

DELIVERY OF LEGAL SERVICES — THE INNOVATIVE APPROACH OF THE FITZROY LEGAL SERVICE

BY DAVID NEAL*

[Until recently there has been a dearth of quantitative research on the effectiveness and availability of legal aid services in Australia. Mr Neal attempts to remedy this situation by presenting the results of an intensive study of the operations of the Fitzroy Legal Service conducted over a two and a half year period. Although in some respects this work is of a preliminary nature, it provides some useful data on such matters as the case load handled by the Service, the use of the Service by migrants, the types of problems dealt with and the services provided to clients. In an effort to maintain a suitable level of efficiency and usefulness, the author recommends that all legal aid services should be monitored in a way similar to that undertaken by the Fitzroy Legal Service.]

1. INTRODUCTION

On December 18, 1972 Fitzroy Legal Service (also referred to hereafter as 'the Service') began operations. As one of the first voluntary legal services in Australia it has attracted a good deal of attention from the public, those concerned with the planning of legal aid, and of course, from the legal profession. This article will present the preliminary results of a statistical analysis of cases handled by the Service in the two and a half year period July 1974 to December 1976.

The approach of Fitzroy Legal Service to the delivery of legal services is innovative. It has made a conscious effort to involve the local community in its operations, to involve clients in the solution of their own problems and to bring about a situation where lawyers were seen as a resource to be tapped rather than as controlling and defining the service given. Its egalitarian philosophy is embodied in its Constitution which provides for it to be run by a general meeting comprising all members. (Membership is open to all who pay the membership fee of \$1).

The founding members decided to locate the Service where the people with the problems were thought to live. Fitzroy is an inner suburban area of Melbourne with a high concentration of tenants, migrants, aborigines, students and working class people. It is surrounded by suburbs with similar characteristics. On the information available to the founders of the Service, these low-income groups had a poor access to lawyers. Poor access was seen not in a geographic but in an economic, psychological, and social

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sense.¹ To overcome this problem the Service was set up in the basement of the Fitzroy Town Hall without the plush trappings of many legal offices; it was to be free and it was to be open in the evenings so that those using it would not lose wages through taking time off work.

Apart from these matters, the founding members saw a more general role for the Fitzroy Legal Service in providing community legal education and participating in law reform through test cases and submissions to law reform bodies on issues affecting their clientele. Thus, rather than setting up what they describe as a 'band-aid' organization (i.e. providing limited relief to those who already had a legal problem) they hoped the Service would to some extent act as a body which prevented problems from arising.

By December 1976 the Fitzroy Legal Service had seen in excess of 10,000 cases (see Table 1). This is a remarkable performance by a voluntary organization and, from the point of view of the planning of legal aid, documents the contribution of voluntary legal services. This contribution (particularly in the case of Fitzroy Legal Service) has been recognized by Professor Sackville in his report for the Poverty Commission, *Legal Aid in Australia*.² However, until now, little empirical information has been available about the work of Fitzroy Legal Service, or any of the other voluntary legal services that have sprung up since the inception of Fitzroy Legal Service.³ This is not to criticize the voluntary legal services — the information on delivery of legal services generally in Australia can at best be described as jejune.⁴ The fact that such information is available about the Fitzroy Legal Service is another mark of its innovativeness and of the foresight of two students who studied the first six months operation of the Service.⁵ As a result of their work statistical record cards and a filing system were devised to facilitate future analysis. This made the present study possible. The information gained allows precise assessment of the potential contribution of voluntary legal services and more importantly, provides a sound empirical basis for the planning of legal service delivery which has formerly proceeded on educated guesses.

The first of two principal caveats ought to be entered at this stage. The results to be presented represent only a minimum statement of the work performed by Fitzroy Legal Service. They do not present information on the thousands of phone calls received over the period since it opened. Although there is a policy of not giving advice over the telephone, it is often honoured in the breach and, in any event, dealing with the calls at all

¹ On these points see Sackville, *Law and Poverty in Australia* (A.G.P.S. 1975) 31 ff. and the references cited.

² *Ibid.* 111.

³ There are 35 voluntary legal services listed in Gardner, Neal and Cashman (eds.) *Legal Resources Book* (Fitzroy Legal Service, 1977) 1-3 ff. Similar services exist in other States but are not so numerous.

⁴ A notable exception is the study by Cass and Sackville, *Legal Needs of the Poor* (A.G.P.S. 1975).

⁵ Cashman, *The Fitzroy Legal Service* (Research Project, Faculty of Law, University of Melbourne, 1973) and Van Moorst, *Fitzroy Legal Service* (Honours Thesis, University of Melbourne, 1973).

represents a very large volume of work. Also the present results do not account for numerous cases for which no file was opened, nor do they represent the work done pursuant to the broader aims of the Service: preventative law, community legal education and law reform.

2. BACKGROUND

Some idea of the structure and mode of operation of Fitzroy Legal Service has already been given. In order to place the results of the analysis in context, some further detail is required.

The finances of the Service are of the shoestring variety. Premises, telephone and postage are provided by the Fitzroy City Council which initially made cash donations. The Collingwood City Council has made annual donations (the largest of which was \$4,000 in 1977) and donations from members of the public amount to, at best, \$2,000 per year. The main source of income has been Federal Government grants in 1974, 1975 and 1976 of \$20,000, \$20,000 and \$22,500 respectively. Thus at the time of writing, the annual income of the Service would be about \$28,000.

The Service operates primarily through about 70 volunteers, lawyers and non-lawyers, who work on roster every week night between 6 p.m. and 10 p.m. Their efforts are co-ordinated by a paid day-time staff whose salaries make up the largest item of expenditure. The first employee of the Service, a full-time solicitor, commenced work in February 1974. His role was to perform emergency legal work, to ensure that follow-up work was done on files opened by the volunteers, and to develop an efficient system of administration for the Service. He was not available to see new clients who were referred to the evening staff. The receipt of the first Federal Government grant late in 1974 allowed employment of additional staff. The full-time solicitor was replaced in April 1975 by an Administrator (who also happened to be a solicitor) and a new position of Legal Co-ordinator was created. The role of this latter person was to further the broader aims of the Service. In May 1975 a secretary was employed through the now defunct Regional Employment Development Scheme — her salary is now taken from general income. Despite these staff there was still difficulty coping with the legal work generated by the voluntary staff. This difficulty was acute in cases where the client was unable to pay for a private solicitor or to obtain legal aid. In order to surmount this difficulty a full-time solicitor was located within the Service in April 1976. His time was to be apportioned between his own private clients (a small percentage of whom would be clients who were able to pay or eligible for legal aid, referred by the voluntary staff) and clients of the Service who were unable to pay for a private solicitor or to obtain legal aid. There was a ceiling on the amount he could earn. During 1976 the Service also had an articulated clerk. Besides salaries the other large item of expenditure was office expenses (*e.g.* stationery, workers compensation and professional

indemnity insurance, etc.). These items of expenditure in fact consistently exceed the income of \$28,000 and in 1977 there was a deficit of \$7,500 (approximately). The fact that the deficit was not larger was due largely to the fact that staff were prepared to accept substantially lower salaries than they could have obtained outside the Service.

