M Noone and S Tomsen, 'Lawyers in Conflict: Australian Lawyers and Legal Aid', The Federation Press, Sydney 2006, Part 2 139- 198; 'The Economic Value of Legal Aid' National Legal Aid, Price Waterhouse Coopers, 2009; 'Legal Aid Funding: Current Challenges and the Opportunities of Cooperative Federalism', 2009. These and many other relevant background documents are available on the National Legal Aid web site <<http://www.nla.asn.au>>. In addition, there is a national study on unmet legal needs currently being written which may be worthwhile of consideration and it is due to be released sometime in mid 2012 by National Legal Aid.

¹²² See J Bagen, 'Children's Legal Service Review: from hotline to hothouse', Legal Aid NSW, December 2007 and 'Service Review – Indictable Crime' 2011. This report is confidential and covers mainly state areas of crime. It is noted that a number of Commonwealth criminal matters also fall within LAC funding by the Commonwealth especially given areas of Centrelink prosecutions and recent changes to laws in relation to people smuggling which are leading to lengthy and costly trial expenditures by LACs. This report relates largely to technical issues and budgetary strains which whilst relevant are beyond the scope of this literature review. It does however reveal that the driver of many of the costs are well beyond the ability of LACs to control as they are driven by political imperatives and decisions which have flow on effects for LACS due to State/Territory and Commonwealth DPPs.

considered in a cost efficiency context and can reduce or compromise effective innovations, quality and lead to lesser outcomes for the community.

A study by Victoria Legal Aid (VLA) was released on-line in February 2012 with a Summary Report.¹²³ It looked at 'client satisfaction'. Although, as detailed earlier in the report there are some problems with the terminology 'client satisfaction' in the context of legal assistance services in Australia, some of the statements clients were asked to respond to and the approach in general revealed some useful questions for instruments in client feedback research.

VLA commissioned an independent research company to ascertain client satisfaction in relation to some of its services. 610 clients in computer assisted telephone interviews were surveyed. Further material and the methodology, not revealed in this publicly available material may assist in an examination of whether a person's situation has improved as a result of the service. The survey was of clients who had received legal services with finalised cases from July - December 2010. Interviews with the clients were conducted between May and June 2011 and their duration was for 15 - 18 minutes each.

Overall in the client survey, 86% of clients were 'extremely satisfied or satisfied'. 86% in advice services were 'very satisfied' or 'satisfied'. 86% in duty lawyers services were 'very satisfied' or 'satisfied' and 68% in Roundtable Dispute Resolution in Family Law were 'very satisfied' or 'satisfied'. Some of the statements/questions put to clients were similar to those referred to in the Smith and Patel¹²⁴, Trude and Gibbs¹²⁵ and the Curran¹²⁶ studies referred to earlier, for example, 'recommend service to others'. A mixture of civil, criminal and family law services were surveyed.

Some statements put to clients that could be problematic include 'had clients' interests at heart', 'the service I received from the duty lawyer was what I expected'. Such questions need careful consideration given the actual role of lawyers outlined earlier and the possible distortion due to perceptions before any replication of the study. Some statements used in the study around 'feeling safe' in FDR's are important.

Many of the LAC reports provided for this literature review were found to have a broader focus on policy issues and so were not always within the scope of the consideration of this literature review. They did however reveal the complex, challenging and diverse nature of the work done by LACs and the CLCs. Some are mentioned very briefly in this literature review as they may provide background on specific areas of practice but others did not meet the selection criteria and so are not included. Some evaluation reports conducted by LACs are also considered in the section below on CLCs.

¹²³ 'Summary Report, Client Satisfaction', Victoria Legal Aid, February 2012. <
<http://www.legalaid.vic.gov.au/3660.htm>>

¹²⁴ M Smith and A Patel, 'Using Monitoring Data: Examining Community Legal Advice Centres Delivery', Legal Services Commission, London, June 2010.

¹²⁵ A Trude and J Gibbs, 'Review of Quality Issues in Legal Advice: measuring and costing quality in asylum work', Lawyers Defending Human Rights, Refugee and Migrant Justice undertaken by the Information Centre About Asylum and Refugees and the Immigration Advisory Service, City University, London, March 2010.

¹²⁶ L Curran, "I can now see there's light at the end of the tunnel', Legal Aid ACT: Demonstrating and Ensuring Quality Service to Clients", Legal Aid ACT, 2012.

On the issue of quality legal services, many of the reports considered do not examine the quality of the legal service observable from the actual practice, nor do they reveal the existence of quality assurance measures which are regularly tested to see the level of quality in practice. Some of the reviews and evaluations by or of LACs refer to practice standards, training and supervisory regimes that are in place but they discuss these fleetingly if the reports consider it at all. Few have actually indicated that these are the subject of measurement or any qualitative studies.

Some of the studies reveal the very important sound reputation of the services held by stakeholders and this is a very important factor that should be noted and considered as an important measure of quality in any study. A note of warning is needed. Some stakeholders will not be happy with what they consider 'meddling' by practitioners who challenge their authority. Given a key function of legal services is to hold people to account for their treatment of clients this must be factored in to any assessments of stakeholders who may find the role of legal aid services annoying or inconvenient. The very critical role of advocates in the rule of law may sometimes mean it is inconvenient for others.

Some of the reports in recent times have sought to gather case studies to indicate outcomes at a local and client level. These are very useful. However, care needs to be taken that in determining what an outcome is, the definition is not outside the control of the service which is being measured. One outcome in a report by Forrell and Cain¹²⁷ appeared to be determined as 'repossession was prevented'. This is not a realistic definition of an outcome for a service to be measured on. Why? Because a whole range of factors can influence repossessions which are beyond the power of a legal service to control. Although the case studies revealed the calibre of the work done by the service there is danger in setting outcomes beyond the normal remit of a legal service. It risks setting the legal service up to fail if this is the consistent bar required to be met in other cases. The 'outcome' sought should be better and more clearly defined as something within the function and role of a legal service to be able to determine.

The Review of the Care and Protection system by Legal Aid NSW¹²⁸ is more a policy document than an evaluation relevant for the purposes of the literature review. It does examine some issues around effectiveness and efficiency (Part B pages 31 – 51). The recommendations are mainly around staffing and it is a descriptive report with some case studies. It highlights the fraught nature of care and protection work. The report's examination of quality service is somewhat limited as it describes some mechanisms but does not detail how the practice standards are monitored or adhered to by way of any detailed analysis. Rather, it states there is supervision and induction. These whilst being important do not reflect what actually occurs in practice and what actually happens is not benchmarked against the standards.

Leach¹²⁹ reviewed the Women's Domestic Violence Court Advocacy Program in NSW. This is a largely descriptive report with documents being considered and face to face interviews (with employees and the manager of the program). Initially the interviews were not part of the project's methodology. Mid-way through the project it was realised that it was critical to

¹²⁷ S Forrell and M Cain, 'Managing Mortgage Stress', Evaluation of Legal Aid NSW and Consumer Credit Legal Centre Hardship Service, June 2011.

¹²⁸ 'Review of the Care and Protection Program of the Legal Aid Commission NSW', Legal Aid NSW, August 2006.

¹²⁹ T Leach, 'A Review of the Women's Domestic Violence Court Advocacy Program for Legal Aid NSW', Legal Aid NSW, 30 June 2009

gain a service provider perspective. If this had not been done this author agrees the evaluation would have been incomplete, limited, and not very useful. Only so much can be gleaned from documents given that it is effectively a 'human service' being examined and a complex, often complicated one given the area of domestic violence. Much of the report is not hugely relevant to the scope of this literature review.

A confidential Victorian Legal Aid review in 2011, although largely descriptive with some analysis of quantitative data¹³⁰ covered mainly criminal law. It did however touch on areas relevant to the Commonwealth sphere, particularly the impact of long terrorism trials and recent smuggling laws on resources and the increased complexity and length of criminal trials that result causing a strain on staff and the budget.

Bargen's evaluation report¹³¹ whilst being an important policy document highlighting the complex and problematic nature of legal assistance services and areas in need of policy and law reform is again not relevant to the scope of this literature review.

The Legal Services Commission of South Australia has written to the former Attorney-General detailing some concerns about the scope and expectations of the Strategic Framework for Access to Justice in the Federal Civil Justice System.¹³² It expresses some concern about legal aid services being expected to deliver on aspects in terms of impact and outcome which go well beyond their remit or control. It also highlights areas in which LACs are already delivering services consistent with the Framework.

Feneley's review of the Mental Health Advocacy Service has limited use for the purpose of this literature review's scope.¹³³ It is a small report and has terms of reference to examine 'effectiveness and efficiency of current models.' There is no detail in the report on the questions asked of the people consulted. There is little detail about the nature of the site visits and so it is of limited use. One aspect of the report worth considering is that the views of key stakeholder were sought from staff at the hospitals where the service was provided, magistrates and tribunal members. Again, such input from stakeholders is useful where there is to be any evaluation of outcome, quality and effectiveness but little detail on the process or outcomes of the discussions is provided by the evaluation. The conclusion made was that the program is 'highly regarded'. Reputation with agencies that the service interacts with is relevant in any consideration, reporting or measurement tool of quality, effectiveness and outcome.

R and H Gray's review¹³⁴ is another example of the many studies/reviews undertaken of the service by LACs and that there are some reporting regimes in place around cost efficiency and effectiveness. The report reveals effectiveness is sometimes considered in a vacuum for the quality of the service provision and actual attention to results but is often based on somewhat limited statistics. This is not the fault of LAC but rather reflects that the reporting

¹³⁰ Confidential, 'Service Review – Indictable Crime' Victoria Legal Aid, 2011.

¹³¹ J Bargen, 'Children's Legal Service Review: from hotline to hothouse', Legal Aid NSW, December 2007.

¹³² Letter dated 26 November, 2009 from the Legal Services Commission of South Australia to the former Attorney-General Mr Robert McClelland.

¹³³ J Feneley, 'Review of the NSW Legal Aid Commission's Mental Health Advocacy Service', Sydney, May 2006.

¹³⁴ R & H Gray and Associates Pty Ltd, 'Review of the Pilot Insurance Law Service at Consumer Credit Legal Centre (NSW) Inc': A Report to the CEO of Legal Aid NSW, 2008.

may not always be able to be adapted for relevance and useability in the context of the Terms of Reference (ToR) under which these evaluations/ studies operated.

Often the evaluations commented on the fact that the statistics kept have little useable relevance for the services examined, reveal little about the contexts, challenges and rationales behind why and how the services are delivered. Many of the evaluations/reviews considered in this literature review have commented on the limited use of the currently collected data as it is often incomplete, clunky, burdensome and time consuming (for often small staff of service providers) to keep; inconsistently gathered or does not contain any meaningful information.¹³⁵ Additional contextual and quality service information, if gathered (given the burdens already on agencies) not by them, but through complementary research integrated to complement existing data collection could be a way forward.

Working to study and reveal the qualitative materials may lead to a better understanding of the nature and calibre of the actual work done and how it affects clients and the community.

R and H Gray's review has little relevance to this literature review as its focus was limited to organisation matters as it was largely an examination of the service's compliance with the agreement and budget. It is largely descriptive and provides no depth as to the calibre of CLE but is merely a report on the number in the audience or the venues for the CLE. There are some good questions on page 58.

Stubbs undertook a significant review of the Public Purpose Funded Projects from 2008-2011.¹³⁶ Again, this report illustrates that LAC's are already reporting under their State and Territory funding conditions and that such documents are available publically from LACs country-wide. This review examined 15 CLCs through considering CLSIS data, interviews with CLCs and phone interviews with 3 stakeholders of each CLC. Stubbs notes that all the projects are different and unique to their target groups. Again, the focus of this review is narrower than this literature review but some of the criteria in the study are relevant to matters of 'targeting and efficiency'. The review was mainly to examine on documentation and through some research whether the services were managed within budget, met stated objectives and targeted specific groups identified with unmet legal need. The report highlights some of the barriers to effective service delivery which are beyond the control of the agencies on pages 90-94.

Funston and Hitter reviewed the Prisoners Legal Service in 2006.¹³⁷ This report is largely recommendations but would be useful in understanding the difficulties in service delivery to prisoners. These are exacerbated for Indigenous prisoners as is outlined in the section below on ATSILS.

The Commonwealth Review of Community Legal Centres in 2008¹³⁸ makes a series of recommendations that are relevant to the delivery of legal assistance services. Particularly

¹³⁵ See C Cunneen and M Schwarz, 'Civil and Family Law Needs of Indigenous People in NSW: The Priority Areas', Vol 32, Issue 3 & 4 *UNSW Law Journal*, 2009, 725-245.

¹³⁶ J Stubbs and Assoc with C Lux, 'Review of Public Purpose Funded Projects 2008-2011', Legal Aid NSW, February 2011.

¹³⁷ R Funston and M Hitter, 'Prisoner's Legal Service Review', NSW Legal Aid, Sydney, September 2006.

¹³⁸ 'Review of Commonwealth Community Legal Centres Program', Attorney-General's Department, Canberra, March 2008.

<http://www.ag.gov.au/Consultationsreformsandreviews/Pages/Archive/ReviewoftheCommonwealthCommunityLegalServicesProgramMarch2008.aspx>

relevant to any evaluation of legal assistance service are recommendations 8, 9, 12, 13 and 15. These consider it important that services identify demands of clients and community in developing their plans for services and evaluate their service delivery. It is suggested in the Commonwealth CLC Review that case studies would assist in demonstrating how a service delivers outcomes but also a caution that case studies alone do not indicate how outcomes are being met. The review of NSW CLCS is most relevant for understanding the context of legal assistance in NSW.¹³⁹

The review by Forrell and McCain,¹⁴⁰ mentioned earlier in this section, is a very useful examination as it considers effectiveness, early intervention and outcome. Despite the earlier warning about the outcome being defined sometimes too broadly by Forrell and McCain (given the limited ability of a legal assistance service to have control) the methodological approach is useful. There is a consideration of client outcomes on pages 55-59. The follow-up with clients after the service is a good approach but can be difficult. Curran's research for LAACT in 2007 revealed that clients can be keen to move on and forget about their legal problems and so not want to be in touch with the service agency for feedback.¹⁴¹ Accordingly, clients can be difficult to track if the methodology is not set up beforehand when clients are accessing the services. Even then it can be difficult to get clients to return calls. This is particularly the case if the agency is large and not closely in touch with a local community as some smaller CLCs may be. The Victoria Legal Aid Survey in 2012 demonstrates that this issue is not insurmountable if such advance requests are in place.¹⁴²

Curran was commissioned by Legal Aid ACT from August until December 2011 to undertake research measuring outcomes and quality legal services.¹⁴³ The research approach undertaken was that of 'participatory action research' where the service providers and the clients were direct participants in the research and its design. They did this guided by the researcher who framed these discussions in a context of what the international and domestic research suggested so that staff and clients could build on this knowledge and share their own insights and experiences to inform the research model.

The key and overriding concern about the research was not to impose a further burden on staff in terms of additional and onerous record keeping and data entry and to enable staff to be able to get on with servicing their clients with minimal interruption. The research was therefore led in the main by the researcher but with a process that can be adapted and run in-house into the future. It was determined that a 'snap shot' approach gathering data over a two week period would operate to minimise the burden on staff for additional reporting. It will be rolled out and rotate across different programs every six months and then comparisons can be made over time and against base line data that was gathered.

¹³⁹ 'Review of the NSW Community Legal Centres Funding Program', Legal Aid NSW, Final Report, June 2006. Earlier reviews of CLCs in South Australia and Victoria in the late 1990s and early 2000s are not helpful as some of the elements the Commonwealth seeks under the NPA were not expressed as a priority or articulated in these reviews.

¹⁴⁰ S Forrell and M Cain, 'Managing Mortgage Stress', Evaluation of Legal Aid NSW and Consumer Credit Legal Centre Hardship Service, June 2011.

¹⁴¹ L Curran, "I can now see there's light at the end of the tunnel", Legal Aid ACT: Demonstrating and Ensuring Quality Service to Clients", Legal Aid ACT, 2012.

¹⁴² 'Summary Report, Client Satisfaction', Victoria Legal Aid, February 2012. <<http://www.legalaid.vic.gov.au/3660.htm>>

¹⁴³ L Curran, "I can now see there's light at the end of the tunnel", Legal Aid ACT: Demonstrating and Ensuring Quality Service to Clients", Legal Aid ACT, 2012.

Curran's research utilised multiple approaches in order to firstly define what outcomes are in the context of legal assistance services and which can be attributable to the functions of a legal aid service. This occurred through a series of conversations and focus groups with staff and clients and by an examination of the strategic plan and operational plan of LAACT. The NPA and the 'Strategic Framework for Access to Justice in the Federal Civil Justice System'¹⁴⁴ also informed the development of the definitions of outcomes which were as follows:

1. A good client interview (represents the following - holistic, joined up, quality, problem identification, empowerment, good practice, early intervention prevention, responsiveness, client centred, ADR, targeting, expertise)
2. Clients with chaotic lifestyle attend interviews, appointments and court dates. (represents the following - early intervention, prevention, empowerment, client centred, holistic, targeting)
3. As appropriate, sentence minimised or charges that are unsubstantiated are dropped (Rule of Law, efficiency, good practice, expertise)
4. Clients better able to plan and organise their legal affairs (represents the following - early intervention, prevention, empowerment, quality, good practice, client centred)
5. Improvement in the client's interaction with the legal system (represents the following - early intervention, prevention, empowerment, client centred)
6. Consideration of issues before a court or tribunal enhanced because the lawyer asked questions/raised issues and brought the client's story before the court (represents the following - Rule of Law, quality, voice, flexibility, good practice, client centred, responsiveness, ADR, expertise)
7. Client better able to understand their legal position and the options open to them (represents the following - early Intervention, prevention, empowerment, good practice, quality)
8. A process undergone where the client was listened to, respected but was given fearless advice of their legal position (represents the following - quality, client centred)
9. Relationships and trust building with other legal and non legal support agencies enabling referral and support (represents the following - early Intervention/prevention/holistic, joined-up, good practice, quality)
10. Holding of authority to account (represents the following - Rule of Law, quality, voice, flexibility, good practice, client centred, responsiveness)
11. A holistic service delivered to the client through collaboration/networking/CLE and joined-up services thereby enabling better facilitation of support for clients so that support, prevention and early intervention with client legal and non legal problems can occur.

It was decided, because research on outcomes and quality in legal assistance services is so new and rare world-wide, the study would be run as a trial of the methodology in the first instance, but would illicit useful data as well. The data was gathered from 9 November to 23 November 2011 by way of a 'snap shot'. In this way, the instruments could be tested. A feedback session with staff to discuss the process and the findings was held on 7 December

¹⁴⁴ See <<http://ag.gov.au/a2>>

2011. After this some minor tweaking was done and suggested for the future 'snap shots'. These were incorporated into the draft report submitted in December 2011.¹⁴⁵

Once the outcomes were defined, a set of 'surrogate' indicators of the elements necessary for these outcomes to occur were identified in consultation with staff and a former client. Domestic and international research on quality legal aid services (although sparse and problematic see earlier discussion on 'Measuring Quality of Legal Assistance Services') also informed the elements that were developed to inform what constituted quality. Consideration of the relevant legal professional legislation, the Draft Australian Solicitors Conduct Rules and practice standards as developed by the profession and the courts were also integrated into the research approach.

