

**A Research Report of the Marrickville Legal Centre and the Department of Community and
Aboriginal Education, UTS**

**A joint initiative with the
Association of Childrens' Welfare Agencies**

WORKING TOGETHER

**A Common Field of Practice for Police, Solicitors, Youth Workers, Aboriginal
Workers and other Practitioners providing Legal Support to Young People**

Vol. 3

Aboriginal Perspectives

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Main Recommendations

1. It be recognised that providing legal support to young people is a specialised field of practice which accordingly requires practitioners to have specialist training.

2. It be recognised that a wide range of practitioners contribute in both distinct and common ways to the provision of legal support to young people. Such practitioners include:
 - police officers;
 - solicitors;
 - detached family counsellors;
 - youth support/outreach workers;
 - youth accommodation workers;
 - home school liaison officers;
 - Aboriginal workers;
 - District Officers and Juvenile Justice Officers;
 - school counsellors.

3. That legal support to young people will benefit from greater collaborative and co-ordinated effort among the different practitioners listed above, which would be promoted by implementation of recommendation 5 (b) below.

4. While each occupation requires its own set of distinct and specialist competencies in the provision of legal support to young people it should be recognised there are also a set of core competencies common to the range of occupations engaged in legal support.

5. **Legal support practice will benefit from:**
 - a) each occupation promoting more training for its respective practitioners to work effectively with young people;

 - b) **a cross occupational legal support training program centered around the areas of competence described and analysed in this report.**

Preface

There are five volumes which make up this research report. Vol. 1 defines the scope and nature of problems and issues faced by young people in the legal system. Vol. 2 presents the main findings of the research. Data was generated by bringing a wide range of practitioners together in a series of workshops. The core areas of competence common to the diverse range of practitioners when providing legal support to young people are described and analysed. Vol. 2 also discusses the merits or otherwise of the qualitative research methodologies employed. Vol. 3 examines Aboriginal perspectives on legal support practice. Vol. 4 presents a range of supplementary research data which is used to validate and challenge the main findings of this project. Vol. 4 includes a literature review with annotated bibliography, survey of legal support training programs, and a report of practitioner's and young person's perspectives on legal support practice. Vol. 5 describes our proposal to develop a cross occupational training program centered around the areas of competence described in this report.

Section 1

Introduction

1.1 The Brief

This Report marks the end of Stage 1 of a Project managed jointly by Marrickville Legal Centre and the Association of Children's Welfare Agencies with funding from the Law Foundation of New South Wales. The Project is undertaking to develop and pilot legal education programs for people working with children and young people in New South Wales. The state-wide project aims to provide for greater access to and understanding of the legal system by children and young people by targeting those who work with them.

The research was undertaken jointly by staff from the Department of Community and Aboriginal Education, University of Technology, Sydney, and Marrickville Legal Centre.

1.2 Background

Legal education for youth workers has been widely identified as essential to the more effective protection of the rights of children and young people. In late 1990 Marrickville Legal Centre, through its Children's Legal Service, focussed resources on a project to develop legal education programs. At the same time as the legal centre was informally investigating training needs for a variety of workers the Association of Children's Welfare Agencies was contemplating a training course on legal issues for youth workers.

At a meeting of workers in the youth sector convened by the Association of Children's Welfare Agencies the view was expressed that past attempts at legal education programs had been ad hoc. A co-operative effort was seen as important to promote more widespread provision and to maximise the impact of education programs.

The quality of work with young people is affected by a number of factors including:

- the 'second rate' status attached to work with young people and welfare in general;
- the lack of cross occupational training for workers who have to operate in an inter-disciplinary manner in the community, but who are educated in isolation;
- the lack of specialist training to help all types of practitioners work specifically with young people.

The researchers did not presume that any single occupation group had greater training needs than another. The Project attempted to take the perspective of a young person who would be faced with a range of workers in the legal and welfare systems. The question was asked: how will education programs have a significant impact on improving the rights and outcomes for young people in the juvenile justice and welfare systems? In answering this question, the Project looked at the training needs of a variety of workers listed below:

- police officers;
- children's solicitors;
- school counsellors;
- detached family counsellors;
- youth workers;
- youth accommodation workers;
- home school liaison officers;
- Aboriginal workers;
- District Officers and Juvenile Justice Officers.

1.3 Why Read This Report ?

We hope this report will:

- be read by practitioners, policy makers and trainers who work with young people. We see this report being equally relevant to police officers, solicitors, youth workers alike;
- advance a concept of legal support as a field of practice in which legal and para-legal practitioners perform fundamentally similar roles;
- identify and define core competencies required by legal and para legal workers who work with young people;
- encourage a holistic or multi-disciplinary approach to legal education for workers;
- be a resource and tool for the development of curricula not only for a second stage of this Project but for all interested education and training providers.

1.4 What is the distinct contribution of our research project?

At the outset of the project it was suggested by several workers, policy makers and academics that there had been sufficient research into the training needs of legal and para-legal workers. We did acknowledge that there were a lot of legal training and curriculum materials around. Furthermore, it was suggested solicitors, police officers and social workers already had the benefit of accredited professional training. They did not need any training, it was the para-legal workers (youth workers, Aboriginal field officers etc.) who needed the training.

These sort of comments didn't match what the literature was saying. Other research (O'Connor, 1986 & 1988; Cashmore and Bussey, 1992; Youth Justice Coalition, 1990) pointed to a lot of young people experiencing the legal system as bewildered, disempowered victims. Young people clearly were not finding that "professional" legal practitioners were better or even different to other legal practitioners. A theme running throughout the literature was that young people were less concerned with the amount of knowledge, status and professional training a legal worker had but more concerned with their ability to handle a situation, address a problem, communicate and relate, empathise and understand, analyse and act.

Acknowledging, however, the significant amount of work already done in identifying the knowledge workers should have about the law we decided the best contribution our research could make was to try and take the perspective of a young person and

define the legal support roles they seek workers to play. This led to roles and areas of competence being broadly defined and to a crossing of occupational boundaries.

Our research has not developed detailed checklists of skills and knowledge respective practitioners need when providing legal support to young people. Instead it has 'captured' and described the roles and competencies that are fundamental to all types of practitioners (solicitor, police officer, youth worker alike) when working with young people in the legal system.

The research clearly points to the need for practitioners of different types to work in a more collaborative and co-ordinated way together. One strategy to promote more collaboration is to create opportunities for the different workers to learn about aspects of legal support together. There would be a strong interest in such a cross occupational training program as indicated in the following quote from one of the research workshop participants.