When a client attends the Service he is seen by a non-lawyer who asks the client for information necessary to complete a statistical record card. It is explained that the information is required for research and the client's co-operation is requested.

The cards are pre-coded to facilitate analysis by computer. They provide for information of a personal nature (sex, age, marital status, number of dependants, address, occupation, union membership, ethnic group, year of arrival in Australia, need for an interpreter and housing), the date on which the client attended and by whom he was seen. If representation is to be arranged details of financial commitments and income are also taken. The non-lawyer also opens a file and takes a short statement from the client about the problem.

Most often there is some waiting period before the client is seen by the lawyer. This varies according to how busy the Service is and how many lawyers are present. The lawyer then completes the information on the statistical record card about the type of problem and the service provided. There is provision on the cards for cases where more than one visit is necessary and for assessment of the result of the action taken. Where the client has more than one problem the practice regarding recording of statistics has varied. Sometimes both problems are shown on one card, whilst in the majority of multiple problem cases, a new card is completed in respect of the second problem. The reference in this paper will be to the number of *cases* handled rather than to the number of people seen.

It is at this point that the second *caveat* about the study must be entered. The statistical record cards have been completed by a large number of volunteers. Due to a vague malevolence towards bureaucratic procedures (shared by writer), flaws in the design of the cards, sensitivity about certain questions (e.g. asking the age of elderly clients), and various other problems, there is a good deal of information which has not been completed on the cards. In addition it is not possible to be confident of absolute consistency in categorization of information. These shortcomings are compensated for, to an extent, by statistical adjustment of the missing information (shown as Adj. Freq in the accompanying Tables) and by noting that the large number of cases in the data will tend to compensate for errant classification.

3. METHODOLOGY

The information contained on the statistical record cards was transferred to coding sheets in December 1976-January 1977. It was then

punched onto data cards and processed by computer utilizing a program known as the Statistical Package for the Social Sciences.

The number of cases in the study totals 5,797. For the purposes of defining the period studied 174 cases were excluded because total figures for the months in which they occurred were not available. (They occurred in the weeks just before and just after the period studied.) The period studied is from 1st July 1974 to December 31st 1976 in which 5,623 cases were found. Exclusion of these cases allows the calculation in Table 1. For other purposes the total number of 174 cases is used.

The Tables presented here are reasonably straightforward. Frequency (abbreviated to Freq. in the Tables) indicates the number of times a given situation occurred in the cases studied. The adjacent column shows the frequency as a percentage of the total number of cases *i.e.* 5,797. In some Tables it has been possible to distribute Missing Information over the other categories, in proportion to the frequency prior to distribution of Missing Information. This is shown as a percentage in the column Adj. Freq. (*i.e.* Adjusted Frequency).

This article is limited to the presentation of the preliminary results and some brief commentary on the possible significance of the findings. References to existing research findings on similar subject matter appear in footnotes.

It should be appreciated that analysis of the data is still at an early stage and at many points it is only possible to indicate the directions of further research which will, I trust, be published at a later date. It was felt that the need for further research did not warrant delay in publication of the preliminary findings.⁶

4. THE RESULTS

(a) *The Case Load*

As has been said, since opening the Fitzroy Legal Service has handled at least 10,000 cases. Table 1, shows how the figure is arrived at.

TABLE 1
CASE LOAD

<i>Period</i>	<i>No of Cases</i>
(A) 18/12/72-30/ 6/73 ¹	1,666
(B) 1/ 7/73-30/ 6/74	(est) 2,760 ²
(C) 1/ 7/74-31/12/76	5,623 ³
	<hr/> 10,049 ⁴

¹ Study by Cashman and Van Moorst. (Average 273 cases per month excluding December 1972.)

² Estimate based on the average monthly case load for the two periods that have been studied.

³ This is the figure for the present study. The average is 187 cases per month.

⁴ There is an average of 209 cases per month since the Service opened.

⁶ The writer would welcome readers' comments on the findings and suggestions as to the direction of further research on the data.

Detailed analysis now exists for periods (A) and (C). The statistical record cards now in use were the result of a recommendation in the Cashman/Van Moorst study which analysed period (A). These cards came into full use on 1st July 1974. There was some attempt at that time to have the information from the files of period (B) entered on the statistical record cards but it did not proceed very far. Hence, for period (B), an estimate based on average monthly attendance in periods (A) and (B) has been used. If anything this probably understates the position as the average monthly attendance was a good deal higher in period (A) than in period (B).

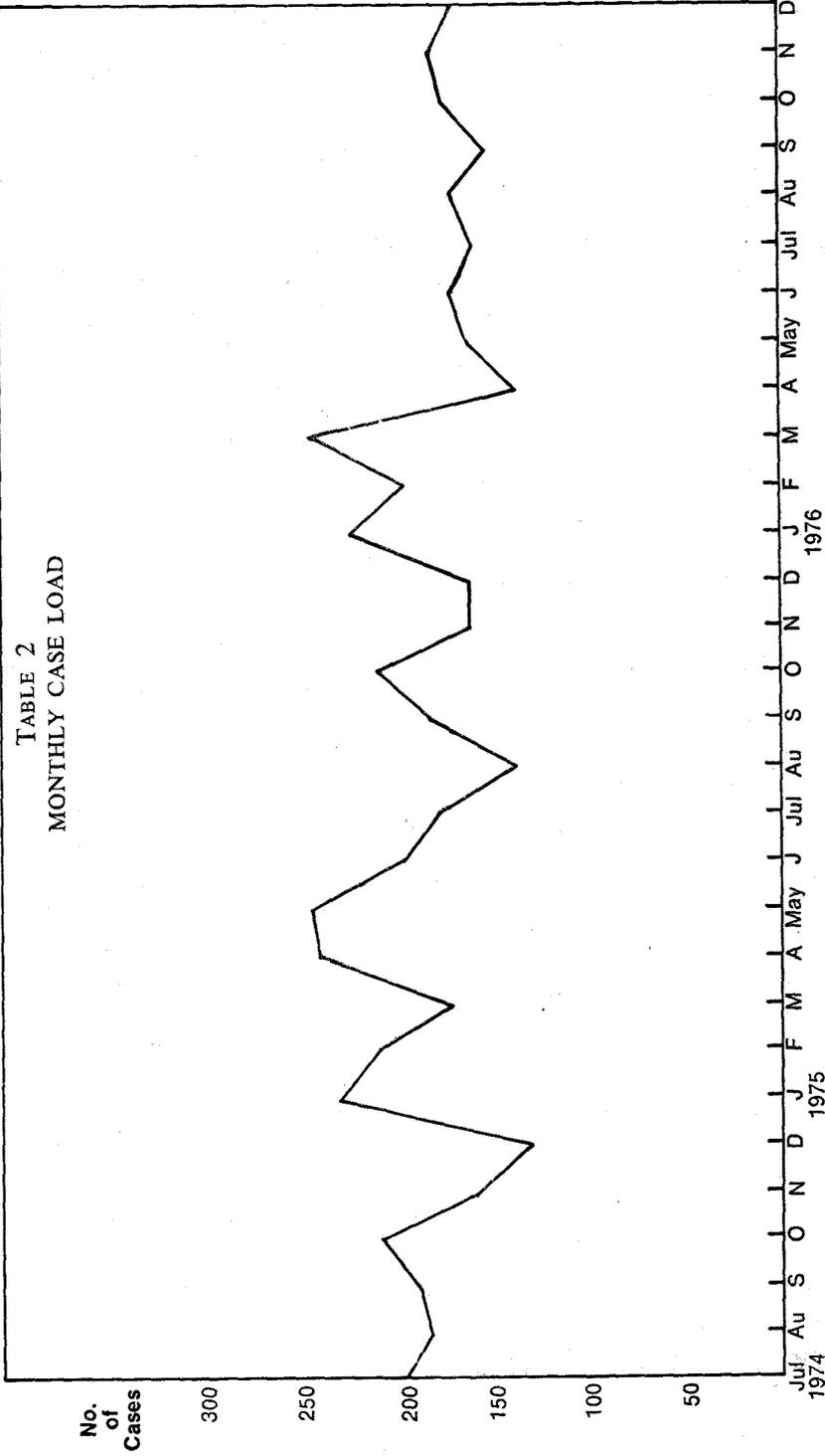
The drop in average monthly attendances from 273 to 187 cases per month, between periods (A) and (C) is of interest. The probable explanation is the opening of other voluntary legal services, especially the Tenants Union and the Australian Legal Aid Office in the intervening period. It may also be that the publicity the Service attracted upon opening and a backlog of legal problems contributed to high attendances in the earlier period.

