



Attorney General's
department of nsw

**The Honourable R J Debus,
Attorney General**

Dear Minister,

I have the honour to present, pursuant to section 31(1) of the *Community Justice Centres Act 1983*, the twenty-third Annual Report of the Community Justice Centre Program. The report covers the year ending 30 June 2006.

Deborah Sharp
Director
2006

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Vision

To provide excellent Alternative Dispute Resolution services to the people of NSW.

CJC Objectives

- The provision of innovative, accessible and equitable ADR services throughout NSW.
- The provision of culturally appropriate ADR services to Aboriginal and Torres Strait Islander communities throughout NSW.
- To establish proactive partnerships with key referrers
- To provide an environment in which all staff and mediators contribute fully to the values and outcomes of the organisation and are appropriately trained, supported and supervised.
- To provide an administrative structure that meets the needs of the business, and is flexible, innovative, practical and cost effective.

Director's Report

CJCs has seen continual growth in referrals and matters dealt with across NSW in the 2005-6 year. Considerable work has gone into developing and improving the relationships with key referrers to streamline processes and protocols to facilitate appropriate referrals.

A comprehensive training program that underpins quality service delivery was provided for mediators and staff. Topics such as conflict management, domestic violence awareness, cultural awareness and mediation skills and practice were the priority.

During the year, the Bankstown office relocated to the new Bankstown court complex and CJCs has an intake officer two days a week at the new Mt Druitt court complex. As the courts are a key referrer, co location will improve and strengthen services to mutual clients.

CJCs continues to involve staff and mediators in consultative groups such as the Professional Reference Group, the Occupational Health and Safety Committee and the Aboriginal and Torres Strait Islander Network. All consultative groups provide staff and mediators the opportunity to provide advice and feedback to the CJCs Director and Management Team.

The silver anniversary of CJCs was celebrated on December 15th 2005 at Tranby Aboriginal College in Glebe, this being the anniversary of the first mediation session held in NSW. Tim McGrath, Assistant Director General attended the celebrations as the representative of the Minister, The Honourable R.J. Debus.

CJCs was well represented at the 8th National Mediation Conference in Hobart which gave staff and mediators the opportunity to network across the ADR profession and gain up to date information on international and Australian issues in ADR, in particular the proposed National Accreditation System. CJCs presented on best practice evaluation of CJC mediation services provided to Aboriginal people and communities. The presentation was well received.

CJCs Aboriginal and Torres Strait Islander program continues to commit to providing best practice mediation, facilitation and conflict management services to people and communities, in line with the principles and objectives of the NSW Aboriginal Justice Plan.

Further work has been done following the release of the recommendations from the NSW Law Reform Commission on the need to review the CJC Act. It is envisaged that the Act will be amended in the next reporting period.

The CJC Management team and I thank the forward looking and committed team of staff and mediators who continue to focus on providing excellent levels of service to the community of NSW.

Robert Sharp



Aboriginal and Torres Strait Islander Program

CJCs continues to commit to providing best practice mediation, facilitation and conflict management services to Aboriginal and Torres Strait Islander people and communities, in line with the principles and objectives of the NSW Aboriginal Justice Plan.

There are currently 60 Aboriginal and 3 Torres Strait Islander people accredited to mediate throughout NSW. Ten of those mediators have received further training in Conflict Management to enable them to assist in resolving more complex multi party and Aboriginal community disputes.

The number of referrals from Aboriginal parties has continued to rise during 2005 -2006 and it is hoped that the significant increase in mediator numbers and better and more appropriate promotion to Aboriginal communities will result in a further increase in the coming year.

The elected executive of the Aboriginal and Torres Strait Islander Network (the Network) continues to meet quarterly to offer advice to the Director and the program on best practice issues in mediation in Aboriginal communities.

A complete evaluation of the program has been completed with the recommendations contained therein being accepted by the CJC Management Team and implementation of those recommendations has commenced. The Executive summary and recommendations of the Evaluation are available on the CJC Website (www.cjc.nsw.gov.au)

CJCs' Aboriginal program now produces a quarterly newsletter (Yarnin' Up) so as to better inform Aboriginal and Torres Strait Islander mediators of developments in mediation, the program in general and Network information.