... we are all sitting in our perceived training areas. I'm a trained youth worker, [you're a] trained solicitor, trained policeman - - but the very fact that we're all getting on here is because we're utilising our knowledges and maybe in terms of training there should be a mixture of people constantly doing the same training rather than a package for the police to train and a package for his load and so on. Maybe we all need to be the trainers of each other.

Section 2

Working with Aboriginal young people

2.1 Introduction

To what extent do workers providing legal support to Aboriginal young people require distinct competencies as opposed to working with other Australian young people? In this volume we examine this question.

Clearly, working effectively with Aboriginal young people requires specific knowledge of the historical, social, cultural and economic context of Aboriginal Australians. This knowledge might in turn inform the specific way one analysed a situation, developed strategies and related to an Aboriginal young person.

2.2 Aboriginal Young People and the Legal System

The Human Rights and Equal Opportunities Inquiry into Homeless Children (1989) found that although Aboriginal people make up only about 1% of the population, they constitute at least 15% of all children in care of the State. The Youth Justice Coalition's Kids in Justice report (1990) and the Royal Commission into Black Deaths in Custody established that NSW has the highest rate of Aboriginal young people in detention of any state or territory in Australia. Approximately 25% of young people in detention centres at any one time are Aboriginal although they make up only 1.8% of NSW's youth population. Cuneen and Robb (1987) found in their study of north west NSW that, "the charge rates for Aboriginal youths are 6 times greater in Dubbo, 47 times greater in Wellington, 57 times greater in Brewarrina, 36 times greater in Burke and 90 times greater in Walgett than for non-Aboriginal youths. Carrington (1990) in her research shows that Aboriginal girls are massively over-represented in the NSW juvenile justice system.

2.3 The wider context ie why?

2.4 Who provides legal support to Aboriginal young people ?

A variety of Aboriginal community organisations employ people who engage in a large amount of work with young Aboriginal people in the legal system. Workers from different types of organisations have been placed together in to one sub-reference group because the nature of their legal work is similar. (This is an assumption which can be challenged). These organisations include:

- a) Aboriginal Children's Services
- b) Aboriginal Legal Services
- c) Aboriginal Corporations
- d) Aboriginal Family Support Services
- e) Aboriginal Medical Services.

There are 4 Aboriginal Childrens Services in NSW. They employ support workers. They are funded by the Aboriginal and Torres Strait Islander Commission (ATSIC) (Commonwealth government).

There are 6 Aboriginal Legal Services with 25 branches in NSW. They employ ?? field officers. They are funded by ATSIC.

Few Aboriginal corporations employ youth workers. There are only 8 ATSIC funded youth workers in NSW.

There are 15 Aboriginal workers with Family Support Services in NSW. They are funded by the NSW government CSGP.

There are also Aboriginal Drug and Alcohol workers, adolescent health workers and youth workers with Aboriginal Medical Services in NSW. These workers may not go so far as to accompany young people to court but they do, given the close relationship between health and legal issues in Aboriginal communities, get involved in legal support work.

2.5 A picture of legal support work

Our picture of legal support work is based on grouping statements into 'areas' of legal support work such as 'knowledge', 'analysis' or 'advocacy'. Tables summarise the statements for each area and we have used many quotations from the transcripts to illustrate our interpretations.¹

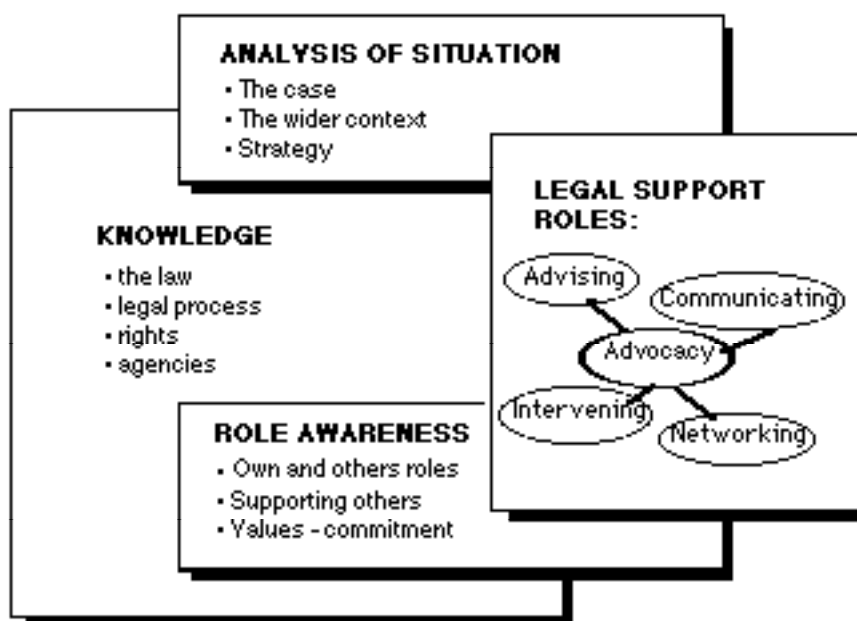
¹ The following symbols and abbreviations have been used in quoting transcript material:

- ... words deleted
- [] words missing interpolated
- different speaker (at start of line)
- words broken off (e.g. at end of line)
- WS workshop (whole group discussion)

We have tried to clarify what practitioners say about their work while faithfully reflecting its complexity. From our analysis there emerges a picture of legal support work as comprising several areas of competence, summarised in Table 1:

Legal support work is multi-faceted, involving relevant knowledge, ability to analyse the situation, 'role-awareness' and a set of overlapping roles centred on advocacy for the young person. Our final 'model' (figure 1) sees these as related layers of expertise.

FIGURE 1. RELATIONSHIP OF AREAS OF LEGAL SUPPORT WORK



SG small group, critical incident discussion
 SG1:9 first small group, transcript page 9
 Taree location of workshop

TABLE 1 AREAS OF LEGAL SUPPORT WORK

1. Analysis of situation and planning strategies	The ability to analyse a variety of legal support situations, and to assess, research and develop strategies for action.
2. Knowledge	The knowledge needed to perform effective legal support work, including specific legal knowledge.
3. Advocacy	The key support area of taking the part of the client and carrying out actions which advance their interests.
4. Intervention	The carrying out of actions intended to resolve a crisis or other situation, the implementation of strategies.
5. Advising and educating	Giving of legal advice and informing people, extending to a legal educational role.
6. Networking	Activities involved in referral, liaising and consulting and collaborating with others in legal support work.
7. Communication	A broad area of communication skills, including reporting skills and the ability to develop rapport with clients.