It is surprising that the average monthly attendance has not dropped more sharply. There are now 32 voluntary legal services operating in the Melbourne metropolitan area whereas prior to the opening of Fitzroy Legal Service there were none. It might have been expected that they would draw clients away from the Fitzroy Legal Service. The operation of the Tenants Union seems to have had a direct effect on monthly attendance. The high proportion of cases involving tenancy problems at Fitzroy Legal Service prompted members to form a special division of the Service to specialize in that area of law. After beginning within the Fitzroy Legal Service in 1974 it moved to separate premises (and filing system) in May 1975. Any clients who came to Fitzroy Legal Service with tenancy problems after that date were referred directly to the Tenants Union which currently sees about 80 new cases per month. This fact seems to explain a sharp fall in attendances after May 1975 which can be seen from Table 2 which graphs the monthly case load for the period of the present study *i.e.* July 1974 to December 1976.

The Table shows a slight decline in the monthly case load over the study period. The graph now seems steady at 170-80 new cases per month. Because of the separation of the tenancy problems, the beginning and the end of the period are not exactly comparable. If, for the purposes of comparison, the Tenants Union case load were added to the case load at the end of the study period, it would show about 260 new cases per month which is similar to the figure of 273 cases per month in the Cashman/Van Moorst study.

By way of a complete picture of the work load it should be mentioned that it is not accurate to equate work load with the number of new cases per month. It is common for a client to visit the Service several times

TABLE 2
MONTHLY CASE LOAD



regarding his case. The 5,797 cases studied involved 8,867 recorded client visits for an average of 1.5 visits per case.⁷

(b) *Source of Clients' Knowledge of Fitzroy Legal Service*

There are difficult problems in reaching the group for whom Fitzroy Legal Service was established, the poor. One obvious means of communicating with potential clients is by advertising. Fitzroy Legal Service was able to avoid the strictures of professional ethics and advertised widely in early years through the local media, other welfare groups and by leaflets. Table 3 shows how clients found out about the Service.

TABLE 3
SOURCE OF CLIENT

	<i>Frequency</i>	<i>%</i>
Other Client	862	14.9
General Knowledge	1,636	28.2
Police	113	1.9
Court	46	0.8
Lawyer	108	1.9
Government Body	257	4.4
Legal Service	244	4.2
Social Agency	562	9.7
Publicity	693	12.0
Other/Not Recorded	1,276	22.0
	<hr/> 5,797	<hr/> 100.0

Publicity accounts for knowledge of the Service in 12.0% of cases. This is a remarkable drop from the 31.3% who said they found out about the Service through publicity in the Cashman/Van Moorst study, but understandable in view of the fact that at that stage the Service was just establishing itself, and that the Service made little conscious effort at advertising in the study period. The success of publicity in the earlier study tends to confirm the finding of Australian Nationwide Opinion Poll (ANOP) in relation to advertising the Australian Legal Aid Office (ALAO).⁸ It may also be, however, that publicity only has a short term

⁷ It is possible that this understates the number of visits. When a client returns for second and subsequent visits often only his file is brought out and not the statistical record card. Thus, information regarding the visit does not appear on the statistical record card in those cases. The same practice probably causes understatement of all actions taken subsequent to the first visit.

⁸ 87% of respondents had heard of ALAO. The sources of information of this 87% were:

	<i>%</i>
Television	65
Radio	23
Newspapers	55
Magazine	7
Woman's Weekly Booklet	13
Word of Mouth	34

ANOP, *The Australian Legal Aid Office: A Research Study of Its Communicative Effectiveness* (July 1975).

effect as now general knowledge (28.2%) and Other Client (14.9%) have replaced Publicity as the main source of information about the Service.

(c) *Personal Details*

TABLE 4
SEX OF CLIENT

	<i>Frequency</i>	<i>%</i>
Male	3,721	64.19
Female	1,970	33.98
Married Couple	70	1.21
Not Recorded	36	0.62
	<u>5,797</u>	<u>100.00</u>

TABLE 5
MARITAL STATUS OF CLIENTS

	<i>Frequency</i>	<i>Rel. Frequency %</i>	<i>Adj. Frequency %</i>
Married	2,281	39.3	42.3
Single	2,025	34.9	37.5
Separated	640	11.0	11.9
Divorced	161	2.8	3.0
Widowed	172	3.0	3.2
De Facto	115	2.0	2.1
Not Recorded	403	7.0	(Missing)
	<u>5,797</u>	<u>100.0</u>	<u>100.0</u>

TABLE 6
DEPENDANTS

<i>No. of Dependants</i>	<i>Frequency</i>	<i>%</i>
0	692	11.9
1	678	11.7
2	776	13.4
3	536	9.2
4	278	4.8
5	117	2.0
6	33	0.6
7	21	0.4
8	11	0.2
9	11	0.2
Not Recorded	2,644	45.6
	<u>5,797</u>	<u>100.0</u>

Tables 4, 5 and 6 give the personal profile of clients of the Service. Males outnumber females by approximately two to one. This almost certainly overstates the position. It is suspected that often where a married couple seek advice the male is put down as the client. The design of the cards exaggerates this by failing to provide a category 'married couple'.

The fact that there is some representation of this category was due to the fact that some enterprising interviewers circled both male and female on the cards. It seems improbable that when 42.3% of clients are shown as married (Table 5) there should be such a low representation of married couples.

Table 6 sets out that 42.5% of clients have dependants. It may be that in view of the high rate of information Not Recorded (45.6%) this slightly understates the position. It seems likely that where the client had no dependants the interviewer left the space on the card blank rather than writing in 0. This hypothesis is supported by the high response rate to the question immediately prior (only 7.0% Not Recorded) and by the high percentage of young clients who would be less likely to have dependants.