These indicators were then framed into questions and statements for surveys, interviews, questionnaires and focus groups to be measured and benchmarked. Once these were finalised a draft of the instruments and possible questions for participants were distributed to the staff team leaders for comment by them or their team. Then a volunteer practice section was called for to participate in the trial.

Unexpectedly, two practice areas volunteered. Rather than choosing between them it was decided (given the enthusiasm and commitment displayed by them) to enable both teams to participate in the trial. These practice sections included the Family Law Practice and the Criminal Law Practice. This also meant that we had participants representing both Territory and Commonwealth law jurisdictions.

The instruments utilised to measure quality and outcomes in the two week 'snap shot' trial period were as follows:

- Eight Lawyer and eight client interviews after the same legal interview
- An observation log involving seven entries by selected staff (staff were selected on the basis that they were not the staff undertaking other tasks in the research so that the workload was spread across staff)
- A Client Voluntary Feedback Survey/Questionnaire for all clients receiving advice from lawyers
- Closing of client file phone survey (this was the only unsuccessful instrument as client call back rates were low. Staff attributed this to the desire of client to move on from their problems)
- Case Studies collected from open questions in Logs, Focus Groups and On Line Survey
- Interview with Stakeholders identified by the program area
- On Line Survey Monkey of all Legal Aid Grant lawyers – private and in-house
- Feedback Session with staff and Board and a tweaking of instruments informed by the trial for further roll out.

Consistently and across the different measurement tools used, LAACT scored highly on the indicators of the outcomes suggesting that the desired outcomes (listed 1-11 above) and quality service were present. On many counts the service scored extremely highly.

¹⁴⁵ A release of the report for external use is planned by LAACT early in 2012.

Aboriginal and Torres Strait Islander Legal Services

There is considerable literature in Australia documenting the difficulties for Indigenous Australians in the legal system.¹⁴⁶ Leah Cruickshank has identified issues confronting Aborigines in dealing with issues around access to justice in her report.¹⁴⁷ These include anxiety, lack of familiarity, fear of detention, suicide and a reluctance to use mainstream legal assistance services. There is vast literature exploring the issues pertaining to Indigenous disadvantage and how these impact upon their interactions with the legal system from housing, crime and family violence, poor health and social supports.¹⁴⁸

Chris Cunneen has also written a substantial body of work on the significant impediments, systemic and cultural barriers for Indigenous people in the Australian legal system.¹⁴⁹ These include discriminatory policing, language barriers, a lack of interpreters, and the impact of separation policies and trauma on community. He has also explored different and novel approaches to make inroads including night patrols, community justice groups, anti violence programs, Koori and cultural Courts¹⁵⁰ and Family Violence Prevention programs and the Justice Agreements all of which he states are making inroads into intractable issues but he observes these are still uneven and in need of a more coherent approach.¹⁵¹

¹⁴⁶ R Lincoln and P Wilson, 'Aboriginal Criminal Justice: Background and Foreground' in, D Chappell and P Wilson (eds, 2000), *Crime and the Criminal Justice System in Australia: 2000 and Beyond*, 205-207; Australian Institute of Health and Welfare, 'Juvenile Justice in Australia 2000-01 to 2003-04', 2006, 16; H McRae, G Nettheim, L Beacroft, *Indigenous Legal Issues* (2nd ed, 1997), Ch 7, 305-320; S Yoe, 'The Recognition of Aboriginality by Australian Criminal Law' in G Bird, G. Martin, J Neilson (eds) *Majah*, 'Indigenous Peoples and the Law', 1996, 228-265; D Weatherburn, J Fitzgerald and J Hua, 'Reducing Aboriginal Representation in Prison' 62(3) *Australian Journal of Judicial Administration*, 2003, 65-73; M Enderson, Benoit Dupont, 'Policing the Lucky Country,' 2001; T Coady, S James, s Miller and M O'Keefe, 'Violence and Police Culture', 2000, Ch 1,14; M Finnane, *Police and Government in Australia*, 1994.

¹⁴⁷ L Cruickshank 'Identifying the Broken Bridges : an analysis of service gaps for Aboriginal young people at Children's Courts in New South Wales', Macquarie Legal Centre, 2009.

¹⁴⁸ Australian Institute of Health and Welfare, 'Child Protection in Australian 1998-2000', Canberra (2001); Queensland Office of Child Protection, Families, Youth and Community Care, 'Child Abuse Prevention Public Speaking Kit' (2000); C Choo, 'Aboriginal Child Poverty', *Child Poverty Policy Review*, 1990, 2; Australian Bureau of Statistics Aboriginal and Torres Strait Islander Survey, <<http://www.abs.gov.au/Ausstats/abs>>; R Harding, R Broadhurst, A Ferrante and N Loh, 'Aboriginal Contact with the Criminal Justice System and the Impact of the Royal Commission into Aboriginal Deaths in Custody', 1995; Royal Commission into Aboriginal Deaths in Custody Recommendations, Final Report 1991 see <www.austlii.edu.au/special/rsjproject/rsjlibrary/rcjadic/rciadic_summary/rcsumkoi.html>

¹⁴⁹ C Cunneen, 'Racism, Discrimination and the Over-representation of Indigenous People in the Criminal Justice System : Some Conceptual and Explanatory Issues', (Paper presented to the ANZSOC Conference, Wellington New Zealand), 9 February 2005; C Cunneen and R White, 'Juvenile Justice: Youth and Crime in Australia', 2002, 19-20; C Cunneen, 'Judicial Racism' 2 (49), *Aboriginal Law Bulletin*, 1991, 8;

¹⁵⁰ E Marchetti and K Daly, 'Indigenous Courts and Justice Practices in Australia, Trends and Issues in Crime and Criminal Justice', (paper No 227, Australian Institute of Criminology), May 2004, 2. Available at <<https://www.aic.gov.au/publications/tandi2/tandi227t.html>> at 3 February 2007; B McAsey, 'A Critical Evaluation of the Koori Court Division of the Victorian Magistrates Court,' Volume 10 No. 2 *Deakin Law Review*, 2005, 654 and Dr M Harris, 'A Sentencing Conversation' in Department of Justice, *Evaluation of the Koori Courts Pilot Program October 2002- October 2004* (2006).

¹⁵¹ C Cunneen, 'Assimilation and the Re-Invention of Barbarism', *Special Edition of the Indigenous Law Review*, Vol 11, 2007, 42.

ATSILS over many years have also made numerous submissions dealing with the topics of disadvantage, incarceration impacts, institutionalisation, racism and social exclusion.¹⁵² Again in the area of Indigenous access to services, data has not always been consistently measured or kept over the years but in the past six years this has improved.¹⁵³ However, data is collected by Government on legal assistance provided by ATSILS).

Significantly, ATSILS have been reviewed by the Office of Evaluation and Audit and the Department of Finance and Deregulation and these reports are available. Rather than requiring ATSILS to duplicate existing ongoing reporting on the cost efficiency and effectiveness it is suggested such reporting as demonstrated here, already exists and ought not to be duplicated. These reports can be complemented with case studies, focus groups, and interviews with key stakeholders and collaborating agencies rather than duplicating reports regularly undertaken by statutorily independent offices on cost efficiency and effectiveness.

There has been some work done to develop indicators internationally to measure Indigenous justice outcomes¹⁵⁴ and domestically.¹⁵⁵ The 2009 'Overcoming Indigenous Disadvantage Report' (OIDR) shows significant disadvantage (frequently to a high degree) against all justice system indicators. It reveals that in many cases the gap was increasing. This highlights the critical importance of interventions and support being provided by government, the courts, police, social and health services and the legal assistance sector. In this author's experience of working with the Indigenous community the best outcomes are achieved through a grass roots approach informed by Indigenous communities themselves who often have the solutions.¹⁵⁶

Willis¹⁵⁷ observes that although national governments use an array of indicators on Indigenous disadvantage, indicators (and by logical extension the outcomes they seek to indicate)¹⁵⁸ need to be developed with affected communities, capturing human dimensions, capturing the experiences of the individuals experiencing the criminal justice system. He states, 'change may be happening at a local level that brings real improvement to individual communities without being discernable more broadly' and warns that 'indicators that only measure large scale changes such as public perception of the justice system or recorded levels of violence, may give the impression that nothing is being achieved.'¹⁵⁹

This literature review suggests that focus group discussions and interviews provide a rich and inclusive form of information and evaluation. Through this process, the relevant

¹⁵² 'Doing Time – Time for Doing, Indigenous youth in the Criminal Justice System', House of Representatives Standing Committee on ATSI Affairs, 2011,

¹⁵³ For example, a new set of data has now been developed by the Australian Institute for Health and Welfare and the Centre for Aboriginal Economic Policy Research, ANU which has improved this data significantly.

¹⁵⁴ M Willis, 'Indicators used Internationally to Measure Indigenous Justice Outcomes', Brief 8, *Indigenous Justice Clearinghouse*, August 2010, 1-6.

¹⁵⁵ The Overcoming Indigenous Disadvantage Reports, (SCRGSP 2003, 2005, 2009) developed by the Council of Australian Governments.

¹⁵⁶ 'It's not easy walkin in there', Catholic Commission for Justice Development and Peace & Caritas Australia, 1999.

¹⁵⁷ M Willis, 'Indicators used Internationally to Measure Indigenous Justice Outcomes', Brief 8 *Indigenous Justice Clearinghouse*, August 2010, 2.

¹⁵⁸ Brackets inserted by author

¹⁵⁹ M Willis, 'Indicators used Internationally to Measure Indigenous Justice Outcomes', Brief 8, *Indigenous Justice Clearinghouse*, August 2010, 2.

definitions of what are the outcome desired to be achieved can be settled upon and the relevant indicators for those outcomes determined. The author refers to the methodological approach taken in her recent work for LAACT on outcomes and quality legal services which adopted this approach.¹⁶⁰ Given language and remoteness and other difficulties in remote Indigenous communities, evaluations conducted alongside and preferably with Indigenous community members who can engage community participation and if appropriate interpret focus group and in-depth interviews seem to be the most inclusive of instruments.¹⁶¹

Willis also notes that indicators of outcomes will only be meaningful and valid if they take into account differences between urban and remote communities on dimensions such as the availability of justice and community safety services. Additionally, when examining outcomes and indicators for Indigenous communities, Willis stresses the need to take into account 'psychological distress'. Indigenous people report higher levels of stressors including witnessing violence, drug related problems, trouble with police, being a victim of actual or threatened violence or abuse, having a family member in jail or who has been sent to jail.¹⁶²

Whilst ATSILS lawyers and Aboriginal Liaison Officers (ALOs) continue to have significant case loads to get through, particularly with circuit court visits, it is difficult for them to conduct full and proper interviews, take instructions and be assured their clients understand what is going on given well known issues with the shortage of interpreters in the various languages and hearing and health impediments that operate for the Indigenous clients. Realistic measures are required to measure outcome in light of such circumstances beyond the control of the legal assistance services. Collaborations and different ways of doing things are being explored with restorative and problem solving court approaches. Cunneen and Willis note key difficulties often reported anecdotally by the service providers are that the non-legal support services required to enact problem solving solutions are in short supply.

Leah Cruickshank's research in New South Wales has revealed that there is a strong need for more culturally specific court support services for young people. She identifies that there is a serious need to increase the level of culturally specific support services, legal and non-legal available to Aboriginal young people and their families when appearing in court; and specifically a level of need for Aboriginal support workers at the Children's Courts throughout New South Wales.¹⁶³

The NPA aims of collaboration, joined-up services, holistic approaches which lead to early intervention, prevention and social inclusion are critically important here. Advice UK has warned of the impact of 'failure demand' as increasing inefficiency and effectiveness. They define this as where a failing further back in the system of public administration creates unnecessary work and costs within the public service as well as for the advice service and most of all impacts negatively on the clients.¹⁶⁴

¹⁶⁰ L Curran, "I can now see there's light at the end of the tunnel", Legal Aid ACT: Demonstrating and Ensuring Quality Service to Clients", Legal Aid ACT, 2012.

¹⁶¹ Curran conducted a study of Indigenous issues around reconciliation utilising this approach from 1997-1999, See 'It's not easy walkin in there', Catholic Commission for Justice Development and Peace & Caritas Australia, 1999.

¹⁶² M Willis, 'Indicators used internationally to Measure Indigenous Justice Outcomes', Brief 8, August 2010, *Indigenous Justice Clearinghouse*, 2 and 5.

¹⁶³ L Cruickshank 'Identifying the Broken Bridges : an analysis of service gaps for Aboriginal young people at Children's Courts in New South Wales', Macquarie Legal Centre, 2009.

¹⁶⁴ Advice UK, 'It's the System Stupid! Radically Rethinking Advice', 2008, United Kingdom

Merry¹⁶⁵ has pointed out that although statistical indicators provide standardised measures amenable to policy makers they lack specificity, context and history. Willis observes that statistics reveal the high rates of imprisonment but do not disclose the significant further impact it has on their families nor does it capture the contradictions around the incredible resilience of those families and communities in coping with these impacts.¹⁶⁶ Qualitative methodologies can delve deeper. Without such data as to the 'why' behind the statistics it will be difficult to make the necessary inroads to achieving better outcomes (which need definition).

As indicated earlier, ATSILS already have significant reporting and review processes.¹⁶⁷ Some work on early intervention and prevention has also been undertaken.¹⁶⁸

An article by Schwartz and Cunneen is useful in understanding the pressures that ATSILS are under and the difficulties they face.¹⁶⁹

The Productivity Commission has noted that the 'Overcoming Indigenous Disadvantage' report examines outcomes for Indigenous people across a range of strategic areas. It cites 'reasons for persistent gaps are complex, arising from a mix of historical, social and economic causes.' It notes there has been limited information with which to assess the adequacy, effectiveness and efficiency of expenditure on programs aimed at addressing these disparities. To address this, the Indigenous Expenditure Report (IER) Steering

¹⁶⁵ Merry E, 'Measuring the World: indicators, human rights and global governance', Paper to the American Society of Law, Panel on Indicators, 2009
<<http://www.iijl.org/research/documents/I.Merry.MeasuringtheWorldASIL.pdf>>

¹⁶⁶ M Willis, 'Indicators used Internationally to Measure Indigenous Justice Outcomes', Brief 8, August 2010, *Indigenous Justice Clearinghouse*, 2.

¹⁶⁷ ATSI Law and Justice Program Performance Audit – Audit Report No 13, Australian National Audit Office, 2003-2004; 'Evaluation of the Legal and Preventative Service Program', Office of Evaluation and Audit, 2003; D Dimo 'Civil Law Aboriginal Legal Service Outreach Review', Legal Aid NSW, March 2008; 'The Evaluation of the Legal Aid for Indigenous Australia Programs', Office of Evaluation and Audit, 2008; 'Audit of the Prevention, Diversion, Rehabilitation and Restorative Justice Program', Office of Evaluation and Audit, 2008; 'Strategic Review of Indigenous Expenditure', Department of Finance and Deregulation Report to the Australian Government, 2010.
<http://www.finance.gov.au/oea/docs/OEA_PDRRP_report.pdf> 'Doing Time – Time for Doing, Indigenous Youth in the Criminal Justice System', House of Representatives Standing Committee on ATSI Affairs, 2011.

¹⁶⁸ For example, the Prevention, Diversion, Rehabilitation and Restorative Justice Program (PDRRP) works to divert Indigenous Australians away from adverse contact with the legal system and provides activities that will rehabilitate and support Indigenous Australians who have been incarcerated or are in custody. The program has four sub-components: night patrols, youth initiatives, prisoner support and rehabilitation services, and restorative justice initiatives. This work is relevant to both the early intervention and prevention aims of the NPA and alternatives to litigation aims. A performance audit of the PDRRP was conducted as part of the Office of Evaluation and Audit (Indigenous Programs) 2006-09 Evaluation and Audit Work Program. The objective of OEA's performance audit was to: assess the efficiency, effectiveness and economy of the PDRRP and its delivery by funded external service providers; identify the achievements of projects funded under the program, and determine the extent to which project performance and outcomes have met the overall objectives of the PDRRP; and identify any areas where performance can be improved. 'Audit of the Prevention, Diversion, Rehabilitation and Restorative Justice Program', Office of Evaluation and Audit, 2008; 'Strategic Review of Indigenous Expenditure', Department of Finance and Deregulation Report to the Australian Government, 2010 <http://www.finance.gov.au/oea/docs/OEA_PDRRP_report.pdf>

¹⁶⁹ M Schwartz and C Cunneen, 'Working Cheaper, Working Harder- Inequity in Funding for Aboriginal and Torres Strait Islander Legal Services' *Indigenous Law Bulletin*, 2009.

Committee — under the auspices of the Heads of Treasuries — developed a National Framework for collecting and reporting information on government expenditure on services to Indigenous and non-Indigenous Australians. A high-level overview of the reporting approach was endorsed by COAG at its 2 July 2009 meeting in Darwin. The material being gathered through this process should be examined and analysed. Gathering data already being collected makes sense.

The Productivity Commission notes that the first Indigenous Expenditure Report, containing data on the levels and patterns of government expenditure in 2008-09, was publicly released on 28 February 2011. In February 2011, COAG transferred responsibility for developing and producing future editions of the Report to the Steering Committee for the Review of Government Service Provision. The former IER Steering Committee will continue as a working group providing expert advice to the new Steering Committee.¹⁷⁰

The Steering Committee and IER working group are conscious of the knowledge and experience held by a wide-range of stakeholders and practitioners, and will consult widely with Indigenous organisations, governments and researchers in developing the report framework and methodology.¹⁷¹

The next Indigenous Expenditure Report is planned for public release in mid-2012. The expertise and consultation process is already underway.

Caution is needed with some of the recommendations of the Indigenous Expenditure Report including the proposed rationalisation of Indigenous services. In the attempt to address the issues around efficiency and, to an extent, effectiveness international research highlights the importance of context and that an over-concern with efficiency can drive down quality and effectiveness.¹⁷² It should be seen within the broader context of the local understandings and knowledge and the backdrop of qualitative data which this literature review would argue is a significant area where there is a gap in measurement. It is key in understanding why and how services are delivered, the reasons they are delivered in this way and what improvements or good practices exist and what outcomes are occurring. Aggregated statistics that often drive an efficiency agenda can sometimes risk compromising programs of service delivery that work but may work because they take time or work differently due to the nature of the client group, time and work that is needed if inroads into increasing access to justice and 'closing the gap' are to be made.

The Australian National Audit Office (ANAO) in its review of ATSILS has raised some concerns around some of the systemic issues which act as barriers to seamless and effective service

¹⁷⁰ Productivity Commission, 'Summary Indigenous Expenditure Report', 2011 <http://pc.gov.au>. For the Expenditure Report see http://www.finance.gov.au/foi/disclosure-log/2011/foi_10-27_strategic_reviews.html

¹⁷¹ Productivity Commission, 'Summary Indigenous Expenditure Report', 2011 <http://pc.gov.au>. For the Expenditure Report see http://www.finance.gov.au/foi/disclosure-log/2011/foi_10-27_strategic_reviews.html

¹⁷² A Trude and J Gibbs, 'Review of Quality Issues in Legal Advice: measuring and costing quality in asylum work', Lawyers Defending Human Rights, Refugee and Migrant Justice undertaken by the Information Centre About Asylum and Refugees and the Immigration Advisory Service, City University, London, March 2010

delivery to Indigenous communities.¹⁷³ The ANAO has found that the then current program management and funding focuses on requests for inputs from grantee organisations rather than on an assessment of the resources required in achieving outputs or outcomes. It is important to note that there have been changes to the program since the reports by the ANAO. The input-based funding arrangements included top-up funding during a financial year to grantee organisations, particularly ATSILS. The ANAO notes that its fieldwork for the 2003-2004 report for the Law and Justice Program performance audit pre-dated the decision to separate ATSIC and ATSIIS, and the resulting Ministerial Directions. The ANAO considers that this process is inefficient and is not always transparent to staff and stakeholders. The ANAO notes that a decision to expedite the tendering of legal assistance services, and enter into contracts with selected service providers, is likely to lead to a changed funding approach for some service providers.