8. Role awareness

Having a concept of legal support work and understanding one's support role in relation to the work of others.

These eight areas of legal support work are now described in detail with reference to the statements and the 'evidence' provided by participants in the numerous workshops.

2.6 Analysis of situation and planning strategies

The Bourke workshop led to many statements classified as 'analysis of context' (Table 2). Participants focussed strongly on issues for Aboriginal people in Bourke to the exclusion of any deep discussion of support work.

TABLE 2 ANALYSIS OF SITUATION: ABORIGINAL ISSUES

Analyse case	
Analyse what rights obtain in order to protect the kid legally	Bourke WS:9
Analyse situation as conflict of rights of adults vs kids	Bourke WS:9
Analyse context	
Analyse care and control situation in terms of community responsibility	Bourke WS:6
Recognise criminal justice system has interfered in the lives of most Koories	Bourke WS:11
Analyse problem situation as caused by culture clash	Bourke WS:12
Understand cultural background to street behaviour	Bourke WS:13
Understand cultural background to street offences	Bourke WS:15
Analyse situation in terms of historical animosity of police and Koori people	Bourke WS:17
Analyse total support picture: e.g. co-ordination of Aboriginal services	Bourke WS:31
Analyse issues in underlying legal support needs e.g. resource use	Bourke WS:35
Understand support problems created by bureaucratic paternalism	Bourke WS:40
Analyse situation in terms of breakdown of community authority	Bourke WS:44
Analyse situation and decide whether to support or enforce	Bourke WS:46

To the Aboriginal participants in Bourke, the context is one of cultural conflict, and this determines the major issues in legal support for them. The historical animosity of police toward Aboriginal people is an over-riding factor. Police and the law continue to be the main means of interference by white society in their lives. There is the fact of the recurring contact of Aboriginal youth with police, and conflict in the community over the control of children, and alcohol use.

Yet the participants didn't necessarily agree on the issues or how they were to be dealt with. It is a mistake to suppose there is one unified Aboriginal opinion about many of the issues arising in the context of culture clash. The participants hotly debated the cultural background to street behaviour:

- ... when [Mary] first came to Bourke before people had air conditioning everyone used to be roaming the streets at night in summer. It was the coolest place to be and everyone would sit out the front and talk to people walking up and down. When people got richer and people got air conditioning, now the thing is that you turn on the television, turn on your air conditioning and shut your door. It's criminal activity to be out on the street, it's just times have changed and the Aboriginal people haven't changed in their way of behaving where the white people have.

- That's the way it should be now. If they're on the street, they shouldn't be on the street, they should be with their parents who control their kids. It comes back to the parents, that's where we've got to place our objectives

Bourke WS:13

The prevalence of street offences and the problem of street behaviour was traced to the domination of black by white culture in Bourke:

You want to be careful ... [In] my original small village ... there's no streets ... there's parks all over the place and kids play and that's where they're expected to be ... and that might be the [Aboriginal] culture of Bourke, that people are out and about and we've got to then reconsider what - there might be two cultures in this town, one that doesn't play on the streets and one which does and trying to get the dominant or the more powerful culture to accept the powerless or the less powerful culture behave like that and that's a cultural difference that we have to accept.

Bourke WS:12

Debate about street behaviour led to the underlying issue of police control versus community control coming up, and raised other questions about parental care and control of children:

- I think it comes back to community responsibility and where the responsibility lies, and I think in a community that has been so much surrounded by institutionalisation but people take responsibility for people. It happened on the reserves, it happened in such a strong historical way with Aboriginal people but now of course for some other agency to come in and say to the parents, look we've got to take your [children] home because you think you're looking after them but we don't think you're looking after them is in the historical context a difficult one to approach. I'm not saying it's a jolly thing for 10 year olds to be out in the streets but it's just as not jolly - some other agency to say we can take the responsibility for taking them home because I think that's the responsibility of the parents.

- The trouble is we keep looking for something to come from outside to shine a big light and correct the problem. I think we've got to now look at the problem, the answers from within. It's not going to come from the law, it's not going to come from institutions and we've got to start talking about caring and parenting and all those sort of things and they're much difficulty, they're not things that you can put band-aids on. You talk about long term things. You're talking about a 20 year program, it has to change.

Bourke WS:6

Police treatment of youth is a core issue for the whole question of police and Aboriginal relations - indeed it seems to be the point at which the 'historical animosity' of relations is reproduced:

I'm saying that police picking the child up and taking the child to the police station, let's not get back into this historical animosity with the police going doing things like in the dark ages, dragging people out of beds and dragging kids down to the police station without anyone knowing their rights or parents being involved.

Bourke WS:17

Yet the fact of interference of the criminal justice system in the lives of most Koories is well-understood as part of the dominative role of police. This was recognised by a police officer:

... I think what happens in this town, in domestic violence cases, a lot of the young men have been so imbued in the criminal justice system from very young [ages] because they get picked up on really silly small charges, they're usually street offences but they're so imbued with the criminal justice system that it doesn't work as a way to stop them. Bourke WS:11

The same officer, ironically mirroring the opposition of police and Aboriginal relations, saw the role of community people in providing legal support for youth:

... with youth liaison officers ... we only can do certain things. It's up to you people too as a community. I really think if you see something wrong, [the police officer] might come and pick a kid up, right, now you could just act as a legal adviser, anybody else as well. Someone else picked up a kid from up here and took him down to the police station. Now if that person has seen that happen why didn't he go down and see the parents of that kid. Bourke WS:17

The issue of the proper ways to handle street behaviour of young people and who in the community should provide legal support if this is indeed a 'solution', are again tied up with the channelling of resources in wrong directions through bureaucratic paternalism and lack of consultation with the Aboriginal community and about appropriate services:

When I was up in Walgett for a couple of weeks, there were so many people up there and on the grape vine I heard about so many people were very disappointed that family group homes were closing down because they saw that as a necessity. We've never had one in Bourke though and then more money was pushed into places like the Proclaimed places [doss house] where the community was saying we think the need was with the family group home. Bourke WS:40

... with X amount of million dollars is spent on the police force, for the 35 odd police ... then why isn't the bureaucrats channelling that money into a family group, instead of closing the family group's homes so the kids have got parents home there that night. Instead of having the police driving them away in the paddy wagon - - Bourke WS:35

'Community control' is not free of problems, but it is clearly one area, given the resources, where legal support could be developed possibly in cooperation with the Aboriginal Legal Service (see Chapter 4). Participants see the problem with young people being due in part to a breakdown of community authority:

I want to ask the question, if a child does not comply when you tell them not to hit you and they continue and you don't touch them isn't that reinforcing their idea that they can get away with murder and it's the same when children are not made accountable for their actions. How can we turn the kids around to make them understand they really are accountable for their actions whereas they demand their rights, they mustn't trample on the rights of others to get those rights. You see, it seems as if at the present time if children of this world are doing a fandango on their parents and all law enforcement bodies and nothing concrete is being done to tell them they can't do that. Bourke WS:44

5.3.5 *Summary.*

Thus, we are saying that how the legal support worker understand the situation is the key to effective legal support, since this will influences what action and what kind of advocacy or other action is carried out.