Where a client had any dependants the average number of dependants was 2.5. Staying within the group who had dependants, 19.1% had four or more dependants.

Table 7 is a graph of Age Groups of clients of the Service.

A percentage breakdown shows that only 0.6% of cases involve people between 10-14 and that the dramatic increase occurs after age 16 (0.7%) to almost double at 17 (1.1%), more than treble at 18 (2.2%) and increase five fold at 19 (3.5%). This is the peak of the yearly age graph (not shown) and is maintained from 19-22 when it begins a sharp decline which only levels off at age 31 where it begins a more gradual and steady decline.

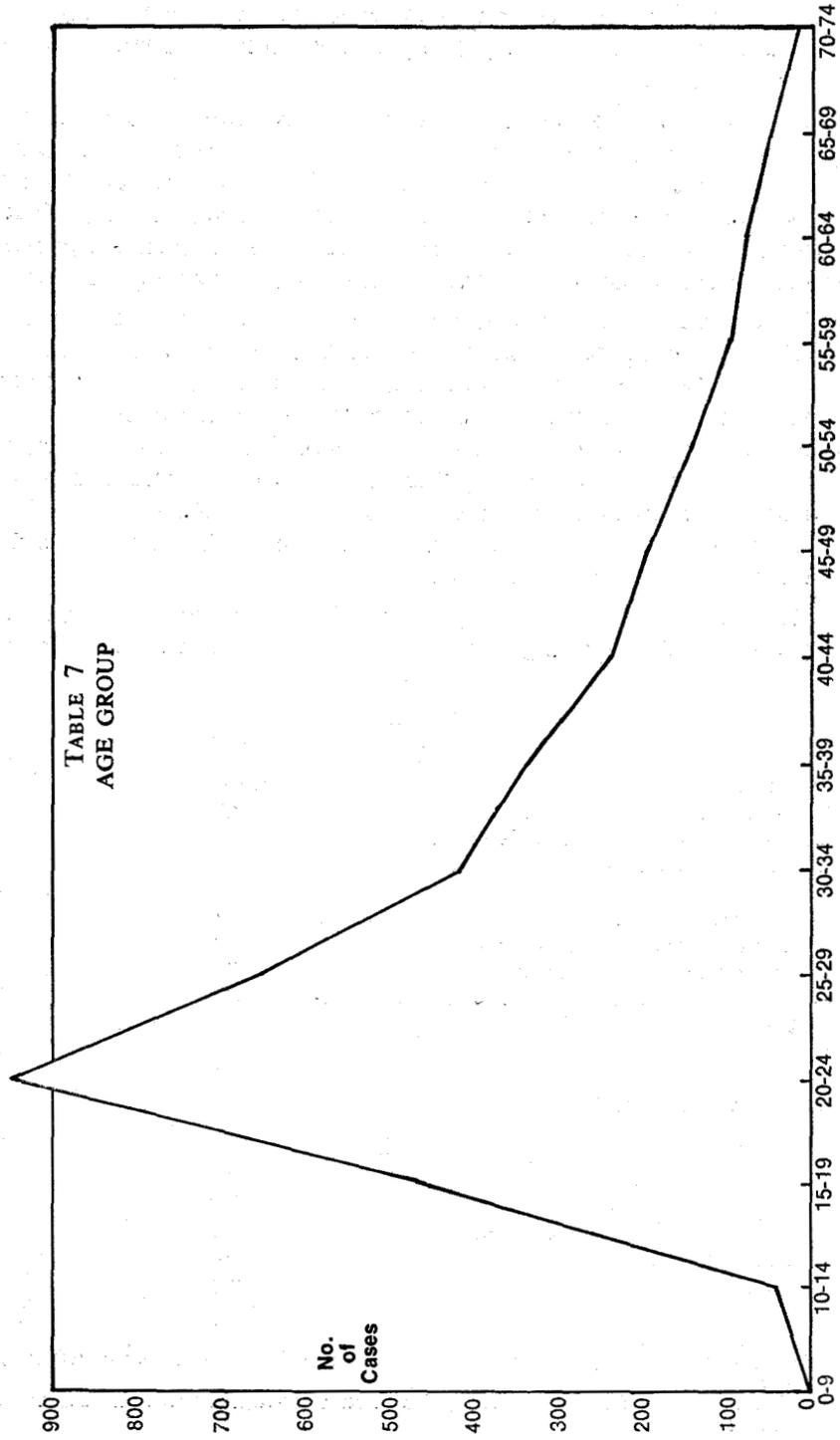
There are two features which draw comment. First, it is apparent that the Service sees very few children *i.e.* those aged 17 or under. Given the concern that is beginning to be expressed about representation of the rights of children in the Family Court and the Children's Court⁹ the question of how to make legal services accessible to this group presents itself, especially in view of the lack of success of Fitzroy Legal Service in attracting them. Some members of the Service have recently set up a Youth Legal Service and its progress will be of considerable interest.

The second feature worthy of comment is the very high proportion of cases where the client is aged between 18 and 30. This group makes up 34.9% of cases. By way of comparison 15.7% of the Victorian population is in the 20-29 age group whereas 27.2% of clients are in the same group. It may be surprising to some that this group is so over-represented in the clientele of Fitzroy Legal Service. The explanation is probably to be found in three factors:

- (i) high student population in the area,
- (ii) a large amount of the criminal, motor car property damage and traffic offences is handled for this age group, and

⁹ Harrison, 'Separate Representation of Children' (1977) 51 *Law Institute Journal* 357; Sackville, *Law and Poverty in Australia* (A.G.P.S.) Ch. 11.

TABLE 7
AGE GROUP



(iii) that matrimonial and related financial problems cause a high incidence of legal work especially around those in middle and late twenties.

These hypotheses remain to be tested and the overall figures must be qualified by the fact that there is a high rate of missing information, 36.1%. (Volunteers, who are predominantly people in their twenties report some embarrassment at asking the age of older clients.) What is important about the finding is the identification of such a significant group in need of legal aid and the possibility of gearing facilities to it.

It has not been possible to locate precisely the socio-economic position of clients of the Service. There is no Means Test and details of income are only requested where representation is arranged. No useful information about income or expenditure of clients of the Service is available. An informal means test operates. If it becomes obvious that a client can pay for legal service and needs more than brief advice he is sent to a private solicitor. It is thought that most people who can afford to pay for a solicitor would do so rather than choose the more limited services available at a voluntary legal service.

Clues to the socio-economic position of clientele can be gained from Tables 8, 9 and 10 which give details of occupation, address and housing.

TABLE 8
OCCUPATION

<i>Occupation</i>	<i>Frequency</i>	<i>%</i>
1. Professional and Technical	402	6.9
2. Administrative, Executive, Managerial	125	2.2
3. Clerical, Secretarial	245	4.2
4. Sales	68	1.2
5. Farmers, Fishermen, etc.	0	0.0
6. Transport and Communication	225	3.9
7. Tradesmen, Skilled Workers	799	13.8
8. Factory Workers, Labourers, Unskilled Workers	988	17.0
9. Service	20	0.4
10. Students	520	9.0
11. Home Duties	337	5.8
12. Pensions and Benefits		
Age	191	3.3
Invalid	149	2.6
Widows	126	2.2
Other	247	4.3
Unemployed (No Benefit)	413	7.1
Unemployed (Receiving Benefit)	312	5.4
13. Other/Not Recorded	630	10.9
	<u>5,797</u>	<u>100.0</u>

¹ Percentage totals slightly more than 100 because decimals are corrected to one place.