In 2003, an evaluation by the then Office of Evaluation and Audit (OEA) found that although the ATSILS provide a cost effective service, this was at the expense of quality of the service and staff morale. Since that review was completed, there have been a series of reforms to the delivery of Indigenous legal aid services. The primary objective of these reforms has been to improve both the quality and efficiency of service delivery. Among other reforms, changes have been made to the targeting of legal aid services, to the service standards to be met by service providers and to arrangements for data collection, monitoring and evaluation.

In particular, incremental changes to the Program over the past five years have achieved significant improvements in its efficiency. Between 2004-06, the Australian Government conducted an open competitive tender process to improve the quality and efficiency of service delivery. The tender process ensured contestability in the market place and the selection of the best possible provider in each jurisdiction, while also demonstrating value for money in the provision of Indigenous legal aid services.

The tender process rationalised service providers from 25 regional providers to nine State or zone wide providers, and improved consistency in the services delivered. Another tender process in 2007-08 resulted in services in Queensland being further rationalised, and reduced providers from nine to eight nationally.

In 2008 the OEA found that the Program was meeting its primary objective and being delivered efficiently and economically and that stakeholders including the courts, law enforcement agencies and the legal aid commissions were supportive and had high respect for the ATSILS. However, based on stakeholder feedback, the evaluation also found that there continue to be major constraints on fully effective program performance relating to program funding limits which restrict the capacity of the ATSILS to provide high quality services, particularly in regional and remote areas. The OEA also found that there were some areas where the efficiency, effectiveness and economy of the management and operations of the Program could be improved.

¹⁷³ ATSIIS Law and Justice Program 'Performance Audit – Audit Report' No 13, Australian National Audit Office, 2003-2004. See also for a summary, 'Key Audit Findings ANAO' ATSIIS Law and Justice Program Performance Audit, Report No 13 ANAO 2003-2004 from Summary Brochure.

The Department is using the recommendations of the evaluation, together with changes to the funding arrangements, to implement reforms and improvements to the way services are delivered. These changes will also be guided by the Access to Justice Strategic Framework and the National Partnership Agreement. These reforms are reflected in the current 2011-2014 funding agreements with ATSILS.

This author refers back to the structural, historical impediments. Moves to contracting of services and the need for adaption in cultural approaches by such services and their enculturation and training will take time and any such contract selection ought to have these factors as considerations given the significant consequences of getting it wrong that could derive for Indigenous people.

Again, the international literature discussed earlier, stresses the need to ensure that 'cost efficiency' alone ought not be the driving force for reforms and given the complexity of Indigenous disadvantage this risk to driving down quality and effectiveness needs to be noted. In some areas, the ANAO report suggests a narrow approach is taken by suggesting at times more rigid frameworks for service delivery. This may compromise the innovation, flexibility and adaptability that is needed in working with clients and that the settings and contexts within which the local and centralised ATSILS exist. These were not fully explored or considered in the ANAO study. Without an understanding of why things are done and what works well for specific client groups through discussion with those communities, their service providers and deeper qualitative studies rather than the minimalist focus on quantitative data, advances in the area of Indigenous access to the legal system could be impeded.

The ANAO found that ATSILS have not given adequate consideration to determining the most efficient means of providing assistance to service delivery organisations. The ANAO noted in 2003-2004 that annual funding of service providers under the Law and Justice Program (rather than multi-year funding) places an unnecessary and costly administrative burden on ATSILS and those organisations requiring the financial assistance. The ANAO states there is also scope to achieve administrative economies, both by reducing the number of small grants and by addressing rapidly escalating costs, such as Professional Indemnity Insurance for ATSILS and Family Violence Prevention Units (FVPUs).¹⁷⁴

Other notable reviews of ATSILS are footnoted below.¹⁷⁵ In any consideration of the reviews conducted of ATSILS the written responses to these reviews by ATSILS which often explain the context and clarify issues raised by these reviews should also be considered.¹⁷⁶

¹⁷⁴ Key audit findings ANAO ATSILS Law and Justice Program Performance Audit, Report No 13 ANAO 2003-2004 from Summary Brochure.

¹⁷⁵ 'Evaluation of the Legal and Preventative Service Program', Office of Evaluation and Audit, 2003; D Dimo 'Civil Law Aboriginal Legal Service Outreach Review', Legal Aid NSW, March 2008; 'The Evaluation of the Legal Aid for Indigenous Australia Programs', Office of Evaluation and Audit, 2008; 'Audit of the Prevention, Diversion, Rehabilitation and Restorative Justice Program', Office of Evaluation and Audit, 2008; 'Strategic Review of Indigenous Expenditure', Department of Finance and Deregulation Report to the Australian Government, 2010.
<http://www.finance.gov.au/oea/docs/OEA_PDRRP_report.pdf> 'Doing Time – Time for Doing, Indigenous Youth in the Criminal Justice System', House of Representatives Standing Committee on ATSI Affairs, 2011.

¹⁷⁶ To understand the context of the work of ATSILS the SBS serialisation 'The Circuit' available from Dymocks is well worth viewing. This programme had the input of the Western Australian Aboriginal

Dimo's¹⁷⁷ report examining the Civil Law Outreach Program involved consultations and the collection of case studies which may be useful for looking at outcomes/impact but the report is largely descriptive. Whilst making many recommendations it does not fully address the resource and funding issues that make their recommendations problematic for implementation. There are some good recommendations around training and the need for more services to meet the need but the suggestions for enhanced data collection could place further burdens on the small agency.

Cunneen and Swchwarz's¹⁷⁸ research, although more relevant to identifying legal need and so outside the scope of this literature review, is vital reading given the Commonwealth Government priorities. The methodology included consultations with Indigenous community and those who provide services. 153 participants out of 160 services were received. There was a questionnaire and interviews with stakeholders. The process of research here¹⁷⁹ is useful.

Community Legal Centres

All CLCs are required to produce an Annual Report by law. Some contain case studies about impact and the CLCs work in areas which are also required under the NPA. Some CLC's are very small others are larger¹⁸⁰, some are generalist, some work in areas of specific and identified need¹⁸¹ and others specialise.¹⁸² There is a diversity in the information presented in these reports. Some contain useful case studies or examples of the services impact. Others do not. Some Annual Reports are patchy and selective so care is needed. Many of these Annual Reports are not available online but hard copies are held by the relevant State Program Manager (LAC or SA Attorney-General's Department) or can be requested from the individual CLC.

The 'Targeting Justice Report' of the Loddon Campaspe Community Legal Centre¹⁸³ is a 'reporting back to community' on progress rather than a full evaluation. However, its

and Torres Strait Islander Legal Service and had many Aboriginal Directors and screenplay writers contributing to the production.

¹⁷⁷ D Dimo 'Civil Law Aboriginal Legal Service Outreach Review', Legal Aid NSW, March 2008.

¹⁷⁸ See C Cunneen and M Schwarz, 'Civil and Family Law Needs of Indigenous People in NSW: The Priority Areas', Vol 32, Issue 3 & 4 *UNSW Law Journal*, 2009, 725-245.

¹⁷⁹ C Cunneen and M Schwarz, 'Civil and Family Law Needs of Indigenous People in NSW: The Priority Areas', Vol 32, Issue 3 & 4 *UNSW Law Journal*, 2009, 725-245.

¹⁸⁰ Peninsula Community Legal Service and Eastern Community Legal Service, Redfern Community Legal Service.

¹⁸¹ For example, the Loddon Campaspe Legal Service after a local 'Access to Justice Report' in 2008 identified key focus groups as the elderly, homeless, migrants and in family violence. Also the West Heidelberg Community legal Service conducted a community consultation in the first half of 2008 identifying the key issues of homeless and poor housing and discrimination as key concerns of community. It successfully received a Legal Services Board Grant at the end of 2010 to address these issues in partnership with Banyule Community Health over a three year period. The Footscray Community Legal Service has programs which target local Burmese and Sudanese community members and young people. Many more examples exist around Australia.

¹⁸² For example the Consumer Credit Legal Service in NSW, Women's Legal Service around the country, the Consumer Action Law Centre, the Human Rights Law Resource Centre, Refugee and Immigration Legal Services and Street Law in the ACT and the Homeless Persons Legal Clinics in Victorian and Queensland.

¹⁸³ E L'Huillier, 'Targeting Justice in the Loddon Campaspe Region: A Review of the Loddon Campaspe Community Legal Centre: a report on the progress towards access to justice in the Loddon Campaspe Region', Advocacy Rights Centre & Loddon Campaspe Community Legal Centre, September 2008.

approach is very useful. It gathered local demographic data and then examined its four key programs through interviews with people involved in an initial Access to Justice Report and the establishment of the service; interviews with relevant stakeholders e.g. Family Violence Service (pages 37-40); surveys of volunteers; survey of agencies working closely with the service and a list of achievements. The report contains some useful information on accessibility, holistic approaches, prevention approaches and CLE but the report notes that this CLE is mainly with students and could be more directed at community, support workers and engagement in community participation as part of the process. The consistent pattern of most of the evaluation reports into legal assistance services, considered in this literature review, identified the systemic barriers to effective service delivery. This report by the Loddon Campaspe Community Legal Centre is no different highlighting the limited funding, limited staffing, capacity, and remoteness and pressures that this places on a committed staff (pages 19-21, 20-23). Some interesting data is gathered around referral practices and it is identified as an area where significant work needs to be done. It highlights issues around a lack of knowledge and a lack of support services which match the need (Page 36).

QPILCH has also produced a useful report by T Smith examining their Homeless Persons Legal Clinic (HPLC) (commenced 2002) and their Refugee Civil Law Clinic Programs (RCLCP) (the latter program commenced in 2007).¹⁸⁴ The first program works alongside host agencies where the service is often delivered. Similarly, the RCLCP operates on an outreach model. This evaluation was conducted for the Queensland Department of Communities, Community and Homelessness Services. It collected quantitative and qualitative data. It conducted interviews with host agencies and working groups, face to face interviews (some structured and others unstructured), an on-line survey of team leaders and volunteer lawyers from partner law firms, used case studies prepared by volunteer lawyers, tried to utilise what they note was limiting CLSIS data and conducted in depth file reviews of 58 files. The evaluation does include an examination of how effective the model was in achieving its stated outcome.

The report has useful material on what constitutes an effective outreach service (page 41) and matters which are integral to good practice.

The evaluation report of QPILCH notes the problems and barriers to effective services presented by limited resources. The report notes that the reliance on ad hoc pro bono assistance can fragment holistic service and is not always reliable. It noted inadequate capacity to offer services identifying criminal and family law as areas of need identified by service users and non legal services. It also observed a need for non legal service induction into what is a legal problem.

An evaluation in 2007 was undertaken by Curran to measure the impact of law reform activities of CLCs.¹⁸⁵ Few, if any, studies of such a nature had been undertaken at this time. The study was funded, undertaken and written within a six week time frame as it was to feed into a Commonwealth Review of CLCs underway at the time. The methodology, in view of the short time frame, involved an examination of documentation of six law reform issues engaged in by the CLCs over two decades.

¹⁸⁴ T Smith, 'Evaluation of Queensland Public Interest Law Clearing House Incorporated Homeless Persons' Legal Clinic and the Refugee Civil Law Clinic, PILCH and Encompass Family and Community PTY Ltd, November 2011.

¹⁸⁵ L Curran, Making the Legal System More Responsive to Community: A report on the impact of Victorian Community Legal Centre law reform initiatives, La Trobe University and the Reichstein Foundation, May, 2007.

The aim of the research was:

1. To document some of the history of CLC law reform activities in Victoria
2. To examine the interaction between client experience of the legal system and law reform responses by examining six snapshots of law reform activities undertaken by the community legal service sector in Victoria
3. To examine the impact and role of law reform and community legal education in improving the justice system and enabling community participation (this aspect of the study was not undertaken due to the time limitations. The report called for further evaluation in this area.)

A 'snapshot' of law reform projects including test cases relevant to those projects was selected on the basis of preset criteria which were as follows:

1. That the law reform project was completed
2. That the law reform project stemmed from client casework
3. That the law reform project involved a number of stages including problem identification
4. That documentation for the law reform project was held or could be located and viewed. This determined the years for the snapshots in most cases
5. Impacts/Outcomes were examined to determine whether there was an impact or outcome flowing from the law reform project, i.e. by a clear change in law, policy, recognition, media coverage, reference in recommendations, Parliamentary/Statutory inquiry, the grant of standing; or clarification of the position in law in a court case by a court or a successful case.

Using the above criteria, the following six law reform projects of CLCs were selected. These included a number of initiatives of working groups of the Federation of CLCs:

1. PERIN Fines/Infringements (Snapshot 1994-2005)
Minutes reveal that between five and twelve CLCs were actively involved in the PERIN Working Group at various times.
Test Cases: The Patterson and Mansfield Cases.
2. Debt Collection (Snapshot 1998-2003)
Test Case: Collection House Ltd. V Taylor.
3. Police Issues Working Group (Snapshot 1984-1996)
Minutes of the group reveal that between seven and fifteen CLCs were actively involved in the Police Issues Working Group at various times.
4. Energy Regulation and the Development of Regulations and Oversight Mechanisms (Snapshot 1993–2006).
5. Violence Against Women and Children Working Group (Snapshot 1994–1998)
Minutes of the group from 1994-1997 reveal between seven and twelve CLCs were actively involved in the Violence Against Women and Children Working Group at various times.
6. Corrections Working Group (Snapshot 1997-2002)

Minutes of the group from 1997-2002 reveal between seven and eleven CLCs were actively involved in the Corrections Working Group at various times.

Test Cases: Prison Contracts and the FOI Case, VCAT 1999, Coronial Deaths in Custody in Prisons.

The examination of documentation process involved the following questions being considered in relation to the selected law reform activities:

- a) What was the experience of CLC clients that led to the need for the law reform activity?
- b) What was the problem identified that needed to be resolved, changed or have its status maintained?
- c) What were the various strategies or methods utilised by the CLCs to bring attention to the problem with the public and relevant decision-makers?
- d) Did the law reform activity of CLCs gain recognition, have an impact or an outcome? For example, were the CLCs' recommendations referred to or acknowledged in a Parliamentary or Statutory Report? Did they lead to changes in the law, policies or the administration of the laws, protocols, guidelines or training? Or did the recommendations lead to clarification of laws or procedures that were unclear or uncertain? Did the test case gain recognition? For example, were CLCs recognised as having an important role through permission to act as amicus curie? Did they win the case? Did the case lead to a clarification of the legal position or clarify the law? Were there useful observations made by the court or outcomes by the media in later policy-making? Did the case lead to changes in the law, policies or the administration of the laws, protocols, guidelines and/or training?

The study demonstrated many of the difficulties in measuring policy and law reform impact. Despite this the study was able to identify some significant reforms which CLCs had affected over a 20 year period.

Concern was raised in recommendations to the report about the documents that were lost or destroyed due to a lack of storage space which impeded the ability to gain a comprehensive picture of law reform conducted over a two decade time period. CLSIS data examined did not adequately collect or ask for relevant data. Good law reform often involves galvanising and convincing other players and takes time, often over 20 years to achieve change.¹⁸⁶

The legal assistance services themselves had not had the ability to measure such work as it was too onerous but felt the imperative for some research to be undertaken to feed into a review of CLCs at the time and also to document CLC impact, and so independent funding for a project was sought from the Reichstein Foundation. The study reinforces the comments raised by Ebrahim and Rangan¹⁸⁷ (discussed earlier in this literature review) about the significant time law reform and policy takes to change and the difficulties in resource intensive monitoring of impact by services themselves. Perhaps the solution is to also

¹⁸⁶ L Curran, 'Making the Legal System More Responsive to Community: A Report on the Impact of Victorian Community Legal Centre (CLC) Law Reform Initiatives', La Trobe University and the Reichstein Foundation, May 2007.

¹⁸⁷ A Ebrahim and V K Rangan, 'The Limits of Non Profit Impact: A Contingency Framework for Measuring Social Performance', Harvard Business School Working Paper, May 2010, 4 pp 9- 32.

address issues of space, storage and archiving so that the history of campaigns and law reform activity can be filed and kept. Then research can be undertaken by way of a document analysis and perhaps the conduct of interviews (which the 2007 project could not undertake). This could then provide an overview of outcomes by the examination of say, a ten year time span, of a specific campaign and law reform work of a legal assistance service.

Curran noted that the biggest obstacle when conducting her research in 2007 was that most CLCs had thrown out many of their campaign files away due to a lack of space and requirements under the Legal Profession Act 2004 to retain client files. The State peak body for CLCs the Federation of Community Legal Centres (FCLC) had retained some materials but it relied on CLCs providing these to them regularly which had not occurred over the two decade period under examination. The FCLC had also had to cull material that would have been relevant due to its own space issues. This presents further challenges for rural remote and outreach services with minimal office space but who may do or contribute to important policy work.

Redfern Community Legal Service has collated some case histories on problems and how the service dealt with them which may be useful.¹⁸⁸ A word of warning, some CLCs do not have active web sites. This is a resource issue as well as a staffing issue as few staff have the skills the service demands as well as the requisite IT knowledge. Some have tried to obtain funding for their web pages through philanthropies and government support but others struggle on with ad hoc pro bono assistance or have not been able to find the resources to enable regular updating or uploading. This does not mean however, the CLCs do not have valuable information about their service that exists in their offices. Research evaluations on legal assistance services, specifically in relation to CLCs should not therefore assume all materials available on-line are up to date or that all reports are published. Much material that is valuable to study the nature and impact of CLC work may be stored at the service rather than be accessible in an on-line format. Asking the service to provide this relevant information can be onerous for the service. It is therefore suggested that on-site visits to a legal assistance service may reveal this information and be less burdensome.¹⁸⁹ This was how Curran, in her study in 2007,¹⁹⁰ was able to progress the project in view of the limited time frames and busy nature of the services that had little time to photocopy reports and fossick through their files/shelves.

In one review of CLCs, examined in the course of this literature review, the consultant asked legal assistance services and community agencies in the area to make submissions to their review. Given the range of law reform submissions required of legal assistance services in policy areas and legislative changes affecting their clients it is not a surprise that this consultant appeared to receive no responses to the requests. Project design should reflect the pressures on legal assistance services. Calling for submissions from small, often under

¹⁸⁸ 'Understanding Credit and Debt Project for CALD Communities, Report on the First Stage', Redfern Community Legal Service, October 2010. Their Annual Reports are also useful in outlining some outcomes for clients in case studies. <www.rcl.org.au>

¹⁸⁹ This researcher did this for her research into the impact of CLC law reform on community in 2007 and it was the best way of conducting the research as it did not intrude on the day to day work of the busy CLCs she was examining. See L Curran, 'Making the Legal System More Responsive to Community: A Report on the Impact of Victorian Community Legal Centre (CLC) Law Reform Initiatives', La Trobe University and the Reichstein Foundation, May 2007

¹⁹⁰ L Curran, 'Making the Legal System More Responsive to Community: A Report on the Impact of Victorian Community Legal Centre (CLC) Law Reform Initiatives', La Trobe University and the Reichstein Foundation, May 2007.

resourced agencies that the legal services deal with is not a sound or realistic methodological approach in this context.