It is obvious, however, that this depends on being able to call on a good knowledge base.

2.7 Knowledge

The largest group of statements were those where participants referred directly to knowledge needed in legal support work. The small groups in the validation workshop each had a large class of statements of this kind, which comprise about one-sixth of the statements in the database. Table 3 (vol. 2) summarises these and Table 3 (this volume) has similar statements from the Bourke workshop.

'Knowledge' refers to that knowledge needed to perform effective legal support work, and this is broader than just knowing specific legalities. Many transcript references show knowledge being put to work in some skill. 'Analysing the situation' as noted above depends upon knowing a number of different sorts of things but goes beyond 'just knowing' to include being able to formulate what the situation is and how to act effectively in it.

At least four aspects of knowledge can be identified in the transcripts:

- knowledge of the law and legal procedures
- knowledge of the legal rights
- knowledge of agencies, their guidelines and protocols
- knowledge of issues arising in legal support

TABLE 3. KNOWLEDGE - ABORIGINAL ISSUES

Knowledge of issues	
Understand issue of control of kids, street behaviour	Bourke WS: 4
Understand issues in care and control of kids related to alcohol use	Bourke WS: 6
Understand care issues in terms of community not police control	Bourke WS: 7
Understand dangers of using Aboriginal community panels	Bourke WS: 12
Understand problem of control, rights of parents vs kids' needs	Bourke WS: 13
Understand nature of police offences of Aboriginal people	Bourke WS: 14
Know about Koori-controlled aid panels for all Koori offenders	Bourke WS: 23
Analyse issues in Koori juvenile justice measures	Bourke WS: 27
Analyse connections between legal, care and education issues	Bourke WS: 31
Understand patterns of Koori male offending in cultural terms	Bourke WS: 33

Knowledge of the law and legal process

Understand powers and duties of police called to a domestic conflict	Bourke WS: 10
Know procedures to make CAPs supportive and consultative	Bourke WS: 22
Understand how all-Aboriginal aid panels can work for Koori youth	Bourke WS: 23
Know what behaviours lead to what offences	Bourke WS: 41
Know non-violent tactics for dealing with violence	Bourke WS: 40

Knowledge of rights

Understand legal support as fighting racial discrimination	Bourke WS: 3
Know parents, child's rights re discipline and punishment	Bourke WS: 7
Know about cautioning, use of police discretion with Aboriginal kids	Bourke WS: 16
Know children's rights regarding cautioning, questioning of youth by police	Bourke WS: 18
Know legal rights in violent situation: self-defence, reasonable force, assault	Bourke WS: 41
Know rights, duties where there is possible knowledge of a crime	Bourke WS: 45
Understand police onus of proof, statements, evidence	Bourke WS: 48

More than half the Bourke statements from the forty-page transcript were classified as either 'analysis of situation' or 'knowledge' area. The 'knowledge' statements echo the themes of the discussion of 'analysis of context' - in fact, the Bourke workshop seemed to point to a strong need of participants to try and tie down the context of Aboriginal legal support in Bourke.

We have already noted that Aboriginal opinion is sometimes strongly divided over issues in street behaviour, care and control of children and alcohol use. This is tied up with a clear need for greater community knowledge about the law and legal support. Table 3 shows that the Bourke workshop referred about equally to knowledge of issues and knowledge of rights.

Much of the workshop was about clarifying the issues of street behaviour of youth, the care and control of children and alcohol use. There was debate on how to understand the problem and what position to take:

A few times, have the police got the right to take a kid off the streets, 16 or 17 year old off the streets, about 9 o'clock, 9.30. There is some way where you can put the wind up them, more or less bullshit to them if you don't mind me saying ... because they're down here night time, pension nights, social nights. There could be up to 50, 60 kids off the street and they range from

4 year olds to 17 year olds, just before 18. I like to get them off the street before the trouble starts like any blues or something like that or any windows getting smashed, well they get the blame for it ...
Bourke WS:4

I'll tell you when you're in a spot and no matter what questions come up or what the rights or wrongs are, where the problem is that half the parents will be on the beer, in the pub. This is what you're going to find because you take him home which I know myself, you take them home and put them to bed. These little fellows are around 4 and 5 and the poor little fellows can't stay there on their own because mum is at the pub but when the booze bus comes they won't let the kids on and the little fellows are left to walk home. This is where the problem is because you've still got them separated.
Bourke WS:6

The police perspective can be supportive, and individuals attempt to see the issue as one of community not police control:

Under the new guidelines laid down by the Aboriginal and Torres Strait Islanders Council, we held a meeting on various things, they demand that those of us who have been looking after them for a long time, let go the reins and allow the Aboriginals themselves to control their own lives. We're in Brewarrina and we're having a great deal of difficulty doing that because people appear not to want to be released from custody. I mean we're trying everything to give them permission to lead their own lives but they must take responsibility for their decisions, you see. I think it falls back on the parents themselves. If there was some way we could educate the parents.
Bourke WS:7

The difficulties of developing community control, however, are complicated by divided opinion about how this can work. Both the rights of parents versus the rights of children are involved:

Who's going to go up to some parent and say, ok Joe Bloggs you're always in the pub all the time or at the TAB, why aren't you looking after yours - there's no way in the world I'm going to go up and say hey Joe Bloggs, your kids there and he's roaming the streets, I see him every night and they smash windows and whatever. You're around the TAB and you and your wife end up in the PO every night so do something about your kids. There's no way in the world I could put myself on the line.
Bourke WS:13

Greater community control over the justice process could be achieved through community aid panels, which were discussed at length (see also 'Analysis' above). Though there was the danger that "these committees have a great tendency of becoming a branch office of the Ku Klux Klan", the key issue was whether such measures could be Koori-controlled as a way of developing legal support for youth:

It gives an Aboriginal input to say well you know this kid, at least an Aboriginal is saying, at least someone from the Aboriginal community is saying, what's going to happen to that person before he actually goes to court.
Bourke WS:21

There are different sorts of community aid councils and there are some real dangers but it is possible to have a community aid panel that's Aboriginal controlled that the kids can be diverted to instead of going to court not as well as... Any person who goes to court in Mildura goes to this committee first no matter what they've done.
Bourke WS: 23

Community control was raised in the proposal for a training centre outside Bourke, heatedly discussed in terms of its potential to become either a training centre with echoes of the historical practice of 'sending away' Aboriginal kids to a training institution or a worthwhile alternative for young people. This example illustrates the difficulties of the task of defining community control and providing specific legal support measures:

... the other original concept I think when the hierarchy got together - I do believe what they wanted in the first place was getting back to the blacks, the fencing, the shearing and this and that - but what the steering committee decided very wisely was that there would be kids interested in that but let's also pay that child the leads of what these kids want, what skills they want.