² Categories based on those used by the Commonwealth Bureau of Census and Statistics.

TABLE 9
ADDRESS

	<i>Frequency</i>	<i>%</i>
1. Carlton	568	9.8
2. Collingwood	589	10.2
3. Fitzroy	1,429	25.0
4. Melbourne (excluding Carlton)	213	3.7
5. Inner North (Brunswick, Coburg, Northcote, Preston)	669	11.5
6. Inner South (Port Melbourne, Prahran, Richmond, South Melbourne, St. Kilda)	432	7.5
7. East (Camberwell, Caulfield, Hawthorn, Kew, Malvern)	326	5.6
8. West (Sunshine, Broadmeadows, Essendon, Keilor, Williamstown, Altona, Bulla, Footscray)	481	8.3
9. Outer North (Heidelberg, Doncaster, Eltham, Whittlesea, Diamond Valley)	421	7.3
10. Outer South (Brighton, Chelsea, Moorabbin, Mordialloc, Oakleigh, Sandringham, Dandenong, Frankston, Springvale, Cranbourne)	246	4.2
11. Outer East (Box Hill, Waverley, Nunawading, Ringwood, Sherbrooke, Lilydale, Croydon, Knox)	162	2.8
12. Other (Missing)	261	4.5
	<u>5,797</u>	<u>100.0</u>

¹ Grouping based on Local Government Areas.

² Percentages are corrected to one decimal place — total slightly exceeds 100.

TABLE 10
HOUSING

	<i>Frequency</i>	<i>Rel. Frequency %</i>	<i>Adj. Frequency %</i>
Owned (on mortgage)	595	10.3	14.0
Owned (not mortgaged)	238	4.1	5.6
Rent (Private)	1,809	31.2	42.7
Rent (Housing Commission)	715	12.3	16.9
Board	233	4.0	5.5
With Parents	523	9.0	12.3
Institution/Other	125	2.2	2.9
Not Recorded	1,559	26.9	(Missing)
	<u>5,797</u>	<u>100.0</u>	<u>100.0</u>

Looking at occupation, the most notable feature is that in 17.8% of the cases the client is in receipt of a pension or benefit.¹⁰ If those who are unemployed and not in receipt of a benefit are added, the figure is 24.9%. This figure stands beside the figure of 19.4% shown in the Cashman/Van Moorst study and documents yet another of the problems faced by this group. Most of those shown are in receipt of pensions and benefits paid by the Federal Government and therefore probably eligible for assistance from the Australian Legal Aid Office (ALAO). It is somewhat surprising then that there has not been a drop in the percentage of this group since the earlier study as the ALAO opened in 1973 and was fully functioning

¹⁰ Cf. the figure of 12% for the Australian population receiving these pensions and benefits in 1975. Sackville, *op. cit.* note 9, 163.

during the period of the present study. On the other hand the rate of unemployment during the study period was very high compared to the earlier period and this may explain why the percentage has remained stable.

The use of the service by the unemployed who make up 12.5% of cases, is quite extraordinary. In March 1976 the unemployed were 4.0% of the potential workforce in Victoria. To make the comparison with clients of the Service, those clients who fall under student, Home Duties and Age/Invalid/Widows/Other Pensions are excluded to leave cases where clients are eligible for work, a total of 4,227. Unemployed clients make up 17.2% of cases where the client is eligible for work *i.e.* more than four times greater than the percentage of unemployed in the Victorian workforce. This seems to indicate strongly, not only a high use of the Service by the unemployed, but also a high incidence of legal problems in this group.

Although those on pensions and benefits is a very high percentage, only 1.3% of cases nominate social welfare as their problem (Table 13). This could be due to clients or lawyers not regarding social welfare complaints as a legal matter or it could be that few clients have any difficulty in this area. The latter explanation seems unlikely, at least for the disturbingly high percentage of the unemployed who are not in receipt of a benefit (7.1%).¹¹ Correlation of this category of clients with Type of Problem has not yet been done. It is, of course, high on the agenda for further research.

The Constitution of Fitzroy Legal Service states that it aims to provide a free, readily accessible legal service to the people of Fitzroy, Collingwood, Carlton and Richmond and to such others as it decides from time to time. These areas were chosen on the basis of their high concentration of poor people. As Table 9 shows, people from these areas make up 49.8% of cases. Fitzroy, by itself, accounts for 25% of cases. It should be added that these areas are undergoing something of a change as there is a marked, recent trend for professionals to move into them. 6.9% who gave their occupation as professional is a little higher than expected and may be to do with the trend just mentioned. On the other hand there has been a drop of 7.1% in this category since the Cashman/Van Moorst study.

The rest of Table 9 shows a fairly even distribution of clients from around the Melbourne metropolitan area. One exception is higher representation of the Inner North Suburbs (11.5%). It may also be significant that they have a high immigrant population.

¹¹ In March 1976, 69% of those unemployed were in receipt of a benefit. For the clients of the Service only 43% of those unemployed were in receipt of a benefit. Possibly the difference is partly explained by the fact that single people make up 70% of the unemployed in the Australian Workforce whilst they only make up 34.9% of clients of the Service. Thus, it may be that a large number of unemployed clients of the Service are married and that the income of their spouse disqualifies them from unemployment benefit. Further research on unemployed clients is necessary to verify this hypothesis.

Again because so many other voluntary legal services have opened since the Fitzroy Legal Service began, a drop in clientele drawn from other areas might have been expected. This is not the case and is probably explained by the consistent media coverage enjoyed by the Fitzroy Legal Service and by referrals from previous clients (Other Client is the source of information in 14.9% of cases, see Table 3).

The socio-economic profile is completed by Table 10 which sets out the housing of Service clients. The most significant feature is that in 65.1% of cases the client is living in rented premises. Figures from the 1971 Census show that only 14% of the population of Fitzroy and 7.6% of the Melbourne population live in rented premises. (It should be borne in mind that since the separation of the Tenants Union in May 1975, tenants with tenancy problems will not show up in Fitzroy Legal Service figures.) The Commissioner for Law and Poverty has called attention to the fact that tenants are more likely than other people in the community to be poor, hence his concern about the law of landlord and tenant.¹² Their disproportionately high use of the Fitzroy Legal Service indicates that their legal needs are by no means restricted to landlord and tenant law.

(d) *Migrants*

TABLE 11
ETHNIC GROUP

	<i>Frequency</i>	<i>%</i>
Australian	3,174	54.8
U.K./Ireland	278	4.8
Italian	203	3.5
Greek	435	7.5
Yugoslav	397	6.8
Turkish	102	1.8
Spanish	110	1.9
South American	125	2.2
Middle Eastern	122	2.1
Other	463	8.0
Not Recorded	388	6.7
	<hr/> 5,797	<hr/> 100.0

¹ Percentage total slightly exceeds 100 because decimals are corrected to one place.