This author notes that during her research for LAACT in late 2011,¹⁹¹ the practitioners observed that file reviews did not adequately represent the actual nature of the file. They noted that a paper file review would often not reveal fully the complex, challenging and nuanced nature of a file. They preferred an interview and a diary approach during a matter. This is important to note specifically as it affects the effectiveness of last methodological approach followed by T Smith discussed above (that is file reviews).¹⁹² In addition, the expectation on a small agency without volunteer lawyers that they might have time to write up case studies can present difficulties for a program busy with direct service delivery. Again in the LAACT 2011 research to avert this increase in work load, asked a final 'open question' in the on-line survey asking for the participants to 'describe a good client outcome and how it occurred'. Similar questions were posited to lawyers and para-legals in the personal logs that they collected in a 'snap shot' period of two weeks. These elicited relevant and focussed case studies on outcome and helped understandings around the nature of the work and how the service was being delivered. This can be complimented by client feedback surveys or face to face interviews which ask similar questions using the approach 'but for the intervention of the legal assistance service what do you think might happen/have happened?'¹⁹³

Further studies relevant to an examination of homelessness services¹⁹⁴ and service delivery to the mentally ill¹⁹⁵ are footnoted below.

Woodyatt, Thompson and Pendlebury have examined Queensland's Self Representation Service.¹⁹⁶ Their evaluation is largely descriptive as to how the service works with its focus on diversions of people out of court and so this is relevant in the area of avoidance of litigation. The report has statistical information and highlights the problems with the way data was collected. It identifies difficulties in ascertaining the precise information on cost savings made by the service. As a result of this concern, a further research project is being developed in collaboration with others.

Further recommended reading is the article footnoted below by P O'Brien detailing the role of CLCs in advocacy and policy development and change.¹⁹⁷

¹⁹¹ L Curran, "I can now see there's light at the end of the tunnel", Legal Aid ACT: Demonstrating and Ensuring Quality Service to Clients", Legal Aid ACT, 2012.

¹⁹² T Smith, 'Evaluation of Queensland Public Interest Law Clearing House Incorporated Homeless Persons' Legal Clinic and the Refugee Civil Law Clinic', PILCH and Encompass Family and Community PTY Ltd, November 2011.

¹⁹³ L Curran, "I can now see there's light at the end of the tunnel", Legal Aid ACT: Demonstrating and Ensuring Quality Service to Clients", Legal Aid ACT, 2012.

¹⁹⁴ S Forrell, E McCarron and L Schetzer, 'No have, no justice? The legal needs of homeless people in NSW', Law and Justice Foundation of NSW, Sydney, 2005.

¹⁹⁵ M Karras, E McCarron, E Gray and S Ardisinski, 'On the Edge of Justice: the legal needs of people with a mental illness', NSW, Law and Justice Foundation of NSW, Sydney, 2006.

¹⁹⁶ T Woodyatt, A Thompson and E Pendlebury, 'Queensland's Self Representation Services: A model for other courts and tribunals', 1 *International Journal of Judicial Administration*, 2011.

¹⁹⁷ P O'Brien, 'Changing Public Interest Law: Overcoming the Law's Barriers to Social Change lawyering', Vol 36 *Alternative Law Journal*, 2011.

Family Violence Prevention Legal Services

The NPA encourages 'greater collaboration among legal and other service providers'. There was an evaluation undertaken in the Northern Territory in March 2007 of their 'Integrated Family Violence Justice Project'¹⁹⁸ a project which can be described as working towards 'greater collaboration among legal and other service providers'. This was funded through the Australian Governments Domestic and Family Violence and Sexual Assault Initiative within the Office for Women. The Evaluation was mainly of two forums held with people providing legal and non-legal services, judicial, police, government, the prosecutor's office and others working in the domestic violence sector including accommodation and corrections. The project was based on a similar project in the ACT which has won 3 Australian Violence Prevention Awards. The project was to examine ways that government and non government agencies can work better to improve outcomes for people experiencing domestic violence. No definition of what these outcomes are is provided.

The forums conducted identified gaps in service delivery, awareness, training and barriers due to different agency approaches. Whilst improvements in policing were noted, significant impediments were identified. In summary, these included:

- under-resourcing of service providers
- competition for funding grants which were often short term or curtailed even after success
- vast geographical distances and a lack of services
- a lack of understanding between services of their role and approach
- the acceptance of violent behaviour in some regions of the Northern Territory
- the intractability of senior levels as a barrier to progress
- problems with the nature of legislation for example mandatory sentencing concerns for a second offence
- a need for education and training.

The evaluation was largely of the forums and the issues the participants identified. These revealed significant barriers to be overcome at the systemic, legislative, service provider level and they stressed the complexity of the work and the need for key issues affecting the different communities to be individually identified. Concerns were raised by forum participants around the duplication of resources resulting from networks and resources not being shared, and about respect for confidentiality. The limitation of men's services was identified as leading to isolation. Issues of workload and staff retention were identified as affecting continuity and understanding of the issues for community and the best ways to approach these. Community Legal Education of community members was identified as a need as many did not understand court processes. The Women's Legal and Advocacy Service was seen as a positive initiative but there was still great need identified. Task forces were also seen as complimenting the work of the project.

¹⁹⁸ 'Working Towards Greater Collaboration and Better Outcomes for Clients and Stakeholders', Northern Territory Legal Aid Commission, March 2007; C Cunneen and M Schwarz, 'Civil and Family Law Needs of Indigenous People in NSW: The Priority Areas', Vol 32 Issue 3 & 4, *University of New South Wales Law Journal*, 2009, 725-245.

The evaluation report on the forums noted that each group had identified tasks they would need to undertake to improve the project and the issues identified. This task list was a good idea but there was no timeline or personal/agency responsibility identified for the long list of tasks. Many of the tasks listed to deal with problems will be difficult to achieve at an agency level in view of the systemic limited resources and barriers that are identified in the evaluation report on the forums. Issues that they seek to address such as increased victim support, police responsiveness and advocacy, trauma counselling and the need for interpreters in program delivery and crisis intervention would also require more than individual or agency action as the funding necessary is identified as scarce. The desired approaches for the project as outlined included:

- Pro-arrest and pro-charge and presumptions against bail with police being equipped with evidence kits (with evidence of an increase of 20-25% of all reported incidents resulting in criminal prosecutions)
- Victim support via domestic violence crisis service in partnership with police and where interventions to protect children might occur
- Coordination, case management, case tracking and family violence court case management hearings
- Programs for rehabilitation of offenders and one on one counselling
- Partner safety information and support.

Another evaluation examined for this literature review was the Women's Legal Aid Evaluation Report.¹⁹⁹ As a methodology for consideration within the scope of this literature review its use was limited as it is mainly a description of activities and targets and so, is largely about numbers rather than a substantive analysis of how the service is delivered in terms of quality and effectiveness (which is the brief for this Literature Review's examination).

There are 14 Family Violence Legal Services funded by the Commonwealth Government (with 31 outlets).²⁰⁰ A number of useful submissions and reports produced by the Aboriginal Family Violence Legal Service Victoria (AFVLSV) were considered for this literature review.²⁰¹ Many of these documents, provided to this author for the review explain the national policy settings and some of the difficult circumstances and limitations on service delivery to victims of domestic violence in Indigenous communities.²⁰² Isolation, the lack of support services in rural and remote communities and infrastructure, under-resourcing and short term funding, and discontinuance of programs that needed time and longer term thinking to have an impact are identified as obstacles with systemic restraints being identified as affecting the ability of agencies to be as responsive as they could or would like to be.²⁰³ Again, the literature keeps stressing the issues and complex layers which need to be understood and

¹⁹⁹ 'Women's Legal Aid Evaluation Report', Queensland Legal Aid, July 2002.

²⁰⁰ Letter from the Aboriginal Family Violence and Legal Service Victoria to the Australian Law Reform Commission, 25 June 2010.

²⁰¹ Some further information on the policy context, challenges in working in this area for legal assistance services and some evaluation reports can also be found on the web page for the Women's Legal Service Australia <<http://www.wlsa.org.au>. Unfortunately, due to the time frames for this literature review it was not able to analyse these in detail.

²⁰² Letter from the Aboriginal Family Violence Legal Service Victoria to the Australian Law Reform Commission, 25 June 2010, 1.

²⁰³ Aboriginal Family Violence Legal Service Victoria Response to the ALRC List of Questions and Proposals, 75-83; Letter from AFVLSV to the Family Law Council Secretariat, 2 June 2011.

factored into service delivery. They highlight the need to avert a 'one size fits all' approach and resist temptations to homogenise services which may require different approaches to suit the different community.²⁰⁴ Issues identified include service delivery models for CLE which are in conversational settings, culturally appropriate responses to victims which take into account their circumstances, the lack of understanding in community that sexual assault by partners is crimes family violence and is not lawful, fear, shame, historically insensitive approaches and the need for grass roots responsiveness. These are identified as more successful for outcomes to 'top down' approaches which can affect effectiveness.²⁰⁵ There is also concern expressed that Alternative Dispute Resolution may not always be appropriate in setting with complex issues around violence and assault and community and family members.²⁰⁶ This should be considered in any attempt to measure ADR options. Also relevant are the services' human rights frameworks and how domestic violence services respond to these.²⁰⁷ Such elements include respect, dignity and appropriate treatment of people by the services.

Collaboration, Community Strengthening and Community Legal Education

There is a lack of detailed literature on the measurement of collaboration or how it might be undertaken. Curran has incorporated some measurement of collaboration in the various tools in her 2011 research for LAACT.²⁰⁸

Some work around indicators on well-being and community engagement and strengthening has been attempted by the McCaughey Centre School of Population Health at the University of Melbourne and the references are footnoted below.²⁰⁹ Whilst the materials produced by Community Indicators Victoria (CIV) under the McCaughey Centre's auspice are relevant they are still fairly broad and aimed at the Local Governance Areas on Results Based Accountability (RBA). They are also still in the early days of measurement and development. Again much of the material gathered tends to be statistical only. The indicators identified in the materials of CIV may not be easily transferable to human service delivery such as legal assistance services and community based organisations as they are too broad and often outside an agency's control or remit and require other players. In addition, for legal aid service delivery measurements there are inherent dangers in an over reliance on telephone surveys and on-line surveys of community members given many legal aid clients have no address, limited phone access, are from CALD backgrounds and may not be computer

²⁰⁴ AFVLSV submission on the 'Failure to Protect Laws', Department of Justice, Victoria, 9 September 2011 and Letter AFVLSV to the National Plan Task Force Office for Women, 1 July 2008, 2.

²⁰⁵ Letter from the Aboriginal Family Violence Prevention and Legal Service Victoria to the Australian Law Reform Commission, 25 June 2010, 3.

²⁰⁶ Letter from the Aboriginal Family Violence Prevention and Legal Service Victoria to the Australian Law Reform Commission (ALRC), 25 June 2010; Aboriginal Family Violence Prevention and Legal Service Victoria Response to the ALRC List of Questions and Proposals, 62-63

²⁰⁷ Submission AFVPLS to the Commonwealth Attorney-General's Department on the National Human Rights Action Plan Baseline Study, 1 September 2011, 5-10 and L Curran, "I can now see there's light at the end of the tunnel", Legal Aid ACT: Demonstrating and Ensuring Quality Service to Clients", Legal Aid ACT, 2012.

²⁰⁸ L Curran, "I can now see there's light at the end of the tunnel", Legal Aid ACT: Demonstrating and Ensuring Quality Service to Clients", Legal Aid ACT, 2012.

²⁰⁹ 'Community Indicators Victoria: for informed, engaged and well planned communities, A Resource Guide Using CIV as a Tool for Council Planning, Community Indicators Victoria, <http://www.communityindicators.net.au/measuring_wellbeing>; M Davern, Citizen Engagement and Community Satisfaction, Community Indicators Victoria Survey 2007, McCaughey Centre, VicHealth Centre for the Promotion of Mental Health and Wellbeing, 2007.

literate and so there are huge holes in clients of legal assistance services who can be surveyed. Some of the discussion and framing of the CIV indicators may be useful subject to the warnings given above.

The Australian Bureau of Statistics (ABS) has also grappled with trying to measure progress on aspects of well being and community including groups of interest to legal assistance services and other community service delivery agencies including low income, unemployed, Indigenous, people born overseas, victimisation and offender rates.²¹⁰ Again, this may have limited use as it is statistical and has little qualitative data that explains the reasons behind the statistics or information on how services are being delivered. It also loses its local impact capacity which is so critical in measuring outcomes for clients and gauging collaboration and community strengthening. Much of what is measured in the ABS material is systemic, national and beyond the capacity of individual or collective agencies to influence. The ABS itself admits that such measurements of outcome and results are difficult when undertaken on a national level and difficult to reveal the understandings as to what is happening at the local level. Care is needed.

As mentioned earlier, T Smith looks at integrated services and access by other services (pages 26-27) and she examines outreach accessibility (pages 27-30). She raises the point that it is critical in legal service delivery to assist service users and their non-legal workers in being able to identify what a legal problem is so that they can seek help. This has also been examined by Curran.²¹¹ Smith notes that this goes to early intervention and prevention (pages 30-33). She also discusses the relevance of this in the context of clients with complex and multiple needs and the need for relevant and realistic targeting (pages 38-39).²¹²

There are very few evaluations of community legal education as undertaken by LACs, CLCs and ATSILS. Although, there are sometimes CLE Evaluations required by LACs of CLCs these are often very limited in scope and do not actually look at the actual quality, detail of knowledge or capacity developed by participants in CLE, or impact on participants of the CLE or community development undertaken. Often the CLE measurement is about the number of sessions held or number of participants attending rather than quality of presentation style or impact. It is rare for CLE to be ongoing with particular communities. As they are often one off sessions rather than building block style multiple CLE sessions. This is changing with a recent project by the National Association of Community Legal Centres to share developments in CLE and their web site is well worth examining for recent information sharing on CLE and best practices.²¹³

Many innovative approaches involving early intervention, prevention and holistic service delivery and effective CLE are not documented. In the course of this literature review some

²¹⁰ Measures of Australia's Progress, 2010, Australian Bureau of Statistics

<<http://www.abs.gov.au/ausstats/abs@nsf/Lookup?by Subject/1370...> and Measures of Australia's Progress 2010, Feature Article: Future directions for measuring Australia's Progress, September 2010.

²¹¹ See also L Curran, 'Relieving Some of the Burdens on Clients: Legal aid services working alongside psychologists and other health and social service professionals', Vol 20 No 1, *The Australian Community Psychologist*, June 2008

²¹² T Smith, 'Evaluation of Queensland Public Interest Law Clearing House Incorporated Homeless Persons' Legal Clinic and the Refugee Civil Law Clinic,' PILCH and Encompass Family and Community PTY Ltd, November 2011 26-27.

²¹³ See 'CLE Made Easy' <http://www.naclc.org.au/cb_pages/cle_made_easy.php. Also see J Kirby, 'A Study into Best Practice Community Legal Education', Victoria Law Foundation, undated <http://www.victorialawfoundation.org.au/images/stories/files/111018%20Churchill_Report_for_we b.pdf>

services contacted the author to make this point. They observed they were so busy actually delivering the service and often the work was done by one person who was often part-time or a volunteer that they had little time to document the work. Sometimes the work grew through its reputation and so time was spent catching up with the demand. One such agency was the Footscray Legal Service which provided the author with an email summary of what they were doing.²¹⁴

A project of the Footscray Community Legal Service (FCLC) is called, "Bring Your Bills Days". It is an innovative early intervention community event that the FCLC has been running for a few years most intensively over 2011 with 7 events, and with the possibility of six or seven events in 2012. There will be some additional sessions for other legal and non legal services who want FCLC's initial guidance. It is a blend of CLE and legal advice and problem resolution all in one and is effective and efficient as client contact, education, problem identification, problem solving and sometimes resolution can all occur on one day in the one place.

By way of background, this was a model that arose from the need to find an alternative way to decrease financial counselling casework due to the large number of issues/problems arising that were evidently systemic and were a result of vulnerable clients who, more often than not, were also of a CALD background.

The success of the days has led to interest from other areas including Broadmeadows, Ringwood and Shepparton in rural Victoria. In this case it is a promising model for CLE/advice. Other legal service providers are due to replicate it in their areas. The concept is clearly relevant to early intervention, social inclusion and litigation avoidance, and is predominately related to lack of English and financial status / literacy that comes with having been introduced into a Western society and its complexities and costs. It also targets the lack of community legal education in relation to contracts and the complexity of refugee names being "too hard" for sales people to correctly document.

What occurs is an event where people having consumer difficulties, problems with utilities or financial institutions come to one place on a given day. Interpreters are present and CALD community leaders are engaged to advise on the event, to get people to come along and are present on the day to offer support.

Complaints handling bodies such as the Financial Services Ombudsman are invited along and once the matters are examined by the lawyers on site they are referred on the spot to the relevant complaints handling agency for resolution.

This seems to be an efficient and effective approach (although only based on the information provided to this author) as it has reportedly led to resolution of many problems. It is an example of being proactive, going to where the people and services are situated and at venues appropriate for community access. It works in collaboration not only with legal services such as Victoria Legal Aid but also non legal agencies such as AMES and others. There are many programs such as this one where problems are identified and access points and relationships established. Some law reform activity in the areas where there is a repetition of problems is also planned by FCLC.

It is noted that many such programs may exist around Australia and may not have been examined or documented because the few people involved in running them have little time

²¹⁴ See <http://www.footscrayclc.org.au/brochures-publications/>

to document such initiatives and so they are not well known. The NACLCL project mentioned above may assist. It is not suggested that the solution is to force staff or volunteers to document their work as they are already under the pump. Perhaps further research might be to go out to such legal assistance providers and document them for the providers. Not only would this examine outcomes and some of the NPA aims in action but it would provide a useful resource for the service itself. If more innovative programs responding to community need were documented and this information shared around the sector then good and workable practices could be replicated with adjustments based on the dynamics and exigencies of the community in question.

Respecting Diversity, Keeping the Flexibility and a Range of Ways to Best Respond

This Literature Review has highlighted that legal assistance work is not only complex but that it is also complicated. There is no one way which can make it easy to achieve a successful outcome. Good practice informed by good training, cultural awareness and sensitivity and adaptability and flexibility are key factors in effectively reaching and targeting vulnerable and disadvantaged groups.

Buck and Curran²¹⁵ explore some issues around advice seeking behaviours and barriers to people in seeking help for their legal problems, and suggestions to overcome these in service delivery models which may be useful background. They also identify some international service models.

Forrell and Gray have considered some of the literature into outreach legal services for people with complex needs. Although the study is not a measurement of services undertaking the work it is useful in its discussion of the challenges for service providers in providing services to disadvantaged people with complex needs and 'hard to reach clients'.²¹⁶

Different approaches to evaluations on outcomes will also be required given different laws which operate and the different policy settings in place. For example, in the criminal law jurisdiction the approaches will differ to family law approaches. Many decisions to go to trial are made by the Director of Public Prosecutions (DPP). Often despite efforts to reduce expense and time and to ensure efficiency and enable clients not to be detained or placed under the undue stress delays can cause, the judgement call is that of the DPP (State and Commonwealth) and not that of legal aid.