... So, what the steering committee has decided now is that [it be a] place of learning, be black people involved ... where liaison officers will be involved by bringing kids out there and not police in paddy wagons bringing kids out there. I think it's now gone from kids being sent away to getting back to the discussion this morning, about the kids in the street and which kids are in need of care - it's veered away from that whole idea now that kids get sent away.

... The committee actually sat down like this and talked about - they thought that the police would bring anybody out here or is the mother going to bring anybody out and say leave him out here and he doesn't like the place - it'll come back to the committee and they'll decide who goes out there and who doesn't go out there ... Then again one advantage the committee has got, they know those kids, they know the circumstances. Bourke WS:23

Finally some workshop participants took a longer term view and saw the connections between legal, care and education issues. Better resourcing and co-ordination of Aboriginal services was needed in developing legal support:

I'm talking about Bourke's future, 1999, a community aid panel, you've got the youth centre operating out there, a lot more self esteem team building courses should be run in here not just pin ball parlours. We can operate a panel from school that all Kooris on suspensions and expulsions, you'd have a youth centre out there with a board of directors operating with their own criteria on how you get out there. If all kids actually getting in court, first offenders, you have a community aid panel that recommends that they may be able to attend daily out there at that youth centre doing the team building, doing the self esteem courses and other things they have out at the youth centre. Bourke WS:31

The need for knowledge about the law can be illustrated by an interesting piece of interrogation where participants are establishing what offences follow from what behaviour:

- So you go to the police or whoever to the appropriate people and say I want to lay a charge on Billy Brown because just then I was walking down the street and Billy Brown yelled out and said what he wanted to do to my wife. I mean okay, where's the legal thing there and what is that charge. Is there a charge? You're walking through the street and a kid says, can I f.... your wife. Is that an offence or is that just - -

- The police thinks it's offensive behaviour.

- What happens with that juvenile?

- You lay a complaint. It's a grey area too, I've heard people say as such let the person take out a summons themselves to summons that person to court because they know who they are and it's not as if they're about to leave town so they can deal with it themselves.
- What, with the police, like the police will take out the charge there?
- No, you'd have to do it independently.
- The police will charge people who swear at them.
- It's a very grey area. You swear at me and Greg's in the same room, he'll charge you because Greg has heard you swearing but if they were there when that child said that to his adult and his wife then the police might charge them.
- Then he's assaulted and he goes down to the police station and says I was just assaulted - -
- Assault is different behaviour.
- And say he did take the summons out and say to the police I want the summons taken out on a juvenile, what happens then legally? Can the police take a summons out on a juvenile then for assault?
- If an assault is proven he will be criminally charged.

Bourke WS:41

Another legal support procedure for Aboriginal youth discussed in depth in the workshop were the use of Community Aid Panels. The issue was whether they could be Aboriginal-controlled to ensure they were supportive in practice and that no 'red-neck' element could use them as a means of persecution.

The discussion however did not raise the critical issue about Community Aid Panels as widening the net of intervention in young people's lives. The Mildura panel was cited as a good model to follow:

The one in Mildura is if anybody gets picked up by the police the police then goes to the Co-op, this is before they go to the court house. They go to the Co-op and they sit around the table and talk about it and say this is what happens, the police put their point of view on and then the Co-op has their say and the person from that justice panel goes to court with that child or with an adult and what they do is they go and see the solicitors with those people, sit down with the solicitors, go to court with them ...

Bourke WS:22

... they wanted a group of Koori people sit on this panel so I put my name down and our panel was made up of - he's a DO too and just all black fellows and we only sat for the black. You could only sit with the black cases or you could sit with the lot... So the police would recommend, they'd say - when they be cautioned - the police would tell them about the panel and our solicitors from the legal service down at Cowra, she'd be there too and she'd say, I recommend you go to a panel. It's a panel made up of all Kooris and once the kid comes to the panel you work on a buddy system like I had a kid work with me - say the court, the kid get cautioned today, the panel would meet tonight, the court would be in a month. That kid would ring me up, he would carry out some community work, we'd talk about what sort of community work at the panel ...

Bourke WS:23

In one case, a worker from the Aboriginal Legal Service acted as an advocate for the young person, having taken them over on the 'buddy system' and arranged some community work:

Then I'd go to court with that kid. I'd go to court and say to the magistrate, the kid faced the panel, we set out these duties for him to carry out, a community work type scheme and I'd front up in court, I'm not involved with that kid, not involved with his family. I'm just a community person and I'd go as representative to the court and speak on that kid's behalf to say I wouldn't like to see him get cautioned. I wouldn't like to see him go through court and get charged because he's got all these good values. The kids are going to school, his mother and father come from Bourke, they want to make a good go of their lives. 100 per cent of those cases got thrown out, didn't even go to court and a lot of those kids have gone on through school. Bourke WS:23

Aboriginal community workers take a basic position on legal support. They see it as tied in with fighting racial discrimination:

... The way I see legal rights is taking kids to court, supporting the child and also coming out of it and if they say if the kids are running around somewhere, say if they go and get ice-cream out of a thing and the shopkeeper says no, I don't like black kids - that's anti discrimination and so I support that child. That's the way I see legal rights. Actually going to court, going to the police station - that's what we do a lot ... advising them. Bourke WS: 3

Again there is a dominant theme of the rights of children versus those of parents to discipline and punish that refers back to the issue of policing and community control:

Where do parents stand with the law in regard to discipline? I work with kids who don't go to school and their parents often ask me, can I hit the kid like he used to be disciplined before. They all say, as soon as I touch the kid I'm in court for assault, they want to know where they stand legally...they say, you just touch me and I'll go to the police and I'll go to the welfare. Bourke WS:7

Experienced support workers are clear about the the extent of police powers, and children's rights regarding questioning and cautioning of youth by police:

Get back to the one where you said about the one on the run - that's one where it's just documented down in your police notebook and that's as far as it goes, you're just more or less chastising the kid for what he's done, telling him that's not the way to do things, sort of behave yourself and that and that's about it ...