Two permanent Aboriginal identified positions attached the CJC Directorate have been recruited and filled. These are a Senior Aboriginal Programs Officer and a Research/Administration Assistant. Both these positions will help to ensure that CJCs builds on current relationships with external and internal agencies and further enhance the service currently offered.

A more expansive role is being developed for Elders including: employing Elders to gain better access to communities and in the promotion of CJCs services. Associated with this role policies are being developed which acknowledge the unique status of Elders in Indigenous society.

Commonwealth funding has been made available to

methods and strategies to reduce family and community violence in Aboriginal communities. Training is to be offered to 12 communities over the next 2 years and could include:

- Recognising conflict in the community
- Recognising conflict in the family
- Elders using traditional roles to deal with disputing behaviours
- How to access services to deal with conflict
- Referral processes for mediation and conflict management
- Referral processes/agencies for victims of family violence
- How to run and the facilitation of community meetings
- Dealing with conflict through facilitated meetings

Policy and Projects

2005-6 has seen a focus on improved professional standards for both staff and mediators.

The importance of a values based approach was reflected through the delivery of training that focused on improving services to all clients. This included, Flexible Service Delivery, Understanding Racism and Cross Cultural Awareness Training in relation to CALD and A&TSI clients.

Domestic Violence (DV) Awareness Training was also piloted, culminating in a DV intensive training course. The objective of the latter was to develop a specialised panel of mediators and staff who have undertaken competency based assessment and could deal with a complex issue such as domestic violence with regard to both policy and legislative considerations.

Training and staff and mediator feedback has influenced policy development and changes, particularly with respect to use of Interpreters, Support People in mediation sessions and mediator confidentiality statements.

There has been ongoing provision of practice and policy information to staff and mediators through regular newsletters, practice alerts and fact sheets. All are also available via the CJC website.

CJC is involved in the Network of National ADR

Agencies that are State Government based. QLD, NT, VIC and the ACT meet regularly, share information and training materials. Joint submissions have been made on the National Accreditation of Mediators project as well as the provision of national training. A 'Cross Border' Accreditation Policy has been agreed to and implemented to increase the work experience of mediators and to improve service delivery across State border areas.

The need for further information and/or changes in Legislation identified the need for training and policy and practice development in the areas of domestic violence, subpoenas and Freedom of Information.

CJCs continued to build partnerships with other Government Departments with training and pilot programs with the Department of Housing in Wagga and Newcastle. The latter pilot saw the launch of a joint outreach program in public housing estate with both CJCs and DoH staff in attendance to work with tenants in dispute.

There has been continued work with the Children's Court regarding further training for Registrars.

As well as working closely with Legislation & Policy with respect to the Review of CJCs Act, CJCs has been actively engaged with submissions regarding other new and amended Legislation.

CJC has been represented on the steering committee of the Community Services and Health Industry Skills Council in developing competencies and qualifications for ADR practitioners pursuant to changes to the Family Law Act.

As part of a strong commitment to evaluation and a focus on the future of ADR in NSW, CJCs commenced the process for a review of service delivery. This process was initiated by a Program Logic, which in turn provided direction for the development of an ongoing review plan.

Highlights

In addition to the achievements described in the Aboriginal and Torres Strait Islander Program and Policy and Projects section of this report, 2005-2006 contained highlights across 3 broad areas:

1. Partnerships
2. Training and development of staff and mediators
3. Expansion of services in partnership with Local Courts.

1. Partnerships

CJCs considers the activity of developing and strengthening partnerships essential to the delivery of excellent alternative dispute resolution services to

the people of NSW.

As CJCs major referrer, Local Courts has been a partnership focus. Both CJCs and Local Courts have maintained a strong commitment to the Local Court Working Party, which identifies initiatives for service improvement, evaluation and implementation.

State wide regular meetings were held with other Government, non-Government and advocacy groups to increase knowledge and use of ADR for resolving conflict within their client groups. Particular focus was on the Department of Housing, Department of Community Services, Local Government and Aboriginal communities.