The role of the DPP and other players in providing barriers to legal assistance services in achieving their outcomes was evident in the research of the author undertaken in the latter part of 2011 for Legal Aid ACT²¹⁷ and identified in the 'Integrated Family Violence Project – Working Towards Greater Collaboration and Better Outcomes for Clients and Stakeholders

²¹⁵ A Buck and L Curran, 'Delivery of Advice to Marginalised and Vulnerable groups: The Need for Innovative Approaches', Volume 3 Art. 7 *The Journal of Public Space*, 2009, 1-29.

²¹⁶ S Forrell and A Gray, 'Outreach Legal Services to People with Complex Needs: What works?' *Justice Issues*, Law and Justice Foundation of NSW, 12 October 2009. See also L Curran, 'Relieving some of the burdens on clients: Legal aid services working alongside psychologists and other health and social service professionals', Vol 20 No 1, *The Australian Community Psychologist*, June 2008; L Curran, 'Human Rights in Australia: their relevance to the vulnerable and marginalised', Vol 33 No 2 *Alternative Law Journal*, June 2008, 70-74.

²¹⁷ L Curran, "I can now see there's light at the end of the tunnel', *Legal Aid ACT: Demonstrating and Ensuring Quality Service to Clients*", Legal Aid ACT, 2012.

Report by the Northern Territory LAC in March 2007.²¹⁸ This highlights the danger in applying homogenous standards or reporting to such different and complex areas of law, where often 'successful outcomes' can be hindered by other elements of the system, or systemic barriers beyond legal assistance services' control. It also highlights the danger of imposing expectations around efficiency and cost reduction which are not within legal assistance services' power to determine, such as timely dispensation, reductions in recidivism and case management.

Clients' lack of paperwork, failure to keep appointments because of chaotic lifestyles, memory loss, inability to articulate, intellectual and mental capacity are all issues that staff of legal assistance services deal with in order to have a successful outcome. The nature of this work is time consuming. To present the client's story fully and effectively to a court and to make the case is not straightforward when such factors are operating. This concern was also explored by Trude and Gibbs and discussed in detail earlier in this Literature Review.²¹⁹

Katie Fisher formerly of National Legal Aid²²⁰, Monica Ferrari of Victorian Legal Aid and Curran have undertaken CLE, community development, capacity and community strengthening with African community members. Some of the work has been documented, some has not been documented.

Integrated Legal Service Delivery

Research and evaluations of integrated legal service delivery are rare. Of the few studies that have been undertaken, two occurred in 2010. The first is by Noone and Digney²²¹ and occurred in Australia. The second occurred in the United Kingdom²²² and so care needs to be taken as their Community Advice Centres are very different creatures to Australian CLCs in terms of funding, history and governance.²²³

The A Buck et al Report, is essential reading and contains a useful methodology which involved observations of community advice sessions, interviews with clients and their advisers after the advice sessions and follow-up in depth interviews with clients.

The report revealed some excellent information around the operation of integrated services and seamless services as follows:

²¹⁸ 'Working Towards Greater Collaboration and Better Outcomes for Clients and Stakeholders', Northern Territory Legal Aid Commission, March 2007

²¹⁹ A Trude and J Gibbs, 'Review of Quality Issues in Legal Advice: measuring and costing quality in asylum work', Lawyers Defending Human Rights, Refugee and Migrant Justice undertaken by the Information Centre About Asylum and Refugees and the Immigration Advisory Service, City University, London, March 2010.

²²⁰ K Fraser, 'Out of Africa and Into Court: The Legal Problems of African Refugees', Footscray Community Legal Centre, June 2009.

²²¹ M Noone and K Digney, "It's Hard to Open up to Strangers" 'Improving Access to Justice: The Key Features of an Integrated Legal Services Delivery Model', Research Report, Legal Services Board and La Trobe University, September 2010. This author notes that she was on the Steering Group for this research project from March 2008 - end December 2009.

²²² A Buck, M Smith, J Sidaway and L Scanlan, 'Piecing it Together: Exploring one-stop shop legal service delivery in Community Advice Centres', Legal Services Commission (Legal Service Research Centre) June 2010.

²²³ Another excellent report is C Fox, R Moorhead, M Sefton and K Wong, 'Community Legal Advice Centres and Networks: A Process Evaluation', Vol 30 No 2 *Civil Justice Quarterly*, London, 2011 204-222.

1. There are systemic issues beyond legal assistance service control affecting access including transportation, lack of advertising of the services and what they do and do not do
2. The issues that were barriers to delivery of a seamless service include a lack of volunteers when needed, lack of ongoing support for clients after the advice, a need for proper staff supervision, the clustering of problems and multiple client problems, poor problem identification by client and adviser which was compounded by multiple client issues
3. Issues affecting the problem identification and quality of the advice service included the importance of allowing the client time to tell their story and training of advisers on the interlocked and overlapping nature of client problems
4. The organisational barriers to integrated and seamless service delivery capacity to give advice included a lack of resources and lack of practice in other required areas of law
5. The limitations of a diagnostic approach to identifying and responding to client problems and a need for advisers to have skill, expertise and flexibility in any specific context given complicated and complex client issues (including clustering of problems and multiple client need)
6. The critical importance of an advice chain was noted where there was a logical continuum of generalist and specialist services available and ability to identify when and how a smooth transition would or should occur.

The Noone and Digney report outlines key features of integrated legal services identified as important during the research which included a literature review. The methodology to ascertain what led to integrated legal service delivery and the extent to which these were being realised was as follows:

1. An Advisory Group²²⁴ made up of staff of the legal service, West Heidelberg Community Legal Service and the co-located service Banyule Community Health
2. A collection of existing data – in the course of the research the CLSIS data was problematic and had little relevance as little information about referral to and from non-legal services was kept by either service and there was a small staff involved in the delivery of the service who had limited capacity to record, and the systems for recording were cumbersome and technology and data sets for collection were imperfect
3. Identification of referral practices – formal policies and practices and informal (through observation)
4. Staff on-line survey (62 responses from approx 150 staff of the health and legal service)
5. Staff diaries from identified staff of the health and legal service
6. Client interviews/lawyer interviews from the same interview
7. Staff interviews (approximately one hour)
8. Staff Workshop (feedback session).

²²⁴ It should be noted that the author was on this Advisory Group.

The research revealed that 'an integrated legal service delivery model could be measured against whether there exists:

1. Central focus on the needs of the client/community
2. Holistic Service Delivery approach
3. Organisational partnership and collaboration
4. Whole of government and service system approach to complex community need'.

Noone and Digney underline the complex nature of the clients' lives and the need to understand this, as it complicates any measurement and so must be considered if the measurement is to be relevant.

Areas to be considered according to the Noone and Digney report in any measure of integrated legal service delivery include:

- Trust and respect between staff of the agencies
- Sufficient resources to ensure infrastructure and systems support the service delivery and the development of program responses to local community justice needs with other community organisations
- Flexibility and responsiveness in how and where people work i.e. ability to be where the need is and that this is built into funding and service agreements by funders
- Recognition of the time, energy and resources required to build, nurture and maintain the relationships between service providers and their governance structure to facilitate collaboration and the integrated service delivery
- Sound referral practices which are up to date and informed before referrals are made and referrals which ensure smooth transition for clients e.g. by ringing before hand or in a client's company or being able to readily discuss and access people from the other service for instance for homeless clients
- Identification with community of their needs and responses
- Ensuring community can identify their problems, know about services and are able to identify the relevance of services to their problems
- Are physically able to access the services
- Have the confidence to raise their problems and ask for help
- Have the expectation and confidence that the service will act upon their request.

This author suggests that the above list would be helpful as indicators of integrated service delivery in any study of 'integration' holistic approaches and early intervention.

The Noone and Digney Report and the Buck et al. review are rich in suggestions both for the future measurement of integrated legal service but also in identifying the barriers and difficulties that can occur without systemic support.²²⁵

²²⁵ See also M Noone, 'Towards and Integrated Service Response to the link between Legal and Health Issues' Vol 15 *Journal of Primary Health*, 2009, 203-2011; A Buck, M Smith, J Sidaway and L Scanlan,

Conclusion – An Overview of the Findings of this Literature Review

This literature review suggests some ways of averting the many difficulties identified in much of the domestic and international literature in the measurement of outcome, quality, efficiency and effectiveness. It suggests some, but not all of the difficulties, can be overcome with care in the construction of a methodology for their evaluation. Such a methodology sets out to understand what the legal assistance service actually does and what is within its realistic remit first before defining the outcomes. It then defines the outcome, how the service can work to attain it, the elements necessary to going about achieving the outcome and then by measuring the levels to which these are followed in the approach to the day to day work. This Literature Review however, also contains many warnings as these measurements are far from straightforward. Many researchers world-wide have struggled to monitor and measure results and quality and have identified many hurdles.

The United Nations Development Program²²⁶ has stressed that there is a lack of a common language with which to articulate results, the lack of a framework in which to capture them and the difficulties in being able to measure²²⁷ and prove success. Where such a framework does exist the need is often for it to be descriptive and subjective which raises the risk (which they state, cannot be avoided) of its being anecdotal and vague. Clearly, the task set is not easy with the warnings of authoritative bodies such as the United Nations Development Program and the World Bank highlighting the difficulties of the results based or outcome measurement and the possibility that it will not always be an exact science and is challenging.

For example, one good or ‘successful outcome’ for a legal service that does legal advice and case work can be defined as a ‘good client interview’. A legal interview is the pivotal stage in a client being able to have their issues identified and resolved with the delivery of accurate and relevant, targeted advice. It is with a good interview that a sensible, effective and efficient eliciting of relevant information can be undertaken. This can often direct the whole strategy by which evidence will be adduced and the direction for the future conduct of a case. A good client interview can lead to early intervention and prevention, referral to legal and non-legal services or negotiated outcomes, representation or advocacy as required.²²⁸

This literature review also identifies, based on the research and evaluation methodologies examined and analysed, some triangulated approaches to any evaluative study that enable a ‘getting to know a service, its role and what it does’. This is essential, given the diverse nature of client groups that different services have adapted to be able to serve. It also suggests ways of enabling a measurement to take place which incorporates some quantitative data but also draws out the qualitative data. The latter is often lacking in

‘Piecing it Together: Exploring one-stop shop legal service delivery in Community Advice Centres’, Legal Services Commission (Legal Service Research Centre) June 2010.

²²⁶ ‘Overview of the UNDP’s Approach to Measuring Capacity’ Capacity Development Group, Bureau for Development Policy, United Nations Development Program, June 2010.

²²⁷ See M Barendrecht, J Mulder, T Giesen and the Study Group Access to Justice, ‘How to Measure the Price and Quality of Access to Justice’, November 2006, 21. They examine the significant hurdles for measurement and conclude ‘Measuring access to justice is a challenge’ see <<http://www.tilburguniversity.nl/faculties/law/research/tisco/research/projects/access/papers/06-11.pdf>>.

²²⁸ L Curran, “‘I can now see there’s light at the end of the tunnel’, Legal Aid ACT: Demonstrating and Ensuring Quality Service to Clients”, Legal Aid ACT, 2012.

evaluations but provides for a richer understanding of the backdrop to the statistical information. This can better inform and guide service delivery, and, at a policy level, ensure greater awareness. This can ensure responsiveness and effectiveness at all levels so as to meet community need and enable government and legal assistance services to be better positioned in explaining their value to the public.

Too many reporting requirements, if they are too burdensome and time consuming can take away from the resources which need to be directed at actually providing legal services to the community and achieving the very outcomes that are required to be measured.

Although the Commonwealth Government expects agencies to report on success and outcome, little actual experience of how this can be done exists internationally and domestically. There is considerable literature on how it might be done and what elements should be present in undertaking such research²²⁹ but few agencies have taken the plunge and completed such research.

Curran began the process of setting out to measure outcomes and quality legal services in the second half of 2011 for a study commissioned by Legal Aid ACT (LAACT) and discussed above. This research report will be released in early 2012.²³⁰ The work undertaken by Curran for this report informed much of this literature review alongside the other research, evaluations and strategic and policy setting documents considered which have a wider scope than the LAACT study including efficiency and effectiveness.

Legal assistance services are complex and operate at different levels.²³¹ Within a legal assistance service different objectives and intentions can sit behind each program. Therefore, they cannot be measured as a lump without first understanding the very nature, diverse ways of engaging required to target different client groups, complexity, imperative and funding requirements that drive each of the many parts. This process of understanding must be undertaken for each service if any review/evaluation is to be accurate and realistic. The seminal work about the development, context and history of legal aid by Noone and Tomsen is a critical starting point.²³²

Sometimes it is the fact that a service takes time or works differently due to the nature of the client group, that inroads into increasing access to justice and 'closing the gap' are to be made. For further explanation, see the section on Aboriginal and Torres Strait Islander Legal Services in this literature review.

Many of the evaluations reviewed for this literature review reveal that questions of 'effectiveness' and 'cost efficiency' are more often than not, considered in a vacuum of information about the quality of the service provision and actual attention to results

²²⁹ Paul Bullen, Management Alternatives for Human Services
<http://www.mapl.com.au/evaluation/eval4.htm>; See also D Smart, 'Ask the Expert' USA National Resource Centre, 2004.

²³⁰ L Curran, "I can now see there's light at the end of the tunnel", Legal Aid ACT: Demonstrating and Ensuring Quality Service to Clients", Legal Aid ACT, 2012.

²³¹ For an unravelling of this complexity see the Focus Group discussions in L Curran, "I can now see there's light at the end of the tunnel", Legal Aid ACT: Demonstrating and Ensuring Quality Service to Clients", Legal Aid ACT, 2012.

²³² M Noone and S Tomsen, 'Lawyers in Conflict: Australian Lawyers and Legal Aid', The Federation Press, Sydney 2006.

achieved for the client group. Trying to simplify things for bureaucratic ease, risks any measure being irrelevant, inefficient and ineffective as this literature review reveals.

It has been noted that in the social sector financial ratios are no doubt important but that, more and more, funders are asking services to measure their impact and helpfulness. They are recognising that financial measures are often not the means to the ends of social sector activity.²³³ This is a good development as it ensures accountability as to the impact that services are having on client lives and what interventions from services mean in the lives of the public they are being funded to serve. Smith and Patel²³⁴ in a very useful evaluation report have noted that there is 'tension in data sets between simplicity and utility given resource pressure'. As a result they stress that this 'means monitoring frameworks must lend themselves to multiple uses.'

The vast number of evaluations considered noted that statistics kept by LACs, ATSILS and CLCs currently, reveal little about the contexts, challenges and rationales behind why and how the services are delivered. Having further qualitative information (to complement often inconsistently gathered data where often the data's usefulness is dubious) can only better inform what works or doesn't work and why.

To be effective a service must adapt to the vagaries and peculiarities of the client groups. Whilst they may not make sense to people in other regions or without the experience of particular groups of people, they may make sense to a vulnerable community in remote and rural Australia or to Aboriginal people. This is why working to study and reveal the qualitative materials that can inform better understanding of the nature and calibre of the actual work done and how it affects clients and community is key.

This complementary information should assist Treasury in ensuring that decisions around prioritising resources are informed by relevant information that explains why the statistics are the way they are.

Key considerations for evaluating legal assistance services include:

1. An understanding of the exigencies of working with vulnerable and disadvantaged people and communities
2. An understanding of legal assistance service delivery in its different context i.e. statutory function and role of LACs, community based model and philosophy of community legal centres, ATSILS and CLCs. In the case of ATSILS they should understand the nature of delivering service to Aboriginal and Torres Strait Islander people given the history of removal, separation, land and culture
3. A full understanding of the implications on legal practice of the various legal professional requirements on lawyer including the legislation governing the profession, case law on their obligations and the Australian Solicitors Conduct Rules July 2011 and other codes operating to govern ethical standards in the various States and Territories.

²³³ A Ebrahim and V K Rangan, 'The Limits of Non Profit Impact: A Contingency Framework for Measuring Social Performance', Harvard Business School Working Paper, May 2010, 4.

²³⁴ M Smith and A Patel, 'Using Monitoring Data: Examining Community Legal Advice Centres Delivery', Legal Services Commission, London, June 2010, 4.

Legal assistance services work with vulnerable and disadvantaged experiences and challenges of the clients who it is now accepted make up the legal assistance sector clientele.²³⁵ The legal assistance sector, which provides different services to different geographical and client groups, is itself structured differently and has different aims from not just service to service but the different service operations within the service.

This makes for a difficult challenge for any evaluator. It is this very service diversity that enables many services to meet and address the diverse range of expectations and impediments faced by the community in accessing the justice system. Other instrumentalities and agencies can impact on the effectiveness of legal assistance services. Often, for example (and as detailed in this literature review), agencies with the final control over whether a matter 'avoids litigation' are not the legal assistance service, no matter how hard they might try, but such decision making powers reside with agencies such as the Commonwealth DPP.

This does not mean that all services are perfect and any model of evaluation must therefore incorporate a constructive feedback process to enable and provide capacity for continuous development and learning. In this way services can learn, adapt and better service their community by learning what works well and why and how things can be done better. This is a critical benefit of evaluation and reviews of programs. Such endeavours should not be seen as the 'wielding of a stick' but rather a tool for improvement so that community outcomes can be enhanced.

LACs, CLCs and ATSILS and FVPLS are all set up differently and have different approaches that reflect the difference and diversity of the people they are set up to service. Nonetheless, they must find ways of working together to complement each other's work. How they do this has also not been the subject of much measurement in the evaluations considered in this literature review (see section above on integrated service delivery). Adaptation, flexibility and variation for good reasons are key for the realisation of positive outcomes. To try to streamline the diverse approaches and how they are measured in any evaluation may risk the ability to reflect the very nature of the service that prevents social exclusion. Any research methodology risks being irrelevant if it does not take into account not only the diversity of the client groups but also the diversity of the services which are set up to assist them.

²³⁵ A Buck, N Balmer and P Pleasence, 'Social Exclusion and Civil Law: Experience of Civil Justice Problems among Vulnerable Groups' 39(3) *Journal of Social Policy and Administration* June 2005 at 302, 318-320; R Moorhead, M Sefton and G F Douglas, 'The Advice Needs of Lone-parents' 34 *Family Law* 2004, 667 and A Buck, P Pleasence, N Balmer, A O'Grady and H Genn, 'Lone-parents and Civil Law: An Experience of Problems and Advice-seeking Behaviour' 38(3) *Journal of Social Policy and Administration* 2004, 253-269; S Ellison, L Schetzer, J Mullins and K Wang, *The Legal Needs of Older People*, New South Wales Law and Justice Foundation, New South Wales (The New South Wales Law and Justice Foundation, 2004 <http://www.lawfoundation.net.au/report/older>); C Cournarelous, Z Wei and A Zhou, *Justice Made to Measure: New South Wales Legal Needs Survey in Disadvantaged Areas*, New South Wales Law and Justice Foundation <<http://www.lawfoundation.net.au/report/survey2006>>; New South Wales Law and Justice Foundation, 'On the Edge of Justice: the legal needs of people with a mental illness in New South Wales 2006'; 'No Home, No Justice? The legal needs of homeless people in New South Wales, 2005 and 'The Legal Needs of Older People in New South Wales (2004); 'Access to Justice and Legal Needs, Stage 1, Public Consultations', 2003 and 'Qualitative Legal Needs Survey: Bega Valley (Pilot)', 2003. See <<https://www.lawfoundation.net.au/publications>>.