The largest ethnic group is, as expected, Australians (54.8% — Table 11). Probably most of the 6.7% Not Recorded category should be added here. The block on the cards used in the Service is headed 'Ethnic Group' and it is thought that many interviewers wrongly assume that this does not apply to Australians and consequently omit to circle the appropriate category. If this is correct, the result is that 61.5% of cases involve Australians, and the balance, 38.5%, concern immigrants. Of these, Greeks (7.5%) and Yugoslavs (6.8%) make up the largest groups. There appears to be some over-representation of these groups which could be

¹² Sackville, *op. cit.* note 9, 58.

due, in part, to the fact that the Service ran a series of articles on common legal problems in their newspapers during 1974-75, although this is probably not the whole explanation. The hypothesis is that use by migrant groups depends on cultural background, the closeness of the group and its information network. This remains to be tested.

Immigrants from non-English speaking countries make up 33% of cases. Of these non-English speaking immigrants, 27.8% needed an interpreter.

Where an interpreter was needed, the client provided his own interpreter in 38% of cases. The interpreter was usually a relative (often a child or a friend) of the client. In 15% of cases the interpreter service provided by the Immigration Department was used. It is not possible to estimate how often the Immigration Department interpreter attended by telephone or personally, but personal attendance is quite rare. In 46% of cases Fitzroy Legal Service provided the interpreter. Usually this was one of the voluntary staff, several of whom speak languages other than English.

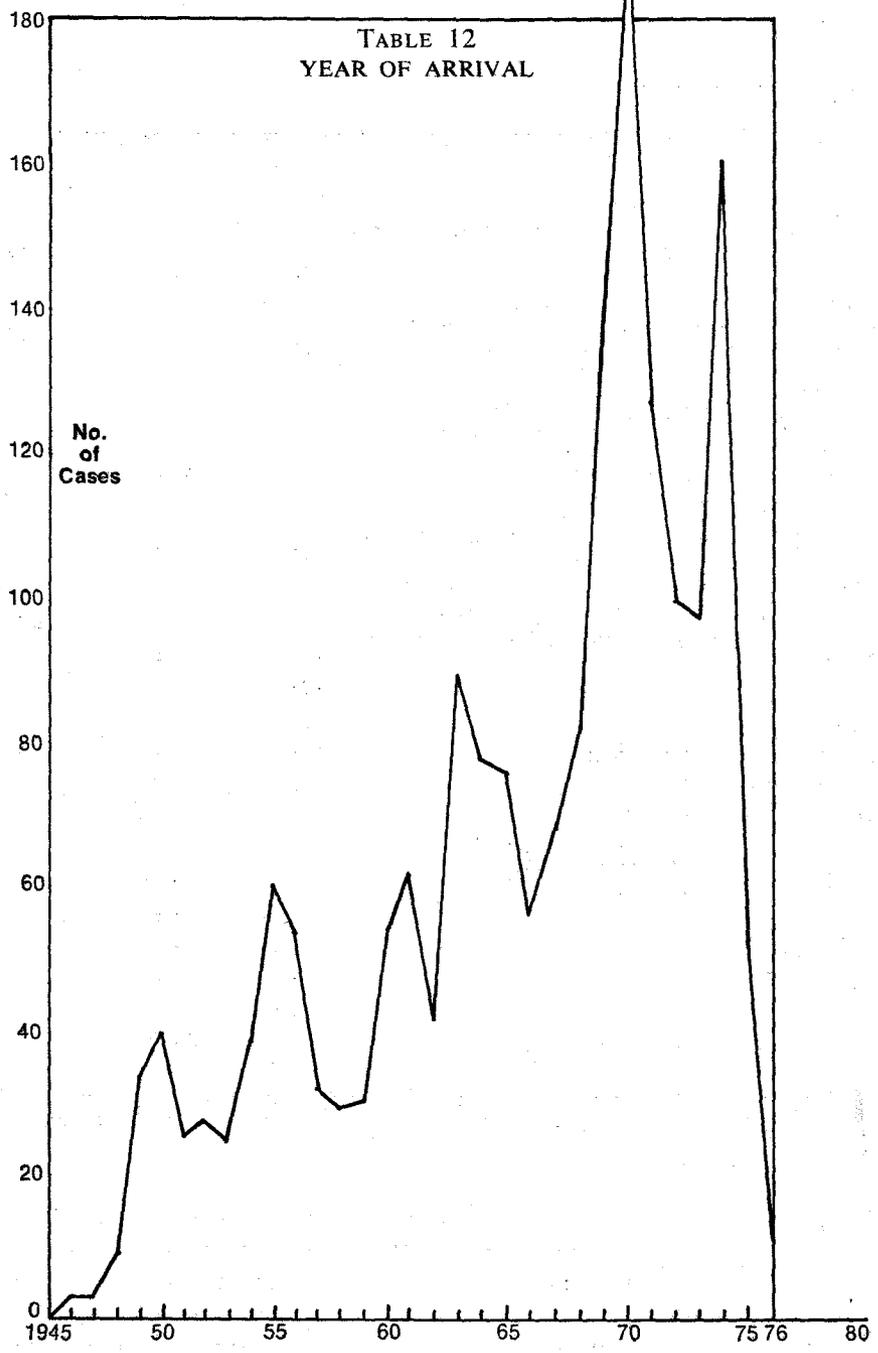
Obviously, it is an ideal situation where the Service can provide its own interpreter. The use of friends or relatives of the client is unsatisfactory, although often expedient, as they are not objective and often do not have a good command of English themselves. The impersonal nature and awkwardness of the telephone interpreter service is unsatisfactory and productive of misunderstandings. Clearly those responsible for the delivery of legal services generally, and for legal aid in particular, must take account of the need for adequate interpreter services.

One of the most startling findings of this study emerges from the graph in Table 12 which shows the year in which immigrants arrived in Australia. Of the immigrants seen in the study period, 39.3% had been in Australia only since 1969.

The reason for the extraordinary peaks in the graph are not immediately apparent, although they should start to emerge when correlations with type of problem and source of information about the Service are done. More puzzling and worrying is the relative absence of immigrants arriving prior to 1969 and after 1974. Do they have legal problems, and if so are they getting qualified legal assistance? Is it possible to identify a point in time after their arrival in Australia when immigrants are particularly susceptible to legal problems? It seems plausible to suggest, for instance, that immigrants with a poor command of English and the need to make a lot of purchases to set up house are particularly susceptible to consumer problems.

Whilst these suggestions are speculative, the finding does document the urgent need for the legal system to take account of the presence of immigrants. Provision of interpreters is not sufficient. The substantive law

TABLE 12
YEAR OF ARRIVAL



(e.g. the *non est factum* rule, cooling off period for immigrants contracts), legal process (summonses, court documents *etc.*) and bodies delivering legal services must take specific account of the difficulties faced by newly-arrived immigrants.

(e) *Type of Problem*

Table 13 sets out the types of problems dealt with by the Service.