... Especially for children under 15, and that child was 15 years old, and taken to the police station and spoken to by police officers without the parents being there and the parents as far as I was concerned and the sergeant who was there at the time - - [kids] should have representation. Bourke WS:18

The whole question of violence in communities brought up an issue that would apply to other legal support workers - the need to know non-violent tactics for responding in a violent situation, such as what constitutes self-defence:

I'm a legalised school attendance officer. I've been through my training and I know where I stand. To negotiate with the kid, to get him to back off and that's exactly how it turns out but it doesn't take it away from that and that's what I cop so I use my skills that I have to negotiate

with the kid to back him off, to cool him down and I didn't take it through court but still there may come a stage where I'm going to get something else, I might get a knife, I mean I've got to go and work in Sydney fairly soon. I've got to work with the same sort of kids so where do I stand?
Bourke WS: 41

In summary, knowledge is an important foundation for every aspect of the legal support worker's activity. However, it is again important, again, to recognise this knowledge has many aspects, and involves its application to legal support situations.

2.8 Advocacy

Most participants would say that advocacy is what legal support work is all about. Advocacy is at the core of legal support work - in its broadest meaning, it embraces a range of knowledge and skills and attitudes to young people and their rights. Advocacy is taking the part of the client, taking up their case and carrying out actions which protect their rights and advance their interests.

Advocacy has an element of taking the part of the weaker party against victimisation or injustice. It is seen as an uphill battle, at least in the minds of some experienced workers, where they see institutions (courts, legal aid or welfare bureaucracies) grind down those least able to contest their arbitrary treatment of individuals.

Paradoxically, it is because police are close to the law that they can be very effective advocates for youth. A police officer described the counselling work he had done with a young offender:

... I remember having a kid referred to me who did break and enter and things like that and was really getting into a bit of strife and in talking to him discovered that he also had been assaulted against and he didn't know when the case was coming up and it had been hanging over him for the last two years ... it was more the counselling, allowing him to talk about that and then doing some pushing to actually get that on the court agenda a bit earlier than it was and at least get some dates and get some information for the family so it was basically some advocacy work and then also doing the reports to the court ...

In the Bourke workshops, there were a few statements classified as advocacy. Again, there was a theme of stepping in and taking an advocacy role as an 'independent guardian':

... a lot of the times, we can't get guardians or the parents to the police - sometimes we can't find them so we just get someone else to come in and sit in as an independent guardian - I suppose you'd say to make sure there's no threats or anything like that especially if they're interviewing young offenders and things like that ...
Bourke WS:4

The key-note in police contact with Aboriginal youth is vigilance about police observing the young person's rights. This implies Aboriginal workers need to know what kind of legal situations call for advocacy, and what resources, including the Aboriginal Legal Service, are available to ensure that advocacy takes place:

I don't care whether they're black or white, if I see any kids doing the wrong thing and they were around, I'd slap them around the ears but if they've been taken to the police station or whatever I always ask them what they've been charged with or what they've been taken for and use your [ALS] field officer that you've got here. Bourke WS:18

There is the strong theme again, that police need to take a legal support orientation to their dealings with Aboriginal young people, making much more use of discretionary powers and 'talking to the parents' like they would with 'white kids':

I'm always amazed how it's happened - the police won't talk to the parents. Some say the kids in a bit of a trouble and a nice bit of talking goes on and how little of that happens with Aboriginal kids and it's a different attitude that you constantly see ... there's so much more discretion that comes into play when it's a white child and we're never arguing to take it away from white children, we're saying extend that to the Aboriginal kids because they just never get the benefit of doubts, they'd never get any kindness, they never get the discretion, they never get - oh, the child's going through a stressful period of their lives or they're in adolescence or the parents are splitting up or any of those things, those considerations ... Bourke WS: 19

2.9 Advising and Educating

Closely related to advocacy are statements grouped as 'advising and educating' (Table 5, vol. 2). In practice, advising like other skills overlap the advocacy process, but it is useful to separate out the skill and emphasise the aspect of giving information and promoting the understanding of the young person. Advising is again 'putting knowledge to work' in activities such as:

- providing advice to a young person about their legal rights
- briefing a legal professional about a case
- facilitating a young people's learning about legal rights and processes
- interpreting the legal process to others (children, youth and families).

Yet another facet of the informing, advising and educational aspect of legal support is that of the interpreting the law and legal procedures, and this may literally mean translation. As one Juvenile Justice Officer (formerly YOST worker) described it:

We're the buffer between the solicitor and the court. We basically - most solicitors in advising children do not introduce themselves, do not let the child know what plea they've entered, do not

advise the child of their legal rights so we kind of come in behind and mop those messes up and try to make solicitors who we know are hard pressed for time but are a little more accountable ...

[Solicitor]: I think the YOST workers from my point of view ... are seen as allies by the kids, are seen as their voice in the system. It's almost like the YOST workers are there to decipher things for the kids, coming to interpret, like an interpreter for the kids because they speak their language better than most other solicitors. Plus we understand the formal language of the courts also so we kind of act as translators.

City WS:4

In effect, the worker to be placed in a kind of mediating role, standing between the client and interpreting the meaning of the court and the law - a kind of social lubricant to the grinding wheels of the juvenile justice system.

Community legal education was suggested as one step of police could take in Bourke towards improving Aboriginal-police relations. The law and legal processes should be explained to the community:

I'm not blaming everything on the police but I'm just saying that people, because you're part of the law and you've got the blue uniform. It's just that I think that police role has got to be - go out and say right-o kids, at school or maybe in the community base or even with some adults and say right, this is the law, because you've got to get out there and start saying to the community this is what law's all about and so they know where their rights are and where they stand. The same with the court house - the court house people should do the same sort of thing.

Bourke WS:19

Advising is an important area then, where the legal support worker comes to take quite a significant role in helping young people and associated parties to better understand the legal process and its consequences for them.

2.10 Intervening

All legal support in its nature is intervening in some way. Advocacy, for example, is clearly a form of intervening. However, analysis of the situation will often call for decisive action on the part of a client, where strategy is decisively or even urgently enacted. 'Intervention' means -

- initiating a legal process to protect a victim
- applying pressure to make the legal apparatus respond appropriately
- resolving a difficult situation without resort to legal process
- mediating between parties in conflict.

The workshops provided evidence of a high order of skill in deciding when to use legal process and when to avoid it and resolve the situation otherwise. These show

that highly competent legal support work occurs at the point where decisions are made about whether the law is made to apply or not to apply to a situation.