CJC and Law Access continue to work together to improve referrals and service to the community. An E- referral process was established and implemented as well as CJCs delivering information sessions for Law Access staff resulting in an increase in referrals.

CJCs is strengthening ADR approaches for young people. CJCs took the opportunity of Law Week to host a panel discussion on Young People and ADR in particular in relation to community conflict. The discussion resulted in potential partnerships with youth organisations and CALD services to increase awareness for young people and to create opportunities for CJCs to engage with young people at a grass roots level. CJCs also evaluated a Peer Mediation Program delivered to Warilla High School with a view to conduct further programs.

Research undertaken by a social work student on placement from Sydney University identified new areas of work and partnerships for CJCs to consider in order to improve CJCs service delivery to young people.

2. Training

CJCs continued to place a strong emphasis on training for staff and mediators. Staff training focused on service delivery namely, working with clients from a CALD and A&TSI background, clients with a disability and clients experiencing or who have experienced domestic violence. Staff have also been engaged in dealing with change, particularly with respect to the review of CJCs services and the Act.

CJC training courses for mediators are steadily being aligned to the Competency Based Training model and in particular to the requirements set out for the Certificate IV in Community Mediation. In adopting the competency-based system, mediators are now assessed as a part of all training activities.

Mediators across the State completed a wide range of training. A key course is the compulsory Skills Update training course. The theme for the next 2 years is Working within a Legal and Ethical framework, one of the core units of competency in the Certificate IV in Community Mediation.

Over 500 mediators attended training, which was included in the 2005-2006 Annual Report. This training included:



- Domestic Violence and AVO Awareness
- Parenting Plan information sessions
- Aboriginal and Torres Strait Islander Cultural Awareness
- Working with Link-up
- Culturally and Linguistically Diverse (CALD) client service
- TAM
- Flexible Service Delivery (for clients who have a disability)
- Pre-mediation Skills
- Small Claims
- Conflict Management (for disputes involving multiple parties)
- Agreement Writing
- Mediator as a Team
- Facilitation Skills

In addition, 12 Aboriginal and non-Aboriginal mediators were trained in the Certificate IV in Training and Assessment. This ensures a skilled and professional training panel for the CJC beyond the next 12 months.

3. Expanded services in Local Courts

On 29 May 2006 the new Mt. Druitt Court complex was opened. CJC's has an office there and the service has raised the profile of mediation as an alternative to litigation in the district. The CJC's has a mediation room within the complex and can also offer an after hours service. Mt. Druitt office provides a Mediation Advisor service 2 days per week.

Campbelltown CJC has been able to expand the service provided in the CJC office adjunct to Campbelltown Court. A mediation advisor is present at Campbelltown four days per week

Client Satisfaction

CJC's has a focus on improving client satisfaction. 'Have Your Say' forms are distributed to all clients involved in mediations and feedback is followed up by CJC staff.

Service Delivery

Matters are efficiently dealt with by CJC's without waiting periods and delays, although some cases may take longer to finalise due to the complexity of the dispute and the willingness or time constraints of parties involved.

- 71% of files opened were closed and finalised within 30 days
- 94% were closed and finalised within 60 days.

These figures are comparable to the last reporting year in which 72% and 93% were closed and finalised within 30 and 60 days respectively.

Outcomes

The statistics show a slice of the services and outcomes provided by CJC's, however just how success is measured is an area for further research and consideration.

- What are the factors that influence the second party to agree to mediation? (a signed agreement may not be the only measure of a positive outcome),
- What skills and experiences do clients take away from the session? and
- How do we measure the impact of our premeditation service?

A focus on obtaining further client feedback is planned for the next financial year.

The *Community Justice Centres Act 1983*, Section 23 provides that:

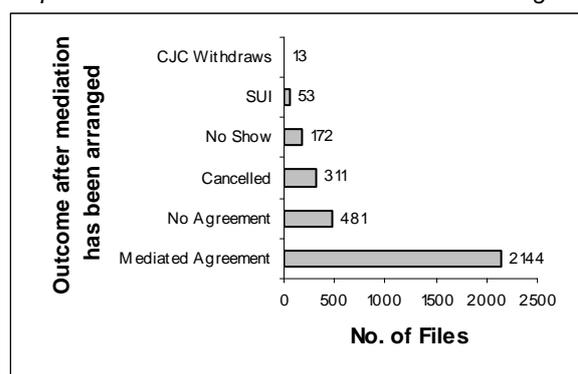
- (1) Attendance and participation in mediation session is voluntary;
- (2) A party to a mediation session may withdraw from the mediation session at any time.