TABLE 13
TYPE OF PROBLEM

	Frequency	%	L.A.C. ³ %
<i>Family</i> (Divorce, Separation Maintenance, Custody, Assault, Wills, Prop. Dispute, Other)	1,247	21.6	51.5
<i>Criminal</i> (Theft, Shoplifting, Break and Enter, Assault, Homicide, Sex, Drugs, Vagrancy, Language, Children's Court, Criminal Injuries, Traffic, Other)	1,323	22.9	27.0
<i>Civil</i> (Motor Accident (Prop. Damage and Personal Injuries) Nuisance, Negligence)	929	16.0	14.8
<i>Consumer</i> (Hire-Purchase, Insurance, Car Dealers, Car Repairers, Def. Product, Def. Repairs, Service, Other)	458	7.8	
<i>Debt</i>	360	6.2	
<i>Employment</i> (Includes Workers Comp.)	256	4.3	2.2
<i>Social Welfare</i>	72	1.3	—
<i>Housing</i> (Eviction, Quality, Rental, Lease, Bond, Rates/Taxes, Conveyancing, Planning, Building, Dispute, Other)	611	10.6 ²	—
<i>Complaints</i>	183	3.3	—
<i>Miscellaneous</i>	199	3.5	4.5
<i>Missing</i>	159	2.7	—
	<u>5,797</u>	<u>100.0¹</u>	<u>100.0¹</u>

¹ Percentage slightly exceeds 100.0 because decimals are corrected to one place.

² After May 1975 clients with tenancy problems were sent directly to the Tenants Union.

³ L.A.C. is abbreviation for Legal Aid Committee.

For reasons of space it has not been possible to present the full detail regarding type of problem. It should also be noted that since May 1975 all problems involving tenancy have been sent directly to the Tenants Union. Consequently, that category will be under-represented and its absence qualifies the percentages for the other categories. Where more

than one problem was shown on one card the more important one is shown. (There are 714 such cases with a second problem and 115 with a third problem. In 514 cases the second problem is shown on a separate card and this has been treated as a first problem. In 23.2% of cases the client has more than one problem.)

Criminal Law matters make up 22.9% of cases but seem to involve mainly crimes which are dealt with in Magistrates' Courts. There was one case of homicide. Theft accounts for 3.8% of cases but the low number of cases referred to the Public Solicitor (1.3%) (who appears in the superior courts for needy persons charged with a crime), suggests that the theft cases seen at the Fitzroy Legal Service involve property of relatively little value and would be dealt with in Magistrates' Courts. Other than theft there is a fairly even distribution of other types of criminal offences with assault (2.7%) and drug offences (1.7%) being the larger categories. This finding strongly indicates the need for legal aid in Magistrates' Courts.

The single problem occurring most frequently was motor car property damage (12.7% *cf.* divorce 6.1%, maintenance/custody 5.1%). The importance of this type of case, especially to poor people should not be underestimated. First, there is the importance of having a car to get to work *etc.*, and second, there is the expense involved. To litigate a case involving damage totalling \$620 to the client's car would involve legal costs to the client of \$300. If he loses the case he will have to pay for the other party's damage (assume this also amounts to \$620), the other party's costs (\$300), his own repairs and his own costs, a total of \$1,840. For many clients of the Service this is an impossible situation causing hardship both to them, and often, where the client is unable to pay, to the driver of the other car. There is an obvious need to investigate the possibility of compulsory third party property damage insurance, and less expensive dispute resolving procedures (*e.g.* something analogous to a Small Claims Tribunal).

In Consumer/Debt problems, there is a difficulty with categorization *e.g.* should a situation involving a hire-purchase company seeking arrears of payments on a car where the dealer has practised some misrepresentation be classified as a problem relating to hire-purchase, car dealers or debt? The impression of those working at the Service is that a substantial majority of hire-purchase problems involve cars and car dealers. Adding these, about 3.6% of cases involve hire-purchase of cars.

Apart from those categories mentioned, the problems seem to be spread fairly evenly over a very broad range. As mentioned earlier, given the large percentage of clients who receive pensions and benefits the number of problems involving Social Welfare (1.3%) is remarkably small.

Complaints about lawyers are rather high at 1.2% (*cf.* doctors 0.1%, Commonwealth Government 0.2%). Since problems with conveyancing

(2.0%) will almost always include a lawyer, the percentage of cases involving the client's solicitor is probably more like 3.2%.

The impression of those working at the Service is that most often a failure of the lawyer to explain his conduct of the case to his client is the cause of the problem rather than poor conduct of the case in other respects. Inevitably, some clients are difficult to deal with and a free legal service will attract a lot of people wanting a second opinion. Nevertheless even discounting these factors it is submitted that this percentage is too high (*cf.* hire-purchase 3.6%). If the solicitor/client relationship and solicitor/client confidence are as important as is often claimed then the rate of complaints about solicitors to the Fitzroy Legal Service is cause for disquiet within the legal profession.

It is of interest to compare the types of problems dealt with by the Service with those of other legal aid bodies to determine if the Service is merely duplicating their efforts. Applications approved by the Legal Aid Committee of Victoria for the year ended 30th June 1975 were chosen as a point of comparison and the results are shown in Table 13.¹³ It must be stressed that due to differences in categorization, the comparison is not exact. Notwithstanding that there are clear differences in the types of problem catered for by the two bodies. The Legal Aid Committee saw clients with Family Law problems more than twice as frequently as the Service¹⁴ whilst criminal law matters are about the same. It seems clear that the Service deals with a far broader range of problems and it is notable that whilst Housing makes up 10.6% of cases for the Service (even after separation of the Tenants Union) that the Legal Aid Committee seems to deal with very few, if any, of these cases.¹⁵

(f) Service

The type of service Fitzroy Legal Service is able to provide for its clients is limited by the predominantly part-time, voluntary nature of the organization. Obviously, it cannot undertake to run complicated actions on behalf of clients. On the other hand some advice, a letter or a couple of phone calls by a lawyer will often be sufficient to provide a complete solution to a client's problem. The worth of this type of action should not be underestimated. A problem involving a few hundred dollars to a low-income family can be the cause of anxiety and have a multiplier effect. Removing this anxiety which will often involve only a phone call is a

¹³ Percentages are compiled from Victoria, *Report of the Legal Aid Committee for the Year Ended 30th June 1975* (Victorian Government Printer) Schedule A.

¹⁴ This figure for the Legal Aid Committee is higher than expected as it had been agreed during 1974-75 with the ALAO that the Legal Aid Committee 'Would not grant assistance to persons requiring assistance under the *Matrimonial Causes Act 1959*'.

¹⁵ In the Report, *op. cit.* note 13, 9.9% of Legal Aid Committee cases are described as Civil Causes, which would appear to cover all civil matters other than motor accidents. It is likely that some Housing problems would occur here but no breakdown is given.

significant contribution to the client and a very necessary part of an effective system of legal aid.

Referring to Table 14, it can be seen that the types of service offered by Fitzroy Legal Service fall into three main groups: Referral, Action, Court Action.