A few statements from the Bourke workshop show that intervention is a key area for Aboriginal workers, partly because they express it as being plagued with difficulty for them. Individual efforts to resolve 'blues' are seen to be futile, while police intervention is roundly rejected in matters that are felt to be the community's responsibility, especially care and control of children. A basic dilemma for Aboriginal people reflected in the workshop is how to achieve community control and avoid continual police intervention in their lives. One view is 'you should always use the extended family' to handle care and control situations:

No, they keep asking us to take them home, to get them home. The thing is, I'll give you an example - - picking up the kids off the street at one stage and there were a lot of volunteers and a lot of the parents got involved in that and they were taking the children home. Now when mum and dad want them home, they left them at the next best place which was Aunty's or a sister's place or something. There's always someone there so rather than just taking them home, and saying you can't leave them there, you should always use the extended family. There's always somebody there. If there's nobody there, then you've got the nuns. Bourke WS: 6.

Using community mediation to resolve a situation is felt to be preferable to involving the police since the history of police-Aboriginal relations means that Aboriginal people have a deep distrust of them, and a deeply felt conflict about involving them to resolve domestic violence situations, for example. Police express frustration at not understanding why they are called to intervene and then refused co-operation:

... every police officer has got his own discretion, that's one thing that you get, you're allowed to have your own discretion. If you want to take the action you can but when you've got four people screaming down the doors that you take action, you take the statements, you do the work, you say right to they want action taken, they want it taken, you have a look at the legal grounds, you have a look at the proofs, they're all there so you go and have a word to the people and half the time probably 75 per cent of the time they say I don't want to tell you nothing about it, I don't want to tell you anything about it, it's a load of bullshit . You can't get information ... Bourke WS: 10

From the Aboriginal point of view, the police should explore and conciliate, preferably with the assistance of a community mediator:

I sometimes worry about how quick the police are into jumping into taking people's word for it instead of exploring the matter a bit further and trying to see if there's any solution that can be reached between the parties - this person is saying that, that person is saying that, will anything be achieved by going to court because very often it makes a problem 100 times worse than it already is and that's why I keep talking about whether we can't iron it out, bringing it back to us rather than saying let's go to some higher authority, taking it back to among us and trying to work it out, some sort of solution. Bourke WS: 10

The feature of the Bourke workshop was that this kind of legal support solution was not explored very extensively, because participants were locked into a continuing analysis of what the problems were with the law in general, for them as Aboriginal people.

2.11 Networking

2.12 Communicating

Everything reported so far implies that communication is important to effective legal support work. 'Communication' as Table 7, vol. 2 shows, brings together a number of skills such as the ability to foster mutual understanding between agencies or workers, develop rapport with a client, or provide information through reports to the court.

One area of legal support skills that was highlighted in the Bourke workshop was that of liaison. This is not surprising given the role of domination of police and legal authorities. Again, police discretionary powers - a key area for legal support, as we have seen - are seen to be an area where police discriminate against Aboriginal people instead of taking an advocacy support role with Koori youth (see Advocacy, Bourke WS:19).

It is easy to minimise the dilemmas and difficulties in bringing about liaison given the historical role of police oppression of Aboriginal people. Local knowledge can be used to label 'trouble-makers' or be an element in developing cross-cultural understanding by experienced officers:

I know that young constables have told me to the contrary that [police officer] has told them other things like about the history and how people react and I was quite surprised. Seeing as you're mentioning his name in public I'm saying that I know that he actually does sometimes respond - to be fair to him and I'm not holding him up as a great champion but I'm saying that I have known that he has talked to young constables and explained to them that sometime when they're in tight situations and they've been frightened and worried because they haven't seen themselves to be wicked and bad, why is the whole Aboriginal community turning on me and [...] has said to them - -

Excuse me, while you're running [police officer] down, I'd been there a bit over 18 months going to 2 years and in that 2 years there's about 3 or 4 young Aboriginal blokes come in. One bloke, two of them caught for unlicensed driving, drunk and all that. [...] went back to the station and he called me in and asked me what he should do with them, they were only young

blokes and that sort of thing and you know what [...] did, he took me out to pick the car up and drove him to town and sent him home and told him not to do it again. You've got to know [...] ... everybody's got a funny way. Bourke WS:37

Liaison may help set up the conditions for effective legal support work, since it tries to deal with antagonism of police and youth - or police and Aboriginal people. A willingness to meet half-way is indicated:

This is going back a few years I can always remember that we had a really big hall. The hall was full ... and the police did come and we had representatives from Dubbo coming but I mean that don't change by meeting there because peoples mentality about the police doesn't change. If you meet with them you're still going to be angry.

If you're not prepared to meet people like [] and [] it just doesn't work. You've got to be prepared to meet on an even keel. You just can't say, well it's your fault and you can't say, well it's your fault. Bourke WS: 20

2.13 Role Awareness

The role of legal support worker is a problematic one. The essence of competent legal support work is working under difficult circumstances and finding a suitable course of action - suitable in terms of the rights of parties, especially young people, the guidelines of agencies and the working of the law. The legal support worker is a problem-solver, sometimes working in a state of poor information. There is a need to rely on good interpersonal skills and have, as our participants often suggested, a tactical approach.

However, there is also the worker's awareness of these aspects of legal support, and of the whole value-framework of their activity, expressed by our participants in terms of the need for commitment to young people. As one worker commented, legal support workers, though they must 'have a handle on the legalities', " ... need to be able to have the skills to be able to talk to that young person in such a way as it's going to provide a measure of support, you know empathy. You've got to have empathy for that, so it's got to be that caring nature about it ..." (Parra SG2:4).