The experience of similar mediation projects in other parts of the world is that where mediation is a voluntary process, both parties will agree to a mediation session in about one third of all disputes.

Files opened during the year under review totalled 7,144. Of the 2,691 matters that proceeded to mediation, 80% ended in agreement – 2,144. Of all files opened 2,405 (34%) were resolved to the satisfaction of the disputants (this includes matters resolved without the need for mediation).

In the 2005/2006 reporting period mediation sessions were arranged in 3,175 (44%) of files opened

Graph 1: Outcome after mediation has been arranged



- In the year under review, a mediation session was arranged in 44% of cases
- Where a mediation session was held, agreement was reached in 80% of sessions
- In 17% of cases, the administrative units were unable to contact, or had no response from Party B
- Party B declined in 20% of all cases
- A further 261 disputes (4%) were resolved, without proceeding to mediation, to the satisfaction of the parties.



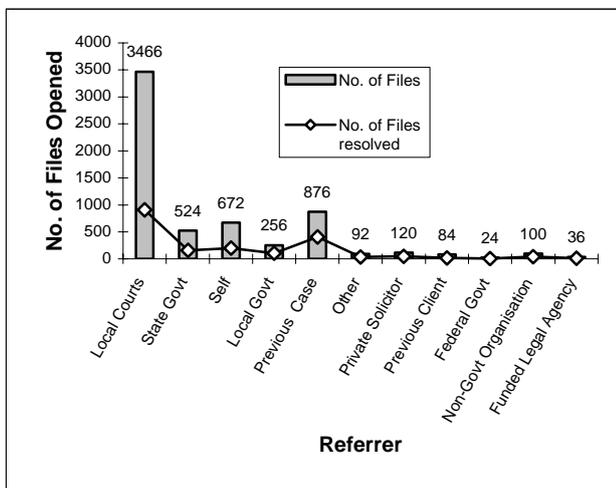
Referral Source

The major source of referral for the year under review was Local Courts (49%). This is the equivalent percentage of referrals received from Local Courts in the previous reporting year.

Referrals from legal sources total 57% of files opened. The breakdown of the referrals is: Magistrate (1343), Chamber Magistrate (893), Registrar (557), Police (190), Private Solicitor (223), Legal Aid (156), Legal Centre (49), Family Court (102), Law Access (339), and Local Court Staff (205).

Other – includes: mediators, trade unions, marriage counselling services, private sector (doctors, banks, personnel, officers, real estate agents, fencing contractors etc.)