The other issue around evaluation of outcomes or results of a service intervention is appropriate timelines. Sometimes, if significant change is needed, a short time frame within which results are measured can be counter-productive. Smith and Patel state 'the importance of time intervals is magnified where the objective of service delivery involves an integration of subject boundaries. This is because of the need for an assessment on outcomes to take account of the various threads of a client's advice journey. They observe that 'the combined effect of different case durations and the permitted three month reporting window in which closed case data can be submitted imply long time intervals before a reliable picture emerges. In this context, funders need to be wary of rushing to make assessments that services are not meeting the objective of providing advice for clients' multiple problems.'²³⁶

Any measures of outcome need to first define what the outcome to be measured is. Many of the research and evaluations examined in this literature review talk about outcomes but never actually defined what they meant by 'outcome'. How can you go about measuring outcomes if you don't know first what it is that you are going to be measuring?

The starting point must be the determination of the definition of outcome for the specific service being examined. The research consistently states, that to be effective measures/indicators need to be:

- Relevant
- Useful and measurable
- Achievable
- Practical to measure
- Within the service or practitioner's control and influence.

Smith and Patel warn that there is a 'need for care about the most appropriate intervals for evaluating services' otherwise incorrect inferences can be drawn.

Therefore, before any measurement of success, quality of service and outcomes can occur it is critical to understand the nature of the service being delivered specific to the type of service being delivered and the realistic time frame necessary for the change/impact to occur.²³⁷

It is noted that already legal assistance services collect significant data (some more than others) for a range of instrumentalities as many have to report to a range of these. Some including LACs and ATSILS already report on cost efficiency and effectiveness. Rather than duplicate this information and waste scarce resources, this information should be considered in any evaluation of efficiency but not in isolation from the assessment of what makes a quality service or an outcome occur. In addition, all these bodies are required by law to prepare an Annual Report. Many of these reports can contain useful information.²³⁸ Some, but not all reveal case studies and impacts the service has which may be useful in examining outcomes and effectiveness.

²³⁶ M Smith and A Patel, 'Using Monitoring Data: Examining Community Legal Advice Centres Delivery', Legal Services Commission, London, June 2010, 38.

²³⁷ A Ebrahim and V K Rangan, 'The Limits of Non Profit Impact: A Contingency Framework for Measuring Social Performance', Harvard Business School Working Paper, May 2010, 3.

²³⁸ For example, see the Annual Report, Prisoners' Legal Service Queensland 2010 – 2011 and Annual Report, West Heidelberg Community Legal Service, 2009-2010, Annual Report of the Footscray Community Legal Service 2010-2011; Annual Report of the Redfern Community Legal Service 2010-2011.

What appear to be missing, in most of the evaluations of legal assistance services examined for this literature review, are the rich stories behind the data that explain it and deepen an understanding of the contexts. These can inform good service delivery, good relevant policy and the better targeting of legal assistance services. Each service's reason for how the service is delivered and their role and function need to be examined in order to set realistic outcomes that can then be measured. This literature review has suggested approaches to help shape what such a definition of relevant outcome, measurement and reporting ought to look like.

In essence what is needed is an examination of the process undergone (e.g. a good client interview, holding authority to account, providing a voice for clients, holistic responses) and their examination against quality criteria. This is what can lead to improvements in the quality of legal services and accordingly good outcomes. The better evaluations analysed for this literature review (particularly that of Trude and Gibbs²³⁹) conclude that if quality legal work is undertaken this is the most likely way of affecting better or 'positive' outcomes.

Methodologies which adopt the following processes in combination (and a participatory action research approach) are suggested by the literature review as the most useful ways of ascertaining outcomes, quality, effectiveness and efficiency. They are:

How to Measure Quality/Outcome and Effectiveness

1. Strategic Plan and operational plans of the legal assistance service and Annual Reports be reviewed and understood as part of setting the scene for the evaluation
2. A 'Conversation' with agency staff and management be undertaken to improve understandings of the role and function and scope of the service and what is within its control and attributable to it.
3. Focus Groups held with the support staff/practitioners providing the on the ground service/program, to identify and define the outcomes (particularly to the service under examination) and the elements or surrogate indicators of such an outcome, including the relevant quality assurance measures to ensure such quality and outcomes. This would include ascertaining what quality assurance mechanisms are in place and how these are adhered to. Some agencies may not have any in place and so these may need to be developed as part of the research process
4. Stake-holder interviews informed by 2 & 3 above.
5. Interviews with clients and lawyers after the same client interview informed by 2 & 3 above.
6. Survey/Questionnaire of client feedback about the services' treatment of them at interview and in the course of the matter but which are NOT based on or using the language of 'client satisfaction surveys' (for reasons set out in detail in this literature review). This should contain some open and closed questions.
7. An on-line survey on quality and approach in service for practitioners both private and public who deliver legal assistance services. (This should not be a tool used for

²³⁹ A Trude and J Gibbs, 'Review of Quality Issues in legal Advice: measuring and costing quality in asylum work', Lawyers Defending Human Rights, Refugee and Migrant Justice undertaken by the Information Centre About Asylum and Refugees and the Immigration Advisory Service, City University, London, March 2010.

clients as on-line surveys can risk missing many of the target clients of legal assistance services and given difficulty with on-line surveys as discussed in this literature review). See a model for such a survey in the Appendixes of Curran's LAAC Report and the VLA Client Survey, 2012.

8. Case Studies derived from the service providers or from clients about their experiences through the interview, survey and focus group tools discussed in points 2,3,4,5,6, and 7 above.

Below are some footnotes with examples of models for questions, statements, case studies and other tools which might be adapted subject to 1, 2 and 3 above informing how they are shaped.²⁴⁰

How to Measure Efficiency

1. Summarise the reviews and reports of the Australian National Audit Office, Offices of the Auditor General, Annual Reports and CLSP Plans for 'cost efficiency'.
2. Such measurement should only complement the information gathered above from the measures for quality, outcome and effectiveness (1)-(8) rather than drive it. This author is mindful of the dangers underlined in both domestic and overseas research (discussed earlier in this literature review) which notes the risks of 'cost efficiency' being seen in a vacuum from the realities on the ground with the cost efficiency measures leading to a correlating reduction in quality and the effectiveness of service delivery.²⁴¹
3. This Literature Review reveals that significant measures and data are already in place to examine efficiency and in many cases 'cost efficiency'. To replicate these is unnecessary duplication. This literature review strongly recommends that rather impose a further burden of reporting on LACs, community legal centres and ATSILS (especially given the range of examinations the latter undergo currently from different government departments and state and commonwealth instrumentalities additional to the Attorney-General's Department) such existing and regularised studies be considered as the investigation of efficiency.

Nomenclature is important as it can distort people's perception of what is being evaluated, and in the legal assistance sector, the actual role and function of a lawyer which will not always be to 'satisfy' a client or be their 'mouthpiece' as this is explicitly discouraged by the conduct rules and duties of the legal profession. This is why the studies that involve client Satisfaction Surveys are problematic if applied to the legal assistance sector. In using any such models considerable care and sophistication of approach in the design of questions and

²⁴⁰ A Trude and J Gibbs, 'Review of Quality Issues in Legal Advice: measuring and costing quality in asylum work', Lawyers Defending Human Rights, Refugee and Migrant Justice undertaken by the Information Centre About Asylum and Refugees and the Immigration Advisory Service, City University, London, March 2010; L Curran, "'I can now see there's light at the end of the tunnel', Legal Aid ACT: Demonstrating and Ensuring Quality Service to Clients", Legal Aid ACT, Appendixes, 2012 and C England and P Porteous, 'Review of the Children's Court Assistance Scheme', Final Report, Legal Aid NSW, Matrix on Board, 20 September 2011, 29-40.

²⁴¹ A Trude and J Gibbs, 'Review of Quality Issues in Legal Advice: measuring and costing quality in asylum work', Lawyers Defending Human Rights, Refugee and Migrant Justice undertaken by the Information Centre About Asylum and Refugees and the Immigration Advisory Service, City University, London, March 2010.

their relevance to the legal assistance service sector needs to be taken. Where the responses required are 'satisfied' or 'not satisfied' they further distort client understandings of the role and function of legal services and ignore the legislative framework within which the legal profession has to practice (this is discussed earlier in this literature review).

Barendrecht et al²⁴² detail the significant issues to be addressed in order to be able to measure 'access to justice'. Their study is largely concerned with cost and is of limited use to the scope of this literature review. However, they set out some significant difficulties in measuring even this. Some options are expounded but their concern is with much broader levels of justice than the legal assistance sector and includes courts and the role of the State. They keep reiterating throughout their report that the processes are complex and that there are many participants. The suggestions they make in their report are very detailed, hard to report on and quantify (on their own suggestion) and they suggest this data collection would be undertaken by insurers (revealing the different legal system of the Netherlands where the study is based) or suppliers (which given the issues of under-resourcing in Australia) is clearly unrealistic.²⁴³

Other mechanisms, than resorting to surveys as many of the evaluations do, can perhaps be better where the complexity and complicated aspects of service delivery are being examined. These include in-depth interviews or focus groups, otherwise there is a risk that the statistics gathered are not in fact representative of the information they are seeking to gather and hence have little empirical value or precision.

Again, the importance of recognising the strengths and weaknesses of different approaches and of using multiple approaches to complement each other or reduce distortions are key in ensuring any evaluation is rigorous. Surveys cannot gather detailed information about context and circumstances unless extensive open questions are used and many survey tools have limited capacity for this. Qualitative approaches may be a better complement where such complexity is evident. Perhaps even 'snap shots' rather than ongoing reporting requirements for legal assistance services are another way of ensuring the burdens on service reporting are kept to a minimum.²⁴⁴

In examining whether a service is able to target those most in need and make inroads to be effective it has previously been noted:

Knowledge, capacity, capability and understanding are the key prerequisites to access to justice.²⁴⁵ If legal assistance services are to be effective, they need to reach people who are vulnerable, disempowered,

²⁴² M Barendrecht, J Mulder, T Giesen & the Study Group Access to Justice, 'How to Measure the Price and Quality of Access to Justice', November 2006
<<http://www.tilburguniversity.nl/faculties/law/research/tisco/research/projects/access/papers/06-11.pdf>>.

²⁴³ Senate Legal and Constitutional Reference Committee, 2004, 'Legal Aid and Access to Justice Report' <http://aph.gov.au>.

²⁴⁴ L Curran, "I can now see there's light at the end of the tunnel", Legal Aid ACT: Demonstrating and Ensuring Quality Service to Clients", Legal Aid ACT, 2012.

²⁴⁵ See L Curran and M Noone, 'The Challenge of Defining Unmet Legal Need' (2007) 1 *Journal of Law and Social Policy* 63-64.

*poor or marginalised. This requires a holistic, connected service delivery, relationship building, community development and education.*²⁴⁶

For a service to be measured as to its effectiveness, the approach taken by legal assistance services' to working with other agencies at the front line (both legal and non legal) and their realisation that clients themselves (particularly if they are disadvantaged) are not likely to be able to identify a problem capable of a legal solution, are all relevant. This should inform how they deliver services in a way that targets such groups and lessens the expectation that clients will some how come to them by traditional approaches such as having to make appointments.

Pro-activity in areas of connected service delivery, relationship building and maintenance, community development approaches to CLE and law reform are all matters which need to be examined. The ability however to gauge the effectiveness of law reform is a challenge that international researchers have identified and the discussion in this literature review reveals that this is incredibly difficult to measure in terms of effectiveness and outcome. Expectations of required record keeping may not be realistic in the current context of legal assistance services. It is therefore suggested that external research examining existing documentation over longer periods of time, e.g. every decade, are advisable given the time it can take to influence policy change and the difficulties associated with attribution in any change.²⁴⁷

The World Bank 'Handbook' recommends a participatory approach to monitoring and measurement involving key stakeholders including those who provide the services.²⁴⁸ Why? Because setting goals in isolation from what is being done and what has to be done and by those who do it might lead to a 'lack of ownership' on the part of the main internal and external stakeholders. The World Bank Handbook recommends that this participatory and consultative process must be done during all stages in the identification of goals, objectives, what outcomes look like and the steps necessary to get there i.e. building the indicator system.

With surprising consistency, the evaluations studied in the course of this literature review noted that often despite very committed and relentless endeavours by legal assistance services to bring about better outcomes for their often poor, vulnerable or disadvantaged clients, these could be significantly hampered because of limited resources and staff, lack of additional support service access, uncertainty due to short term or irregular funding or overwhelming legal need.

Innovations occur but often these also need time, effort, relationship building and nurturing. For example, the materials examined pertaining to Indigenous services revealed limited staff, huge court lists, lack of interpreter services, deafness, diminished intellectual capacity through trauma or abuse of substances as issues in rural and remote communities. Accordingly, Indigenous clients are interviewed en mass, often in public spaces, without full consideration of their rights, ability or capacity to adequately tell their story, or for their

²⁴⁶ See L Curran, 'Ensuring Justice and Enhancing Human Rights: A Report on Improving Legal Aid Service Delivery to Reach Vulnerable and Disadvantaged People, La Trobe University & Victoria Law Foundation (2007), p 4.

²⁴⁷ L Curran, 'CLCs Lead on Law Reform', *Law Institute Journal*, Melbourne, April 2008.

²⁴⁸ J. Z Kusek & R C Rist, 'A Handbook for Development Practitioners: 10 Steps to a Results Based Monitoring and Evaluation System', the International Bank for Reconstruction and Development, The World Bank, 2004, 58.

lawyers to be assured that clients fully understand the legal implications of their advice (due to problems with appropriately trained interpreters in their language, disability and other factors.) Therefore, a rough form of justice is delivered by lawyers and Aboriginal Liaison Officers due to systemic failings of the current system and not due to any lack of endeavour by the legal assistance teams.

Clear knowledge about the foundation for an outcome of a 'good legal interview and time spent on case preparation' although critical to good outcomes have to be given short shrift due to the number of cases to be heard, and often imperfect evidence gathered has little time to be scrutinised. This is very relevant in the Circuit Courts and in remote and rural Australia. Legal assistance services continue to go the extra mile but there is only so much that is in their control to influence in such stressful and overwhelming circumstances. Such interventions are not within the remit of the legal assistance service and need to be addressed by other instrumentalities that have the ability to address them.

This literature review is lengthy and detailed. The author has endeavoured to explore and analyse as much material as was possible in a tight time frame. It is hoped that this literature review might in some small way lead to processes which enhance the quality of legal assistance services and to the sharing of information between the legal assistance services sector, government, other instrumentalities, the private sector and the community on the best ways to ensure access to justice for disadvantaged and vulnerable individuals and groups in Australia.

Dr Liz Curran
Curran Consulting: Enhancing Justice and Human Rights
29 February 2012

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Table One – Comprehensive Overview

Table of Studies/Evaluations/Reviews/Reports

These documents have been listed in order according to (as close as possible where there were multiple finding areas) the findings examined.

They have then been ranked according to the grid listed and on the 'selection criteria' below.

Selection Criteria:

- Written in the last decade
- The Document/Study examines outcome, quality, effectiveness and efficiency or a combination of these considerations.
- The study set out a clear question to be answered and the methodological approach was relevant to being able to answer the question asked.
- The method for extracting information or data was effective and relevant to the information sought.
- The questions asked of participants in the instruments used were relevant.
- The data collected was sufficiently clear in eliciting the information sought.
- Given the complicated and complex nature and diversity of the legal services and the clients served, the methodology was likely to reveal the reasons behind the responses or approach that the service adopted in terms of the considerations listed above.
- A number of approaches were taken to verify, compliment and unpack the reasons for the answer and included a blend of quantitative and qualitative data rather than reliance on quantitative data or one method so that there was better understanding of the reasons behind the statistics.
- The approach taken is relevant and of assistance in the review of the NPA and the Attorney-General's 'Strategic Framework on Access to Justice in the Federal Civil Justice System'²⁵⁰, the COAG Reform Agenda as to social inclusion and Indigenous disadvantage.

Grid

Very Useful = VU

Useful = U

Limited Usefulness = LU

Not Useful = NU

²⁵⁰ See Attorney-General's 'Strategic Framework on Access to Justice in the Federal Civil Justice System', <<http://ag.gov.au/a2>>

Report Name	Usefulness	Service type	Jurisdiction	Method	Participants	Area of Findings
J. Z Kusek & R C Rist, 'A Handbook for Development Practitioners: 10 Steps to a Results Based Monitoring and Evaluation System', The International Bank for Reconstruction and Development, The World Bank, 2004	VU	Humanitarian	UN	Advice about factors to take into account not an evaluation itself	n/a	Results/ Outcome
UNDP 'Capacity Assessment Methodology User's Guide', Bureau for Development Policy, Capacity Development Group, New York, January, 2008	U	Humanitarian		Advice about factors to take into account not an evaluation itself	n/a	Capacity Outcome Results
'Measuring Outcomes of Community Organisations', the Australian Research Alliance for Children and Youth, 2009.		Youth Services	Aus	Advice about factors to take into account not an evaluation itself	n/a	
A Ebrahim and V K Rangan, 'The Limits of Non Profit Impact: A Contingency Framework for Measuring Social Performance'	VU	General application	USA	Advice about factors to take into account not an evaluation itself	n/a	Results Outcome - issues with, not an evaluation

Report Name	Usefulness	Service type	Jurisdiction	Method	Participants	Area of Findings
Harvard Business School Working Paper, May 2010						
M Barendrecht, J Mulder, T Giesen & the Study Group Access to Justice, 'How to Measure the Price and Quality of Access to Justice', November 2006. < http://www.tilburguniversity.nl/faculties/law/research/tisco/research/projects/access/papers/06-11.pdf >.	LU	Humanitarian	Netherlands	Advice about factors to take into account not an evaluation itself	n/a	Results Outcome - issues with, not an evaluation
M Smith and A Patel, 'Using Monitoring Data: Examining Community Legal Advice Centres Delivery', Legal Services Commission, London, June 2010	VU	Advice Centres	UK	Surveys of Clients, 'in – depth' qualitative study of client experiences, Advisory Group, consultation with Advisory Group, process evaluation, reporting tool developed, analysis of monitoring data, benchmark against pre-set criteria.	Too detailed. See Report.	Outcome Quality Effectiveness

Report Name	Usefulness	Service type	Jurisdiction	Method	Participants	Area of Findings
C England and P Porteous, 'Review of the Children's Court Assistance Scheme', Final Report, Legal Aid NSW, Matrix on Board, 20 September 2011, 29-40.	VU -good method.	Referral	NSW	Narrow literature review of strategic and operation documents; iterative, with a review of court data and records, progress report and records kept of the CCAS, funding agreements, and in-depth interviews with legal stakeholders, CCAS workers; interviews with stakeholders; on-line survey; on-site.	On-line survey (n= 83), stakeholders in depth interviews (n= 20) key stakeholders, site visits to each. Auspiced body. CLCs (n=5) and courts (n= 8)	Effectiveness
L Curran, Making the Legal System More Responsive to Community: A report on the impact of Victorian Community Legal Centre law reform initiative, La Trobe University and the Reichstein Foundation, May, 2007	U	CLCs	Victoria	Document Inspection of 20 years of law reform files, correspondence, minutes, submissions, inquiry findings, legislative and administrative changes.	Documents of CLCs (n= 41)	Results Outcome
J Goldberg and S Predeoux, 'Maryland Legal Aid Outcomes Survey – Measuring the Impact of Legal Aid's Services for Older	U	Older Peoples Advice Service	USA	Case Studies	n/a	Results Outcome