TABLE 14

SERVICE

	<i>Frequency</i>	<i>%</i>
<i>(i) Referral</i>		
Fitzroy Legal Service Solicitor	115	2.0
Legal Aid Committee	340	5.9
Public Solicitor	16	0.3
Solicitor	778	13.4
Legal Service	169	2.9
Legal Body	166	2.9
Social Agency	135	2.3
Australian Legal Aid Office	499	8.6
	2,218	38.3
<i>(ii) Action</i>		
Advice Only	2,165	37.3
Letter	1,476	25.5
Phone	208	3.6
Document Prepared	122	2.1
Application Form for Legal Aid Completed	273	4.7
	4,244	73.2
<i>(iii) Court Action</i>		
Adjournment	69	1.2
Bail Application	14	0.2
Committal	3	0.1
Plea	29	0.5
Defended	81	1.4
Prosecuted	2	0.0
Appeal	16	0.3
Consent Order	5	0.1
	219	3.8

¹ Since more than one step was possible for each case the total number of (i), (ii) and (iii) exceeds the total number of cases (5,797). *E.g.* a letter or letters may have been written and as the situation developed it became clear that some other action like a referral was necessary. The design of the cards allowed for some multiple responses. Percentages are based on the number of cases *i.e.* 5,797.

Referrals account for 38.3% of all cases. Referrals to the legal profession are very high. In 13.4% of cases referrals go directly to private solicitors whilst a further 5.9% go to them *via* the Legal Aid Committee and 8.6% *via* the ALAO. Discounting for a proportion of these which will be rejected by the legal aid bodies (this should not be too high as the Service lawyer will screen out many of those ineligible for aid), this means that about 70% of referrals, or 27.9% of all cases go to private practitioners.

It is important to note this point as voluntary legal services have often been accused of taking work away from solicitors. If those clients who use Fitzroy Legal Service would *not* otherwise have consulted a solicitor, then the Service has channelled 1,617 fee-producing clients to the profession. The screening process operated by the Service would sift out those in need of advice only or a letter (matters which are not economically viable for a private practitioner) and send only those cases needing substantial, and therefore profitable, work to private practitioners. If on the other hand, the people using the Service *would* have gone to a private solicitor had it not been for Fitzroy Legal Service, then disposing of the aforementioned uneconomic work, which is done by the Service, represents a saving of private solicitor's time, whilst the economic work is referred on to them anyway. Thus, on either analysis, Fitzroy Legal Service represents an economic benefit to the legal profession albeit this may not have been the intention of its founders.

Referrals to a social agency indicate some effort to deal with the non-legal problems of clients but given the characteristics of the clientele it is surprising that this category was not higher.

In 25.5% of all cases, at least one letter was written on behalf of the client. In many of these cases more than one letter was written. In fact in cases where any letter was written the average is 1.8 letters and in 130 cases more than 5 letters were written. Thus, some quite detailed negotiation was undertaken on behalf of clients of the Service. This would almost certainly involve a much higher frequency of telephone calls than shown in Table 14. Most of these calls would have had to have been made during the office hours when the volunteer was away from the Service and thus unable to complete the card.

As shown, in 4.7% of cases the Service filled in an application on behalf of the client. These would most often be applications for legal aid. It should be noted that the forms used require a lawyer to explain the conditions of assistance. It is often necessary also to explain the letter used by the Legal Aid Committee which details the conditions on which aid is to be granted. If these forms and letters are designed on the assumption that lawyers will be available to explain them to clients then they seem to be adequate. If this is not the case then these forms and letters are hopelessly inadequate.

(g) Result

TABLE 15

RESULT	Frequency	%
<i>Negotiations</i>		
Successful	548	9.5
Unsuccessful	103	1.8
Compromise	123	2.1
<i>Adjournment Obtained</i>		
Yes	46	0.8
No	1	0.0
<i>Bail Granted</i>		
Yes	6	0.1
No	2	0.0
Committed	1	0.0
Charged Dismissed	7	0.1
Plea of Guilty	17	0.3
Plea of Guilty to Lesser Charge	1	0.0
Found Guilty	66	1.1
Found Not Guilty	1	0.0
Withdrawn	7	0.1
Struck Out	0	0.0
Settled	6	0.1
Won	4	0.1
Lost	4	0.1
Compromise	2	0.0
Not Recorded	4,852	83.7
	<hr/> 5,797 <hr/>	<hr/> 100.0 <hr/>

Only a very rough picture of the success rate of the Service can be given. Firstly, it is often an inappropriate category of information, *e.g.* where the service given is Referral or Advice Only it is inappropriate to describe such action as successful or unsuccessful. At best it is relevant in cases involving negotiation or court action. Taking letters and phone calls as rough indicators of cases in which negotiation took place, a result might have been appropriate in 25% of cases. In fact, results were only recorded in 16.3% of cases. These show what appears to be a very good success rate in Negotiations although, to the writer's knowledge, no similar information exists with which a comparison could be made. There are also reservations associated with the subjectivity of the assessment. Results of Court Action do not seem to be as successful. There should be results recorded for 219 cases (Table 14) but information is only recorded in 116 cases. In a disturbing number of these (66) the clients were found guilty. It is not possible to tell how many of these were formal pleas of not guilty and the purpose of the appearance was in substance a plea in mitigation of sentence.

One other measure of the success rate is client satisfaction. No direct information is available but the high percentage of clients whose source of information about the Service is through other clients (14.9% — Table 3) indicates satisfaction and confidence on the part of those clients making the referral.

5. SOME THOUGHTS FOR THE FUTURE

Fitzroy Legal Service, a voluntary, part-time, legal agency with very little money has dealt with more than 10,000 cases since its opening in 1972. Although other voluntary legal services probably do not have such a heavy case load, the fact that there are now 32 other voluntary legal services in the Melbourne area demonstrates a strong demand for their services. A most disturbing thought is that prior to 1972 there were no similar services from which people, especially poor people, could seek legal advice.

The significance of this study is the detailed information about the Service which can be used generally in planning how best to deliver legal services, especially in the field of legal aid. Of most importance in this respect is the type of people seen by the Service. The high use of the Service by 'at risk' groups, migrants, people in rented accommodation, people on pensions and benefits (especially the unemployed), and perhaps people in the 18-30 age group can be added, demonstrates the substantial success of the Fitzroy model in making contact with poor people.

Moreover, it can be said that the Fitzroy Legal Service model represents an economic and rational use of resources for the delivery of legal aid to a sector. It is not the total solution to the delivery of legal aid but an efficient way of making contact with those most in need of legal advice, and either giving them the help needed or referring them to those who can help. For the price of a small paid staff, the services of 70 volunteers, lawyers and non-lawyers, have been at the disposal of clients of the Service. In terms of cost to the Federal Government, which had contributed \$40,000 to the end of 1976, this is \$4.00 per case. This costing, of course, does not take account of all the other work done by the Service.

As far as the overall scheme of legal aid is concerned, it is recommended here that voluntary legal services receive funds to employ paid staff to administer them and co-ordinate the activities of volunteers. The importance of paid staff is stressed. Without them inefficiency which leads to loss of client confidence and low morale amongst volunteers (*e.g.* the daunting amount of work to be done and/or a sense of failure to 'do any good') is inevitable. The paid staff should be paid salaries comparable to salaries paid to officers in existing legal aid services, and the situation whereby staff subsidize legal aid by accepting lower salaries than they could otherwise obtain should cease.

In an effort to maintain a suitable level of efficiency and usefulness, the author recommends that voluntary legal services should receive funds to employ administrative staff and that all legal aid bodies monitor their activities in a way similar to that undertaken by Fitzroy Legal Service.