Thus 'role awareness' is a final grouping of statements (shown in Table 5.11) which takes in the reflective side of the competent legal support worker and their underlying 'value-orientation' to working with youth, and includes -

- having a concept of legal support
- recognising how one's own role relates to others

- being prepared to learn legal support 'on the job'
- provide and receive support with work stress

Role analysis	
Take perspective of an opposing party in a conflict, see how they think	Parra SG2:6
Identify main areas where legal support work needs to be done	Parra WS:5
Recognise the limitations which create difficulties for support work	Parra WS:1
Develop a concept of police legal support work including advocacy, cautioning	Parra WS:12
See legal support as part of effective law enforcement by police	City SG2:7
Recognise limits to own role draw in other support agencies	City SG1:14
Recognise conflicts for police in carrying out both support and enforcement roles	City WS:6
See how one's normal work involves a legal support function	City WS:9
Understand complementary legal support roles of different workers	City WS:10
Judge when emotional support should continue if legal support ends	City WS:11
Cope with a very wide range of cases involving legal support	Taree SG2:3
Appreciate ways to learn legal support in communities on the job	Bourke
WS:38	
Facilitate team-support to encourage learning of legal support tactics	Parra SG2:8
Learn strategies as you go along, find out knowledge needed in a case	Taree SG1:3
Deal with demands for legal support work without knowing legal rights & duties	Taree SG1:7
Learn legal support strategies from others working in the field	Parra SG2:13
Share in team-support for debriefing stress and trauma in	Parra SG2:7

TABLE 5.11 ROLE AWARENESS

One of the few participants who was a designated 'legal support worker' saw defining their work as important, and emphasised the great need for training:

... you basically sort of have to first of all find out what the position is and then find out what the issues are that relate to that position, try to isolate that. So, I think that in my situation I think that there's a real need for some sort of mechanism to be in place where youth workers who perhaps have some legal component to their job description, perhaps not the majority of their job description but perhaps some legal component. There should be some mechanisms devised or set up where people can be trained to analyse what the issues are and how to actually go into a situation, say for example, how do they handle interviews with the police for example, without

actually going in there and sort of learning on the job.
Parra WS: 5

Police officers in several workshops saw how their concept of police work involved the idea of legal support, and they recognised this broader view raises certain dilemmas and conflicts:

The best way in terms of that juvenile type crime situation, the best way to educate young people is [through] ... police out of uniform who are saying, even though [you think] we're going to jump down on you ... you'd be wrong. We're also prepared to educate you so you don't do wrong [but] that doesn't happen right across the board.

I'm involved a lot... continuing with the legal support as far as the questioning of the police station. Now it depends on the individual policeman as to how far you can extend that advocacy role or whether you should just shut up and sit there and make sure that they're doing their job and that is - I'm sure that's a form of legal support but it also depends on the person that's dressed in a uniform and the power they see that they have or ... should have.

Parra WS:12

One officer noted how important recognising legal support, bringing greater exchange of information, would be one way in which stresses of police work could be reduced through closer liaison with other workers:

I think also you've got to think of what we all suffer from and I think that's all the same sort of stress that we get through our work and whether that's police or educators or whatever. ... We all get these really horrible cases that we can't sleep over and I think if we recognise that we can then start getting on and sort of exchanging this information and saying, what can we do to help not just ourselves but the person that gives us this stress.

Parra SG2:7

It was recognised that there were limits to what a police officer could do and that it was essential to draw in other support agencies in such cases:

... people don't seem to know very much about it and there's [no] two ways around it, police have to know about these and other aid agencies who deal with violence all the time. We have to realise ... we have to send out workers or people to explain to them. You cannot approach the boss of the police station and say you need to know ... can you give us handouts or something ...

City SG1:14

To take the perspective of others in both collaborating and opposing legal roles is an important skill. Participants value highly the opportunity - such as the workshops afforded - to meet and share perspectives with a variety of professionals in legal support because this increases their knowledge and understanding of others roles:

... we are all sitting in our perceived training areas. I'm a trained educator, [you're a] trained solicitor, trained policeman - - but the very fact that we're all getting on here is because we're utilising our knowledges and maybe in terms of training there should be a mixture of people constantly doing the same training rather than a package for the police to train and a package for

his load and so on. Maybe we all need to be the trainers of each other.
Parra SG2: 6

A vital aspect of networking with others is the chance to develop the mutual support of team members as means for dealing with stress and learning at the same time:

An interesting thing that HSLOs have set up and that's a very important part of my role is that my two - are 17 - I debrief and there's very formal de-briefings plus there's informal. They don't go home carrying the load unless they've made the choice to do that and the big question comes down to how do I take off their 50,000 loads but in fact it isn't affecting me to hear some of the horrendous things they've seen and had to deal with. ... HSLOs we really have set up a very good mechanism and it's really quite simple and that is I guess being committed to ... a person and developing a relationship with a group of people. I believe my team trusts me to go ...
Parra SG2: 7

Police can experience conflicting roles where they carry out support work. There seems to be a need to increase awareness that police 'help' is often legal support. As noted above, this view can lead to conflict with peers who have narrower views of policing:

I know a situation where a police officer did take a young offender to court. He let someone know about it but then got criticised ... by his boss at the station. He said, 'what are you doing taking him, he's an offender. Someone's charged him, you can't be seen taking him to court'. He was doing it to help the kid because the kid came to him and said, "What do I do, I've got to go to court, how am I going to get there?" and he said, "I'll take you, I'll come and pick you up ..."
City WS:6

Juvenile Justice Officer (formerly YOST) workers saw their legal support role in terms of an ability to combine different skills and gave a lot of weight to collaborative work - seeing their work as complementary to that of others, such as solicitors.

This was echoed in other workshops where the need to set up networks for both moral support and learning about legal support was noted. A Juvenile Justice Officer noted how one network is able to train people in legal support strategies:

... that group is now set up after 18 months where other people are accessible to that network ... just to talk about a situation that really pissed them off or a legal situation, how best to deal with that ... say, deal with going to a questioning at a police station or how can you work more positively with police. I've got a lot of positive work done with police say in my area but it's taken a long time and to be able to educate someone else to do that and see that it's come off in their area makes you feel good in that you've just taught someone to be able to deal with the situation themselves. The same works with young people. If you talk to someone long enough the best thing you hear is when someone's saying, so and so taught me - great, he's learnt something from me and it's done that networking, that networking thing.

Parra SG2:8

Thus in 'role awareness' there is a strong theme here of learning from others who are performing legal support work in their own field. A related theme is becoming more competent by learning on the job. A lot of information has to be learned on the run, if only because things like agency guidelines are constantly changing (Taree SG1:3). Moreover, as a police officer at the Bourke workshop pointed out, 'learning about communities' can't just be done in theory but has to come from experience in communities:

... you've got to realise that Australia is multicultural and although you think out here Aboriginals, that's the problem, it might be for here but ... you go to Cabramatta, you go to Marrickville, you go through Sydney, each different suburb has got its different ethnic concern. So how can you be expected to learn that much knowledge about hundreds of cultures while you're at the academy. They're not going to keep you down there ... with sociology for 2 years. You learn a limited bit about the law, you learn everything but when you come out to places that's when you really learn. Bourke WS: 38

In this section then, it is possible to begin to see that a key training need is to assist workers *to clarify and understand the scope and nature of legal support* - to have some framework for organising the knowledge and skills which seem to comprise competent legal support work.