Report Name	Usefulness	Service type	Jurisdiction	Method	Participants	Area of Findings
Adults', Maryland Legal Aid, July 2009						
A Trude and J Gibbs, 'Review of Quality Issues in Legal Advice: measuring and costing quality in asylum work', Lawyers Defending Human Rights, Refugee and Migrant Justice undertaken by the Information Centre About Asylum and Refugees and the Immigration Advisory Service, City University, London, March 2010.	VU	Refugee and Asylum Services	UK	Analysis of costs and quality of the work of a number of legal aid providers in three regions; in-depth interviews with stakeholders including decision-makers; an examination of the findings of the Solihull evaluation (see Aspden below).	See Report. Too detailed	Quality – Very useful Effectiveness Efficiency – Very Useful Outcome
J Aspden, 'Evaluation of the Solihull Pilot for the United Kingdom, Border Agency and the Legal Services Commissioner', The Stationary Office, London, 2008.	VU	Refugee and Asylum Services	UK	Steering Group, In depth interviews with stakeholders, literature review.	Too detailed for table. See Report	Quality Effectiveness Efficiency Outcome
L Curran, "‘I can now see there’s light at the end of the tunnel’, Legal Aid ACT: Demonstrating and Ensuring Quality Service to Clients", Legal Aid ACT, to be released early	VU	Criminal and Family Law Practice Trial	ACT	'Action research trial' Initial 'conversation' with staff; 'snapshot' approach-Lawyer Interviews after	'Snap shot over 2 weeks. 8clients and lawyers interviewed after interview (n=8)	Quality Outcome - collaboration - early intervention

Report Name	Usefulness	Service type	Jurisdiction	Method	Participants	Area of Findings
2012				interviewing client and with client; on-line survey private lawyers and in-house; client survey; closing of file survey of clients; diary/log kept by staff; focus groups; in-depth interviews with stakeholders; case studies; feedback and input session.	clients; (n=8 lawyers)); lawyersurvey (n=45 out of 61) diaries logged (n=7); stakeholders interviewed (n=9); client surveys (n=26)	
Annual Reports LACs, CLCs and ATSILs	VU		Aus	These vary but some are on line many are not. These contain some case studies on outcome and quality & statistical data.	n/a	Outcomes Effectiveness Efficiency
T Woodyatt, A Thompson and E Pendlebury, 'Queensland's Self Representation Services: A model for other courts and tribunals', 1 International Journal of Judicial Administration, 2011	LU	Self Representation Support	Qld	Largely descriptive as to how the service works with its focus on diversions of people out of court	n/a	Effectiveness

Report Name	Usefulness	Service type	Jurisdiction	Method	Participants	Area of Findings
'Understanding Credit and Debt Project for CALD Communities, Report on the First Stage', Redfern Community Legal Service, October 2010	LU	Credit and Debt advice	NSW	Case histories and how service dealt with issues	n/a	Outcome Effectiveness
'Working Towards Greater Collaboration and Better Outcomes for Clients and Stakeholders', Northern Territory Legal Aid Commission, March 2007	U	Family Violence Network	NT	Evaluation of forums with participants providing legal and non-legal service, judicial, police, government, the prosecutor's office and others working in the domestic violence sector including accommodation and corrections and their responses to questions.	Workshops (n=2)	Effectiveness <ul style="list-style-type: none"> - Integration - Collaboration
T Smith, 'Evaluation of Queensland Public Interest Law Clearing House Incorporated Homeless Persons' Legal Clinic and the Refugee Civil Law Clinic', PILCH and Encompass Family and Community PTY Ltd, November 2011	U	Homeless People and Refugee – Civil Law	Qld	Collected quantitative and qualitative data. Interviews with host agencies and working groups; face to face interviews some structured and others unstructured; an on-line	In depth file review(n=58)	Quality Effectiveness <ul style="list-style-type: none"> - collaboration - tried to utilise the what they note was limiting CLSIS data;

Report Name	Usefulness	Service type	Jurisdiction	Method	Participants	Area of Findings
				survey of team leaders and volunteer lawyers from partner law firms; used case studies prepared by volunteer lawyers; conducted in depth file reviews of 58 files		
S Forrell and M Cain, 'Managing Mortgage Stress', Evaluation of Legal Aid NSW and Consumer Credit Legal Centre Hardship Service, June 2011	U	Consumer Credit	NSW	Follow-up with clients after the service.	n/a	Outcome -some problem with scope of definition - collaboration
T Leach, 'A Review of the Women's Domestic Violence Court Advocacy Program for Legal Aid NSW', Legal Aid NSW, 30 June 2009	NU	Domestic Violence Court Advocacy	NSW	Descriptive face-to face interviews with employees, the manager. Initially interviews not part of the project. Realised interviews critical for service provider perspective		Effectiveness - largely descriptive
R & H Gray and Associates Pty Ltd, 'Review of the Pilot Insurance Law Service at Consumer Credit Legal	NU	Consumer credit CLC – insurance pilot		Vague approach - descriptive. Largely an examination of the	Little detail about method provided.	Effectiveness

Report Name	Usefulness	Service type	Jurisdiction	Method	Participants	Area of Findings
Centre (NSW) Inc': A Report to the CEO of Legal Aid NSW, 2008				services compliance with the agreement and budgetary compliance. Some stakeholders interviewed; Call for submissions from local services? (not a successful response rate)		
J Feneley, 'Review of the NSW Legal Aid Commission's Mental Health Advocacy Service', May 2006.	NU	Mental Health	NSW	Review of documents around policy; half way through sought stakeholder views; call for submissions from local services (not successful response)	Little detail about method provided.	Effectiveness
'Review of the Care and Protection Program of the Legal Aid Commission NSW', Legal Aid NSW, August 2006	LU	Care and protection	NSW	Mainly descriptive of program. Some case studies. Describes mechanisms for quality but these are not tested.	n/a	Effectiveness <ul style="list-style-type: none"> - largely policy - State not Cmth Jurisdiction
'Review of the NSW Community Legal Centres Funding Program', Legal Aid NSW, Final Report, June	U	CLCs	NSW	Consultations	n/a	Effectiveness

Report Name	Usefulness	Service type	Jurisdiction	Method	Participants	Area of Findings
2006.						
R Funston and M Hitter, 'Prisoners' Legal Service Review', NSW Legal Aid, September 2006.	LU	Prisoners' Legal Service	NSW	n/a	n/a	Effectiveness - unpacks issues with prisoners
J Stubbs and Assoc with C Lux, 'Review of Public Purpose Funded Projects 2008-2011', Legal Aid NSW, February 2011	U	CLCs	NSW	Examination of CLSIS, interviews with CLCs; stakeholder interviews. Whether the services were managed within budget, met stated objectives and targeting specific groups identified with unmet legal need.	CLCs (n=15); and phone interviews with stakeholders of each CLC (n=3)	Effectiveness
'Doing Time – Time for Doing, Indigenous youth in the Criminal Justice System', House of Representatives Standing Committee on ATSI Affairs, 2011	VU	Indigenous youth	Aus	submissions	n/a	Effectiveness
D Dimo 'Civil Law Aboriginal Legal Service Outreach Review', Legal Aid NSW, March 2008	VU	Indigenous – civil- outreach	NSW	Largely descriptive- consultations and the collection of case studies	n/a	Effectiveness Efficiency

Report Name	Usefulness	Service type	Jurisdiction	Method	Participants	Area of Findings
C Cunneen and M Schwarz, 'Civil and Family Law Needs of Indigenous People in NSW: The Priority Areas, Vol 32, Issue 3 & 4 UNSW Law Journal, 2009	U	Indigenous – civil and family	Aus	Consultations and the collection of case studies, questionnaire and interviews with stakeholders	Participants (n=153 out of 160 services).	Effectiveness - good for context
National Evaluation of the Legal Assistance for Victims Program, Institute for Law and Justice and the National Centre for Victims of Crime, 24 January 2005 http://www.wily.org .	NU	Victims	USA	Phone surveys, mail surveys and phone surveys. Using 'client satisfaction' approaches. Authors themselves note that their methodology was problematic.	Surveyed in 2001 (n=159), surveyed in 2003 (n= 79)	Effectiveness - vastly different jurisdictional issues.
E L'Huillier, 'Targeting Justice in the Loddon Campaspe Region: A Review of the Loddon Campaspe Community Legal Centre: a report on the progress towards access to justice in the Loddon Campaspe Region', Advocacy Rights Centre & Loddon Campaspe Community Legal Centre, September 2008	U	CLC - rural	Vic	Local demographic data; interviews with people involved in an initial Access to Justice Report and the establishment of the service; interviews with relevant stakeholders; surveys of volunteers and agencies	n/a	Effectiveness - more of a reporting back to community on progress rather than a full evaluation.
R Moorhead and M Robinson, 'A Trouble Shared – legal problems	VU	Advice Centres	UK	Interviews with the lawyers after	n/a	Quality Outcome

Report Name	Usefulness	Service type	Jurisdiction	Method	Participants	Area of Findings
clusters and advice agencies', DCA Research Series 8/06 Department of Constitutional Affairs, London (2006).				interviewing clients and with clients after the same interview, with follow up of clients six months later.		Effectiveness
Howard Family Research Project Evaluations < http://www.hfrp.org/publications_resources >.	LU	NGOs	USA	n/a	n/a	Site explores advocacy evaluations that may be of some use. Also see < http://www.evaluationinnovation.org > It has some articles which may be relevant around advocacy evaluation which may be worth examination
A Crockett, 'Cost Comparison Project, Attorney-General's Department' Final Report, June 1995.	U	LAC	Aus	n/a	n/a	Efficiency - some discussion of definitions.
J Barga, 'Children's Legal Service Review: from hotline to hothouse', Legal Aid NSW, December 2007 and 'Service Review – Indictable Crime' 2011.	U	LAC – Children's advice line	NSW	Survey		Efficiency - largely state based
ATSI Law and Justice Program Performance Audit – Audit Report No 13, Australian National Audit	U	Indigenous	Aus	Audit process	n/a	Efficiency

Report Name	Usefulness	Service type	Jurisdiction	Method	Participants	Area of Findings
Office, 2003-2004.						
'Evaluation of the Legal and Preventative Service Program', Office of Evaluation and Audit, 2003	U	Indigenous	Aus	Audit process	n/a	Efficiency
'Audit of the Prevention, Diversion, Rehabilitation and Restorative Justice Program', Office of Evaluation and Audit, 2008	U	Indigenous	Aus	Audit process	n/a	Efficiency
'Strategic Review of Indigenous Expenditure', Department of Finance and Deregulation Report to the Australian Government, 2010	U	Indigenous	Aus	Audit and Expenditure process	n/a	Efficiency
Commonwealth Review of the Community Legal Centres Program, March 2008	U	CLCs	Aus	Consultations with stakeholders.	n/a	Efficiency
Confidential, 'Service Review – Indictable Crime' Victoria Legal Aid, 2011.	NU	LAC	Vic	Although largely descriptive with some analysis of quantitative data	n/a	Efficiency
The Evaluation of the Legal Aid for Indigenous Australia Programs', Office of Evaluation and Audit, 2008	U	Indigenous	Aus	n/a	n/a	Efficiency

Report Name	Usefulness	Service type	Jurisdiction	Method	Participants	Area of Findings
'The Economic Value of Legal Aid' National Legal Aid, Price Waterhouse Coopers, 2009	U	LAC		Descriptive	n/a	Efficiency
C Lafortune, 'Applying New Client Service Technologies', Legal Aid Ontario, 2011.	NU	Advice Services	Canada	Survey of internet and telephone advice service users.		Client feedback
'Real Voices, Real Choices- a consultation with service users', The Commission for Social Care Inspection UK, March 2006.	VU	General	UK	Consultation/ Interviews.	n/a	Client feedback - not legal
Victoria Legal Aid February 2012	U	General	Vic	Clients in computer assisted telephone interviews were surveyed	Clients surveyed (n= 610) approach 'client satisfaction' problematic.	Client Feedback
A Munday and A Rutkay, 'Alternative Dispute Resolution Family Conferencing Program Review', Legal Aid WA, 2004.	U	Family Conferencing	W Aus	Survey Clients and Online and print Publications Users CLC Survey	Clients participated survey (n=252) (clients of ADR & Family Conferencing Program. 1 July 2003 – 30 April 2004. Legal Aid Advice/Grants of Aid surveys	Client Feedback

Report Name	Usefulness	Service type	Jurisdiction	Method	Participants	Area of Findings
					examining (n=3,653) for legal advice (n=406) grants of aid.	
Legal Aid WA & Data Analysis Australia Pty Ltd, June 2004	LU	LAC- general	W Aus	Survey	n/a	Client Feedback
LSS Client Services Survey, M Bacica and J Winram, Legal Services Survey, Synovate, Canada October 2007	NU	Legal Aid-general	Canada	Survey	n/a	Client Feedback
Idaho Legal Aid Client Satisfaction Survey, Idaho Legal Aid Services, 2011 http://idaholegalaid.org/ClientSatisfaction Survey	U	Legal Aid-general	USA	Survey	n/a	Client Feedback
L Cruickshank 'Identifying the Broken Bridges : an analysis of service gaps for Aboriginal young people at Children's Courts in New South Wales', Macquarie Legal Centre, 2009.	VU	Indigenous	NSW	Stakeholder interview	n/a	Effectiveness Client Feedback
Queensland Legal Aid Report Card, Annual Report 2009-2010	U	LAC - general	Qld	n/a	n/a	Client Feedback

Report Name	Usefulness	Service type	Jurisdiction	Method	Participants	Area of Findings
ARTD Consultants, 'Developing a Performance Monitoring Framework for Community Legal Centres', Final Report October, 2008.	LU activity focus	CLCs	Aus	n/a	n/a	Performance Indicators
'Evaluation of the Public Defender's Service Pilot', Final Report, Legal Services Commission, New Zealand, 1 May 2008	NU	Criminal Law Public Defender Service	NZ	Consultation with stakeholder	n/a	Effectiveness
C Meredith and P Malpass, 'Evaluation of the Legal Aid Ontario Pilot Staff Family Law Offices', FLO ARC Applied Research Consultants, Ontario Legal Aid, August 1999.	NU	Legal Aid-family law	Canada	Survey	n/a	Client feedback
A Buck, M Smith, J Sidaway and L Scanlan, 'Piecing it Together: Exploring one-stop shop legal service delivery in Community Advice Centres', Legal Services Commission (Legal Service Research Centre) June 2010.	VU	Advice centres	UK	Observations of community advice sessions; interviews with clients and their advisers after the advice sessions and follow-up in depth interviews with clients	See Report too detailed for table.	Collaboration Integrated legal service
C Fox, R Moorhead, M Sefton and K Wong, 'Community Legal Advice Centres and Networks: A Process	VU	Advice centres	UK	Process Evaluation	n/a	Collaboration Integrated legal service

Report Name	Usefulness	Service type	Jurisdiction	Method	Participants	Area of Findings
Evaluation', Vol 30 No 2 Civil Justice Quarterly, London, 2011 204-222						
M Noone and K Digney, "It's Hard to Open up to Strangers" 'Improving Access to Justice: The Key Features of an Integrated Legal Services Delivery Model', Research Report, Legal Services Board and La Trobe University, September 2010	VU	CLC – generalist	Vic	Advisory Group, collection of existing data, Observation of referral practices, documentation and policy review, Staff on-line survey, Staff diaries, Client interviews/lawyer interviews, Staff Workshop, Staff interviews	On line survey(n=62 from approx 150 staff) of the health and legal service	Collaboration Integrated legal service - note CLSIS data problematic.
J Kirby, 'A Study into Best Practice Community Legal Education', Victoria Law Foundation, undated < http://www.victorialawfoundation.org.au/images/stories/files/111018%20Churchill_Report_for_web.pdf >	U	CLE	Vic	Descriptive	n/a	CLE
'CLE Made Easy' http://www.naclc.org.au/cb_pages/cle_made_easy.php .	U	CLCs CLE	Aus	Descriptive	n/a	CLE

Report Name	Usefulness	Service type	Jurisdiction	Method	Participants	Area of Findings
'LAO Common Measurement Tool Overview of 2009 Results', Quality Service Office, Legal Aid Ottawa, March 2010	LU	Legal Aid-general	Canada	Survey	n/a	Client Feedback

Table Two – International Studies

Table of Studies/Evaluations/Reviews/Reports

These documents have been listed in order according to (as close as possible where there were multiple finding areas) the findings examined.

They have then been ranked according to the grid listed and on the ‘selection criteria’ (both below).

Selection Criteria:

- Written in the last decade
- The Document/Study examines outcome, quality, effectiveness and efficiency or a combination of these considerations.
- The study set out a clear question to be answered and the methodological approach was relevant to being able to answer the question asked.
- The method for extracting information or data was effective and relevant to the information sought.
- The questions asked of participants in the instruments used were relevant.
- The data collected was sufficiently clear in eliciting the information sought.
- Given the complicated and complex nature and diversity of the legal services and the clients served, the methodology was likely to reveal the reasons behind the responses or approach that the service adopted in terms of the considerations listed above.
- A number of approaches were taken to verify, compliment and unpack the reasons for the answer and included a blend of quantitative and qualitative data rather than reliance on quantitative data or one method so that there was better understanding of the reasons behind the statistics.
- The approach taken is relevant and of assistance in the review of the NPA and the Attorney-General’s ‘Strategic Framework on Access to Justice in the Federal Civil Justice System’²⁵¹, the COAG Reform Agenda as to social inclusion and Indigenous disadvantage.