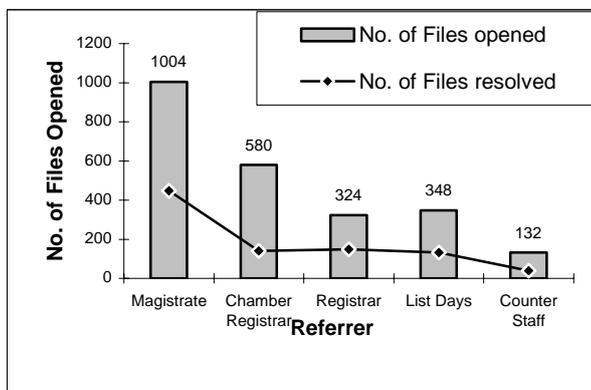
Graph 2 – Referral Source



Local Court Referrals

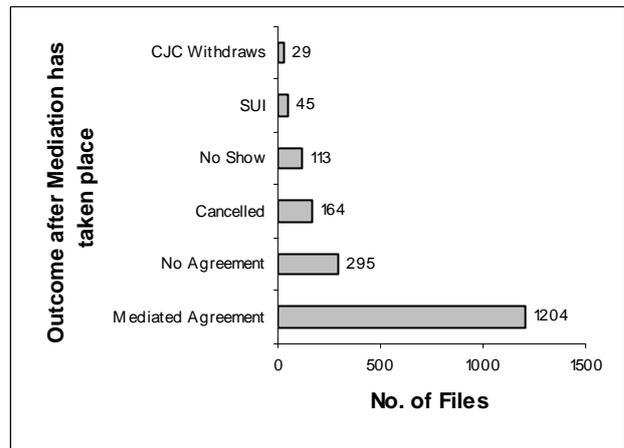
Local Court referrals are broken into five groups of referrers: Magistrates, Chamber Magistrates, Registrars, List Days and Counter staff.

Graph 3 – Local Court Referrals



The outcome of CJC's Intervention after a mediation session had been arranged for Local Court referrals as a whole are demonstrated in the following graph.

Graph 4 – Local Court Referrals – Outcome after mediation has been arranged



Apprehended Personal Violence Orders were involved in 953 cases (13%).

Relationship between the Parties

Neighbour disputes at 37% continue to be the most frequently represented in the caseload.

Family disputes account for 35% of the work of CJs, an increase from last year's 28%. Family disputes include those between separating or separated spouses, parent and child relationships as well as other family. Separating or separated spouses account for 77% of family disputes (compared to 2004-2005 71%).

Disputes involving adolescents or young adults and their parents account for 9% of all family disputes. Many of these disputes have been before the Children's Court as irretrievable breakdowns in family relationships and the resolution at mediation enables the young person to remain at home, or to leave home by agreement. This reduces the likelihood of "risk" behaviour on the part of the young person.

Services to Aboriginal and Torres Strait Islander Communities

CJCs continually monitor the demographics of our clients, thereby gaining an understanding of which communities are successfully accessing and utilising the service.

This reporting period has seen that 5% of CJC clients are from an Aboriginal and Torres Strait Islander community.

Nature and Complexity of Disputes

The data collected in this table is somewhat subjective as the complaints recorded depend upon the matter immediately important to Party A at the time of the interview. Therefore, it is a conservative picture of the nature and complexity of the dispute.

embarrass/annoy.

The method of classifying the nature of dispute recognises the separate components of:

- the disputing behaviour (behavioural complaints); and
- the presenting problem, or specific problem (specific complaint).

For the reporting period:

- the number of behavioural complaints totalled **14,347**;
- the number of specific complaints recorded for all cases totalled **10,841**; and
- the average number of complaints per case was **4**.

The most frequently mentioned complaints were:

Behavioural Complaints

➤ Refusal to negotiate	2,317
➤ Shouting, abuse	2,010
➤ Inability to communicate	1,891
➤ Insults, taunts	1,253
➤ Money, debt	1,163
➤ Repeated refusal or failure to act on complaints	949
➤ Repeated complaints, regarded as trivial by recipient	781
➤ Noise – any source	476
➤ Threats of violence - things thrown	450

Specific Complaints

➤ Family – Contact	1288
➤ Invasion of Privacy	781
➤ Fence	731
➤ Residence of child	511
➤ Lifestyle, Environmental	746
➤ Division of property	472
➤ Children -Behaviour, noise, rudeness	343
➤ Parenting issues	443
➤ Children - Nuisance caused by, discipline of, Concern for care of	292

How Serious are the Disputes?

Of the disputes dealt with by CJs, 21% involve harassment, threats, property damage, theft or violence.

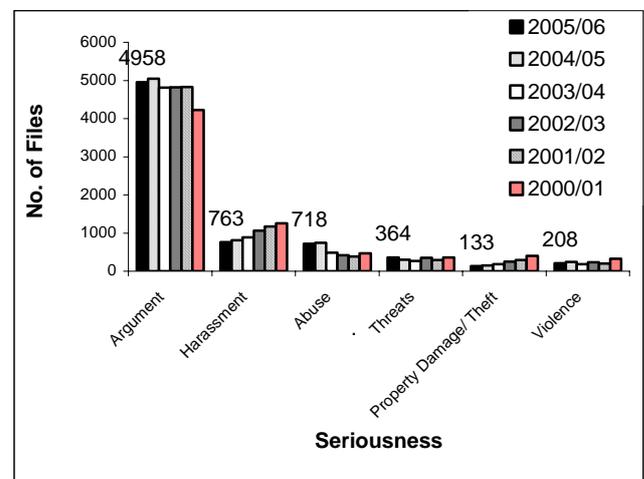
Examples of categories:

- **Argument** – may mean that parties are unable to reach agreement or are unable to communicate.
- **Abuse** – may include heated and repeated arguments ending in insults or written abuse.
- **Harassment** – could involve repeated attempts to

- **Threats** – may include threats of violence or property damage, threats of legal action.
- **Property Damage/Theft** – deliberate damage to property, alleged theft, accidental damage with no intention to repair.
- **Violence** – may mean there has been a violent act against the person.

It is important to highlight that disputes are usually multi-faceted frequently involving complex multiple issues.

Graph 5 – Seriousness of the disputes



Service User Profiles and other caseload statistics are available from the CJC Directorate or on the CJs website at: www/cjc/nsw.gov.au/cjc.nsf/pages/publications



Glossary of Definitions

Party means the person, persons or organisations involved in matters dealt with by the CJsCs.

Party A is the person who contacts CJsCs to raise the matter and open a file, the other people or organisations involved are identified as **Party B**, **Party C** etc.

Aboriginal where the word Aboriginal is used through the document, it should be taken to include those people that are of Aboriginal or Torres Strait Islander descent.

Community Dispute is a dispute where a community, organisation, or group need to agree on a course of action, but the issues, options or constituencies are not clear. This type of dispute requires substantial intake procedure of a more analytical nature in order to identify the constituencies, clarify the issues and options.

Conflict Management involves the assessment of all of the aspects of the conflict and the planning of a course of action which will most likely result in the resolution of most if not all of the concerns. The three general approaches to conflict management are: conflict anticipation for potential conflicts; cooperative problem-solving for acknowledged but not highly polarised disputes; and mediation for highly polarised situations. Conflict Management is outcome-based, fosters direct negotiations between disputants, and includes a design for the future.

Dispute Advisory Service is the process where the Interviewing Officer assists a disputant to explore all the options available to them and the disputant chooses a course of action to resolve the dispute themselves.

File Opened is where Party A contacts CJsCs to arrange mediation in order to resolve the dispute.

Mediation is a process in which the parties to a dispute, with the assistance of a neutral third party (the mediator/s), identify the disputed issues, develop options, consider alternatives and endeavour to reach an agreement. The mediator has no advisory or determinative role in regard to the content of the dispute or the outcome of its resolution, but may advise on or determine the process of mediation

whereby resolution is attempted.

Pre-mediation is a process in which a third party (the pre-mediator) investigates the dispute and provides the parties or a party to the dispute with advice regarding the issues which should be considered, possible, probable and desirable outcomes and the means whereby these may be achieved.

Shuttle Mediation is a process in which the parties to a dispute with the assistance of a neutral Interviewing Officer identify the disputed issues, and further identify the issues which may be resolved by this process, develop and consider options for settlement and endeavour to reach an agreement without the parties being brought together or communicating directly. The Interviewing Officer has no advisory or determinant role on the content of the dispute or its resolution, but will continue to advocate direct communication as the most productive way of resolving all issues.

Standard Dispute is any dispute where the two parties or two sides to the dispute can be readily identified. There may be more than one person in either or both parties. The presenting party (Party A) at least recognises that there is a dispute and is able to say what the dispute is about. In CJC terms there will be a Party A and a Party B. There may also be A2, A3 and B2, B3, B4 etc, but the dispute is considered manageable within normal intake procedures - standard letters etc.

Statement of Unresolved Issues (SUI) is where parties who have not been able to reach agreement are assisted in writing a document which outlines the offers that may have been made, and the perceptions by each party of the dispute. This reminds parties how far they have come in understanding what has happened in the past, in understanding each other, and how they would like things to be in the future. Parties are able to look at the SUI at a later time and the transfer of these skills may assist the parties to determine ways to resolve their dispute after the mediation session.

