

Official Launch of Duty Lawyer DVD and Handbook

Judge Marshall Irwin, Chief Magistrate

22 April 2005, Brisbane

The Chief Justice of Queensland has recently observed that the Supreme Court's greatest current challenge is probably self representation. Statistics demonstrate that this is an increasing issue for the higher courts, including appeal courts.

If this is a challenge to the higher courts, it is easy to appreciate the extent of the challenge to the Magistrates Court which deals with about 96% of all criminal cases commenced in Queensland. These cases involve a wide variety of complex and difficult issues.

This is why the Duty Lawyer Scheme that was introduced in Queensland in 1974 is essential to what the *Magistrates Act* describes as the orderly and expeditious discharge of the court's jurisdiction.

As set out in the *Duty Lawyer Handbook* the scheme ensures that:

“No person charged with a criminal or serious offence [is] through ignorance, lack of financial resources or other disadvantages... denied legal advice and representation either at the initial appearance or at a subsequent remand”

Consistent with this philosophy Duty Lawyer services are provided free to all unrepresented defendants appearing in our Magistrates and Children's Courts on remands, bail applications, pleas of guilty and related matters other than trials and committal proceedings. This service is not subject to a means test. Legal Aid Queensland also conducts regular duty lawyer services to all prisons in Queensland.

The importance of the scheme is demonstrated by the fact that since July 2004 in house Legal Aid staff have represented nearly 20,000 defendants in the Magistrates and Children's Courts, and private solicitors have represented nearly 25,000 defendants.

Because of the geographical area and the decentralisation of Queensland with 84 Magistrates appointed to 30 different centres and sitting in over 100 different courts, it is essential that in house Legal Aid lawyers are joined by private solicitors in the delivery of the scheme. This ensures that as many people as possible have access to justice.

Legal Aid Queensland took over responsibility for duty lawyer accreditation from the Queensland Law Society in May 2004.

The accreditation program has been reviewed and updated to ensure legal practitioners are well equipped to take on the challenging role of a duty lawyer appearing in court.

The Duty Lawyer Handbook and DVD reflect Legal Aid Queensland's commitment to ensuring duty lawyer services are provided at a consistently high standard.

The Handbook provides a succinct theoretical and practical guide for practitioners operating as duty lawyers. This is the 4th edition of the Handbook. The first was published in 1986 by the then Legal Aid Office. This edition of the Handbook has been completely updated and rewritten to reflect the substantial legislative changes and case law developments which have occurred in recent years.

The work of Legal Aid's Andrew Kennedy who was commissioned to revise the text is to be complimented, as are the other staff who have contributed, in particular Sue Ganasan, Tim Herbert, Chris Inman, Peter Jensen, David Kolbe, Jodie O'Leary and John Thompson.

This comprehensive work highlights most of the issues which are likely to be encountered by duty lawyers, and ensures that the Handbook remains an essential tool for duty lawyers.

This is demonstrated by reference to the Chapter headings which include Bail, Magistrates Courts and the *Justices Act*, indictable offences which can be dealt with summarily, Specific Offences under the *Criminal Code* more commonly dealt with and defences thereto, Commonwealth offences, Extradition and deportation, Drug Offences, Motor Vehicle offences, Juvenile justice, Conduct of pleas of guilty, Sentencing Options under State legislation and Mental Illness.

There is a Miscellaneous chapter which provides a ready reference to some of the vast array of legislation which regularly arises for our court's consideration for example, - the *Regulatory Offences Act*, the *Weapons Act*, the *Police Powers and Responsibilities Act*, and the domestic violence legislation.

A reference to the *Vagrants, Gaming and Other Offences Act*, demonstrates the importance of this being a loose leaf service, and the fact that the authors will be kept busy with updates given the pace of legislative change.

I was particularly pleased to find valuable tables on often difficult issues such as whether indictable offences can be dealt with summarily and penalties under the TORUM legislation. These will be valuable references for legal practitioners and judicial officers alike.

The scholarship and industry that have gone into the Handbook are obvious.

Turning to the DVD – it offers invaluable practical guidance with information for duty lawyers on how to handle their time, communicate effectively and manage their client's expectations.

One of the key aims of the DVD is to ensure new duty lawyers start out on an equal footing when it comes to understanding the major practical challenges encountered by them day-to-day.

It will be of particular benefit to rural and regional practitioners who might not have the opportunity to view the same range of matters as their city counterparts during their accreditation process.

The making of the DVD has seen the collaboration of a range of key stakeholders from within the justice system – from police to Magistrates to youth justice officers to security guards.

I know that Legal Aid Queensland is grateful to the many people who have volunteered their time and expertise to both projects.

It therefore gives me great pleasure to launch these two important recourses for the criminal justice system.