Grid

Very Useful = VU

Useful = U

Limited Usefulness = LU

Not Useful = NU

²⁵¹ See Attorney-General’s ‘Strategic Framework on Access to Justice in the Federal Civil Justice System’, <<http://ag.gov.au/a2>>

Report Name	Usefulness	Service type	Juris.	Method	Participants	Area of Findings
J. Z Kusek & R C Rist, 'A Handbook for Development Practitioners: 10 Steps to a Results Based Monitoring and Evaluation System,' The International Bank for Reconstruction and Development, The World Bank, 2004	VU	Humanitarian	UN	Advice about factors to take into account not an evaluation itself	n/a	Results/ Outcome
UNDP 'Capacity Assessment Methodology User's Guide', Bureau for Development Policy, Capacity Development Group, New York, January, 2008	U	Humanitarian		Advice about factors to take into account not an evaluation itself	n/a	Capacity Outcome Results
A Ebrahim and V K Rangan, 'The Limits of Non Profit Impact: A Contingency Framework for Measuring Social Performance,' Harvard Business School Working Paper, May 2010	VU	General application	USA	Advice about factors to take into account not an evaluation itself	n/a	Results Outcome - issues with, not an evaluation
M Barendrecht, J Mulder, T Giesen & the Study Group Access to	LU	Humanitarian	Netherlands	Advice about factors to take into account not an	n/a	Results Outcome

Report Name	Usefulness	Service type	Juris.	Method	Participants	Area of Findings
Justice, 'How to Measure the Price and Quality of Access to Justice', November 2006. < http://www.tilburguniversity.nl/faculties/law/research/tisco/research/projects/access/papers/06-11.pdf >.				evaluation itself		- issues with, not an evaluation
M Smith and A Patel, 'Using Monitoring Data: Examining Community Legal Advice Centres Delivery', Legal Services Commission, London, June 2010	VU	Advice Centres	UK	Surveys of Clients, 'in – depth' qualitative study of client experiences, Advisory Group, consultation with Advisory Group, process evaluation, reporting tool developed, analysis of monitoring data, benchmark against pre-set criteria.	Too detailed. See Report.	Outcome Quality Effectiveness
J Goldberg and S Predeoux, 'Maryland Legal Aid Outcomes Survey – Measuring the Impact of Legal Aid's Services for Older Adults', Maryland Legal Aid, July 2009	U	Older Peoples Advice Service	USA	Case Studies	See Report for detail	Results Outcome
A Trude and J Gibbs, 'Review of Quality Issues in Legal Advice:	VU	Refugee and Asylum	UK	Analysis of costs and quality of the work of a	See Report as too much detail for	Quality – Very useful Effectiveness

Report Name	Usefulness	Service type	Juris.	Method	Participants	Area of Findings
measuring and costing quality in asylum work', Lawyers Defending Human Rights, Refugee and Migrant Justice undertaken by the Information Centre About Asylum and Refugees and the Immigration Advisory Service, City University, London, March 2010.		Services		number of legal aid providers in three regions; in-depth interviews with stakeholders including decision-makers; an examination of the findings of the Solihull evaluation (see Aspden below).	table	Efficiency – Very Useful Outcome
J Aspden, 'Evaluation of the Solihull Pilot for the United Kingdom, Border Agency and the Legal Services Commissioner', The Stationary Office, London, 2008.	VU	Refugee and Asylum Services	UK	Steering Group, In depth interviews with stakeholders, literature review.	Too detailed for table. See Report	Quality Effectiveness Efficiency Outcome
National Evaluation of the Legal Assistance for Victims Program, Institute for Law and Justice and the National Centre for Victims of Crime, 24 January, 2005 http://www.wily.org .	NU	Victims	USA	Phone surveys, mail surveys and phone surveys. Using 'client satisfaction' approaches. Authors themselves note that their methodology was problematic.	Surveyed in 2001 (n= 159), surveyed in 2003 (n=79)	Effectiveness - vastly different jurisdictional issues.
R Moorhead and M Robinson, 'A Trouble Shared – legal problems clusters and advice agencies', DCA Research Series 8/06 Department	VU	Advice Centres	UK	Interviews with the lawyers after interviewing clients and with clients after the same interview, with	See Report as too much detail for table	Quality Outcome Effectiveness

Report Name	Usefulness	Service type	Juris.	Method	Participants	Area of Findings
of Constitutional Affairs, London, 2006.				follow up of clients six months later.		
Howard Family Research Project Evaluations < http://www.hfrp.org/publications_resources >.	LU	NGOs	USA	Descriptive	n/a	Site explores advocacy evaluations that may be of some use. Also see < http://www.evaluationinnovation.org > It has some articles which may be relevant around advocacy evaluation which may be worth examination
C Lafortune, 'Applying New Client Service Technologies', Legal Aid Ontario, 2011.	NU	Advice Services	Canada	Survey of internet and telephone advice service users.		Client feedback
'Real Voices, Real Choices- a consultation with service users', The Commission for Social Care Inspection UK, March, 2006	VU	General	UK	Consultation/ Interviews.		Client feedback - not legal
LSS Client Services Survey, M Bacica and J Winram, Legal Services Survey, Synovate, Canada October 2007	NU	Legal Aid-general	Canada	Survey		Client Feedback
Idaho Legal Aid Client Satisfaction Survey, Idaho Legal Aid Services, 2011 http://idaholegalaid.org/ClientSatfi	U	Legal Aid-general	USA	Survey		Client Feedback

Report Name	Usefulness	Service type	Juris.	Method	Participants	Area of Findings
sfaction Survey						
'Evaluation of the Public Defender's Service Pilot', Final Report, Legal Services Commission, New Zealand, 1 May, 2008.	NU	Criminal Law Public Defender Service	NZ	Stakeholder interviews		Effectiveness
C Meredith and P Malpass, 'Evaluation of the Legal Aid Ontario Pilot Staff Family Law Offices', FLO ARC Applied Research Consultants, Ontario Legal Aid, August 1999.	NU	Legal Aid-family law	Canada	survey		Client feedback
A Buck, M Smith, J Sidaway and L Scanlan, 'Piecing it Together: Exploring one-stop shop legal service delivery in Community Advice Centres', Legal Services Commission (Legal Service Research Centre) June, 2010.	VU	Advice centres	UK	Observations of community advice sessions; interviews with clients and their advisers after the advice sessions and follow-up in depth interviews with clients	See Report for detail	Collaboration Integrated legal service
C Fox, R Moorhead, M Sefton and K Wong, 'Community Legal Advice Centres and Networks: A Process Evaluation', Vol 30 No 2 Civil Justice Quarterly, London, 2011, 204-222	VU	Advice centres	UK	Process Evaluation	Process Evaluation	Collaboration Integrated legal service

Report Name	Usefulness	Service type	Juris.	Method	Participants	Area of Findings
'LAO Common Measurement Tool Overview of 2009 Results', Quality Service Office, Legal Aid Ottawa, March, 2010	LU	Legal Aid-general	Canada	Survey	n/a	Client Feedback

Table Three – National Studies

Table of Studies/Evaluations/Reviews/Reports

These documents have been listed in order according to (as close as possible where there were multiple finding areas) the findings examined.

They have then been ranked according to the grid listed and based on the ‘selection criteria’ below.

Selection Criteria:

- Written in the last decade
- The Document/Study examines outcome, quality, effectiveness and efficiency or a combination of these considerations.
- The study set out a clear question to be answered and the methodological approach was relevant to being able to answer the question asked.
- The method for extracting information or data was effective and relevant to the information sought.
- The questions asked of participants in the instruments used were relevant.
- The data collected was sufficiently clear in eliciting the information sought.
- Given the complicated and complex nature and diversity of the legal services and the clients served, the methodology was likely to reveal the reasons behind the responses or approach that the service adopted in terms of the considerations listed above.
- A number of approaches were taken to verify, compliment and unpack the reasons for the answer and included a blend of quantitative and qualitative data rather than reliance on quantitative data or one method so that there was better understanding of the reasons behind the statistics.
- The approach taken is relevant and of assistance in the review of the NPA and the Attorney-General’s ‘Strategic Framework on Access to Justice in the Federal Civil Justice System’²⁵², the COAG Reform Agenda as to social inclusion and Indigenous disadvantage.

Grid

Very Useful = VU

Useful = U

Limited Usefulness = LU

Not Useful = NU

²⁵² See Attorney-General’s ‘Strategic Framework on Access to Justice in the Federal Civil Justice System’, <<http://ag.gov.au/a2>>

Report Name	Usefulness	Service type	Juris.	Method	Participants	Area of Findings
'Measuring Outcomes of Community Organisations', the Australian Research Alliance for Children and Youth, 2009.		Youth Services	Aus	Advice about factors to take into account not an evaluation itself	n/a	Outcomes
C England and P Porteous, 'Review of the Children's Court Assistance Scheme', Final Report, Legal Aid NSW, Matrix on Board, 20 September 2011, 29-40.	VU -good method.	Referral	NSW	Narrow literature review of strategic and operation documents; iterative, with a review of court data and records, progress report and records kept of the CCAS, funding agreements, and in-depth interviews with legal stakeholders, CCAS workers; interviews with stakeholders; on-line survey; on-site.	On-line survey (n= 83) stakeholders; in depth interviews (n =20); site visits to each auspiced body. CLCs (n=5) and courts (n=8).	Effectiveness
L Curran, Making the Legal System More Responsive to Community: A report on the impact of Victorian Community Legal Centre law reform initiative, La Trobe	U	CLCs	Victoria	Document Inspection of 20 years of law reform files, correspondence, minutes, submissions, inquiry	Document inspections CLCs (n= 41)	Results Outcome

Report Name	Usefulness	Service type	Juris.	Method	Participants	Area of Findings
University and the Reichstein Foundation, May, 2007				findings, legislative and administrative changes.		
L Curran, "I can now see there's light at the end of the tunnel", Legal Aid ACT: Demonstrating and Ensuring Quality Service to Clients", Legal Aid ACT, to be released early 2012	VU	Criminal and Family Law Practice Trial	ACT	'Action research trial' Initial 'conversation' with staff; 'snapshot' approach-Lawyer Interviews after interviewing client and with client; on-line survey private lawyers and in-house; client survey; closing of file survey of clients; diary/log kept by staff; focus groups; in-depth interviews with stakeholders; case studies; feedback and input session.	'Snap shot' over 2 weeks. Clients interviewed (n=8) and lawyers interviewed (n=8) after lawyer interview; lawyers responses to survey out of (n= 45 out of 61); diaries logged (n=7); stakeholders interviewed (n=9); client surveys (n=26)	Quality Outcome <ul style="list-style-type: none"> - collaboration - early intervention
Annual Reports LACs, CLCs and ATSILs	VU		Aus	These vary but some are on line many are not. These contain some case studies on outcome and quality & statistical data.	n/a	Outcomes Effectiveness Efficiency

Report Name	Usefulness	Service type	Juris.	Method	Participants	Area of Findings
T Woodyatt, A Thompson and E Pendlebury, 'Queensland's Self Representation Services: A model for other courts and tribunals', 1 International Journal of Judicial Administration, 2011	LU	Self Representation Support	Qld	Largely descriptive as to how the service works with its focus on diversions of people out of court	n/a	Effectiveness
'Understanding Credit and Debt Project for CALD Communities, Report on the First Stage', Redfern Community Legal Service, October 2010	LU	Credit and Debt advice	NSW	Case histories and how service dealt with issues	n/a	Outcome Effectiveness
'Working Towards Greater Collaboration and Better Outcomes for Clients and Stakeholders', Northern Territory Legal Aid Commission, March 2007	U	Family Violence Network	NT	Evaluation of forums with participants providing legal and non-legal service, judicial, police, government, the prosecutor's office and others working in the domestic violence sector including accommodation and corrections and their responses to questions.	Workshops (n=2).	Effectiveness <ul style="list-style-type: none"> - Integration - Collaboration
T Smith, 'Evaluation of Queensland Public Interest Law Clearing House	U	Homeless	Qld	Collected quantitative and qualitative data.	In depth file review (n=58)	Quality Effectiveness

Report Name	Usefulness	Service type	Juris.	Method	Participants	Area of Findings
Incorporated Homeless Persons' Legal Clinic and the Refugee Civil Law Clinic', PILCH and Encompass Family and Community PTY Ltd, November 2011		People and Refugee – Civil Law		Interviews with host agencies and working groups; face to face interviews some structured and others unstructured; an on-line survey of team leaders and volunteer lawyers from partner law firms; used case studies prepared by volunteer lawyers; conducted in depth file reviews of 58 files		<ul style="list-style-type: none"> - collaboration - tried to utilise the what they note was limiting CLSIS data.
S Forrell and M Cain, 'Managing Mortgage Stress', Evaluation of Legal Aid NSW and Consumer Credit Legal Centre Hardship Service, June 2011	U	Consumer Credit	NSW	follow-up with clients after the service	See Report too detailed for table.	Outcome <ul style="list-style-type: none"> - some problem with scope of definition - collaboration
T Leach, 'A Review of the Women's Domestic Violence Court Advocacy Program for Legal Aid NSW', Legal Aid NSW, 30 June 2009	NU	Domestic Violence Court Advocacy	NSW	Descriptive face-to face interviews with employees, the manager. Initially interviews not part of the project. Realised	See Report for detail.	Effectiveness <ul style="list-style-type: none"> - largely descriptive

Report Name	Usefulness	Service type	Juris.	Method	Participants	Area of Findings
				interviews critical for service provider perspective		
R & H Gray and Associates Pty Ltd, 'Review of the Pilot Insurance Law Service at Consumer Credit Legal Centre (NSW) Inc': A Report to the CEO of Legal Aid NSW, 2008	NU	Consumer credit CLC – insurance pilot	NSW	Vague approach - descriptive. Largely an examination of the services compliance with the agreement and budgetary compliance. Some stakeholders interviewed; Call for submissions from local services? (not a successful response rate)	Little detail about method provided.	Effectiveness
J Feneley, 'Review of the NSW Legal Aid Commission's Mental Health Advocacy Service', May 2006.	NU	Mental Health	NSW	Review of documents around policy; half way through sought stakeholder views; call for submissions from local services (not successful response)	Little detail about method provided.	Effectiveness
'Review of the Care and Protection Program of the Legal Aid Commission NSW', Legal Aid NSW,	LU	Care and protecti	NSW	Mainly descriptive of program. Some case studies. Data examined.	n/a	Effectiveness <ul style="list-style-type: none"> - largely policy - State not Cth Jurisdiction

Report Name	Usefulness	Service type	Juris.	Method	Participants	Area of Findings
August 2006		on		Describes mechanisms for quality but these are not tested.		
'Review of the NSW Community Legal Centres Funding Program', Legal Aid NSW, Final Report, June 2006.	U	CLCs	NSW	Descriptive and consultations	n/a	Effectiveness
R Funston and M Hitter, 'Prisoners' Legal Service Review', NSW Legal Aid, September 2006.	LU	Prisoners' Legal Service	NSW	Descriptive and data considered	n/a	Effectiveness - unpacks issues with prisoners
J Stubbs and Assoc with C Lux, 'Review of Public Purpose Funded Projects 2008-2011', Legal Aid NSW, February 2011	U	CLCs	NSW	Examination of CLSIS, interviews with CLCs; stakeholder interviews. Whether the services were managed within budget, met stated objectives and targeting specific groups identified with unmet legal need.	CLCs interviewed (n=15) and phone interviews with stakeholders (n=3)	Effectiveness
'Doing Time – Time for Doing, Indigenous youth in the Criminal Justice System', House of Representatives Standing	VU	Indigenous youth	Aus	n/a	n/a	Effectiveness

Report Name	Usefulness	Service type	Juris.	Method	Participants	Area of Findings
Committee on ATSI Affairs, 2011						
D Dimo 'Civil Law Aboriginal Legal Service Outreach Review', Legal Aid NSW, March 2008	VU	Indigenous – civil-outreach	NSW	Largely descriptive-consultations and the collection of case studies	n/a	Effectiveness Efficiency
C Cunneen and M Schwarz, 'Civil and Family Law Needs of Indigenous People in NSW: The Priority Areas, Vol 32, Issue 3 & 4 UNSW Law Journal, 2009	U	Indigenous – civil and family	Aus	Consultations and the collection of case studies, questionnaire and interviews with stakeholders	Participants (n= 153 of 160)services.	Effectiveness - good for context
E L'Huillier, 'Targeting Justice in the Loddon Campaspe Region: A Review of the Loddon Campaspe Community Legal Centre: a report on the progress towards access to justice in the Loddon Campaspe Region', Advocacy Rights Centre & Loddon Campaspe Community Legal Centre, September 2008	U	CLC - rural	Vic	Local demographic data; interviews with people involved in an initial Access to Justice Report and the establishment of the service; interviews with relevant stakeholders; surveys of volunteers and agencies	n/a	Effectiveness - more of a reporting back to community on progress rather than a full evaluation.
A Crockett, 'Cost Comparison Project, Attorney-General's Department' Final Report, June	U	LAC	Aus	n/a	n/a	Efficiency - some discussion of definitions.

Report Name	Usefulness	Service type	Juris.	Method	Participants	Area of Findings
1995.						
J Barga, 'Children's Legal Service Review: from hotline to hothouse', Legal Aid NSW, December 2007	U	LAC – Children's advice line	NSW			Efficiency - largely state based
ATSI Law and Justice Program Performance Audit – Audit Report No 13, Australian National Audit Office, 2003-2004.	U	Indigenous	Aus	Audit process	n/a	Efficiency
'Evaluation of the Legal and Preventative Service Program', Office of Evaluation and Audit, 2003	U	Indigenous	Aus	Audit process	n/a	Efficiency
'Audit of the Prevention, Diversion, Rehabilitation and Restorative Justice Program', Office of Evaluation and Audit, 2008	U	Indigenous	Aus	Audit process	n/a	Efficiency
'Strategic Review of Indigenous Expenditure', Department of Finance and Deregulation Report to the Australian Government, 2010	U	Indigenous	Aus	Audit and expenditure process	n/a	Efficiency

Report Name	Usefulness	Service type	Juris.	Method	Participants	Area of Findings
Commonwealth Review of the Community Legal Centres Program, March 2008	U	CLCs	Aus	Consultations with stakeholders.	n/a	Efficiency
Confidential, 'Service Review – Indictable Crime' Victoria Legal Aid, 2011.	NU	LAC	Vic	although largely descriptive with some analysis of quantitative data	n/a	Efficiency
The Evaluation of the Legal Aid for Indigenous Australia Programs', Office of Evaluation and Audit, 2008	U	Indigenous	Aus	Audit Process		Efficiency
'The Economic Value of Legal Aid' National Legal Aid, Price Waterhouse Coopers, 2009	U	LAC	Aus	Descriptive +data analysis	n/a	Efficiency
Victoria Legal Aid February 2012	U	General	Vic	Clients in computer assisted telephone interviews were surveyed	Clients surveyed (n= 610)	Client Feedback
A Munday and A Rutkay, 'Alternative Dispute Resolution Family Conferencing Program Review', Legal Aid WA, 2004.	U	Family Conferencing	W Aus	Survey Clients and Online and print Publications Users CLC Survey	Clients participated survey (n=252) (clients of ADR & Family Conferencing Program. 1 July 2003 – 30 April 2004. Legal Aid Advice/Grants of Aid surveys examining	Client Feedback

Report Name	Usefulness	Service type	Juris.	Method	Participants	Area of Findings
					(n=3,653) for legal advice (n=406) grants of aid.	
Legal Aid WA & Data Analysis Australia Pty Ltd, June 2004	LU	LAC-general	W Aus	Survey	n/a	Client Feedback
L Cruickshank 'Identifying the Broken Bridges : an analysis of service gaps for Aboriginal young people at Children's Courts in New South Wales', Macquarie Legal Centre, 2009.	VU	Indigenous	NSW	Descriptive	n/a	Effectiveness Client Feedback
Queensland Legal Aid Report Card, Annual Report 2009-2010	U	LAC - general	Qld		n/a	Client Feedback
ARTD Consultants, 'Developing a Performance Monitoring Framework for Community Legal Centres', Final Report October, 2008.	LU activity focus	CLCs	Aus	Descriptive	n/a	Performance Indicators
M Noone and K Digney, "It's Hard to Open up to Strangers" 'Improving Access to Justice: The Key Features of an Integrated Legal Services Delivery Model', Research Report, Legal Services Board and La Trobe University, September 2010	VU	CLC – generalist	Vic	Advisory Group, collection of existing data, Observation of referral practices, documentation and policy review, Staff on-	On line survey(n=62 from approx 150) staff of the health and legal service	Collaboration Integrated legal service - note CLSIS data problematic.

Report Name	Usefulness	Service type	Juris.	Method	Participants	Area of Findings
				line survey, Staff diaries, Client interviews/lawyer interviews, Staff Workshop, Staff interviews		
J Kirby, 'A Study into Best Practice Community Legal Education', Victoria Law Foundation, undated < http://www.victorialawfoundation.org.au/images/stories/files/111018%20Churchill_Report_for_web.pdf >	U	CLE	Vic	Descriptive	n/a	CLE
'CLE Made Easy' http://www.naclc.org.au/cb_pages/cle_made_easy.php .	U	CLCs CLE	Aus	Descriptive	n/a	CLE