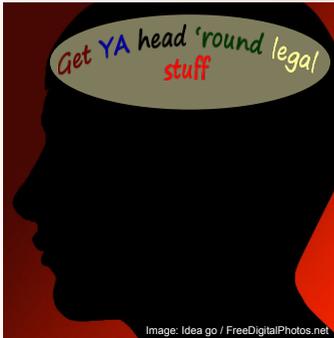


Talkin' about *LAW*

An Aboriginal and Torres Strait Islander Legal Service (QLD) project



Have you come across words in Queensland's justice system and wondered what they mean? Here are some examples.

Caution

If you're suspected of breaking the law, instead charging you, a police officer might give you a formal warning. A caution is typically used for minor offences. It involves you admitting guilt and agreeing to being cautioned. If you're Aboriginal or Torres Strait Islander the police may consider whether an elder or respected person from your own community can give you the caution. Alternatively if you're charged and it goes to court, the court may decide to caution you and dismiss the charge.

Diversion

Sometimes the police and courts can divert – or turn away – someone from the criminal justice system to programs to support them. For instance if you're charged with a minor drug offence you may be eligible to attend a drug diversion program. If you get into the

program but fail to attend this is an offence. You won't be charged with the original offence. Instead you may be charged for contravening a direction of a police officer.

Bail

If a young person is arrested and charged for an offence, the watch-house keeper or Magistrate can release them on bail. Sometimes there may be conditions attached to the bail, such as a curfew, the young person not being allowed to contact the victim or supervision by the Department of Communities. The watch-house keeper or Magistrate can release the young person in other ways, such as into their parent's custody, or at large (with no conditions).

Probation

This is a type of sentencing order given to you by the court for serious offences and is an alternative to detention if you're convicted. An order of this type can be six months to three years in length and requires certain conditions to be met by you. The conditions may include not leaving the state without permission and not breaking the law. If you do you're in breach of probation and may face additional charges and given a different sentence from the order.

What to do if you're arrested?

If you're arrested or suspected of committing an offence the police must caution you on your rights. **Listen to Track 5 on the accompanying CD for more information.**

> About the project

Talkin' About Law is a community legal education project aimed at the Aboriginal and Torres Strait Islander community in Queensland.

Its purpose is to provide general legal advice on criminal and civil matters affecting Indigenous Queenslanders and promote the services provided by the Aboriginal and Torres Strait Islander Legal Service throughout the state.

> Tracklist

1. Carbon tax scam
2. DNA
3. Identifying particulars
4. Legal jargon
5. Rights when arrested

CIVIL & FAMILY LAW

- A needs analysis for our mob -

A study of 32 communities aims to assess the civil and family law needs of Indigenous Australians in areas such as discrimination, consumer matters, credit and debt, child protection, education, employment, health, housing and wills and estates.

"It's an area where research is sorely needed," said Professor Chris Cunneen, a Tropical Leader at The Cairns Institute.

"There has been a great deal of discussion on access to justice issues, particularly at a federal level, but there is little understanding or information on what services Indigenous people are accessing, or what they need."

"Preliminary research so far reveals that many Indigenous people are unaware of their legal entitlements and how to pursue them. Lack of awareness means lack of access."

Professor Cunneen is conducting Australia's first large-scale investigation of this area of law with his fellow chief investigators Ms Melanie Schwartz (University of New South Wales) and Professor Larissa Behrendt (University of Technology, Sydney). Ms Fiona Allison, an experienced lawyer and researcher is the senior research fellow on the project and is based at the Cairns Institute.

Funded by an Australian Research Council linkage grant of just over \$700,000, the researchers will conduct separate men's and women's focus groups in each of four states and territories: Queensland, Victoria, Northern

Territory and Western Australia.

The study will include urban, regional, rural and remote communities and will also gather information from legal service providers.

"When combined with a pilot study Melanie Schwartz and I conducted earlier in New South Wales, this project will give us data and analysis on the five states and territories that are home to more than 85% of Indigenous Australians," Professor Cunneen said. "It will be a landmark study of Indigenous civil and family law needs which will have significant public policy impact."

The New South Wales pilot found significant unmet need for legal advice and representation in matters relating to housing, education and family law.

"Those were by no means the only areas, but they were the stand-out problems," Professor Cunneen said. "When we looked at tenancy disputes for example, whether they were with private landlords or public housing authorities, many people were either unable to access legal advice or were unaware of their rights."

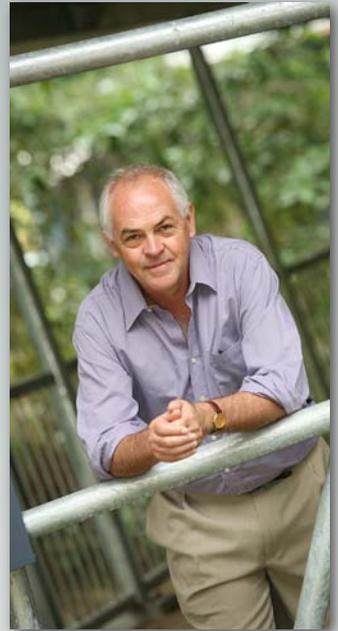
"It was not uncommon for people in our focus groups to feel powerless against public housing authorities. They didn't know enough about the legal system and its processes to have any chance of achieving justice."

"In matters of family law, where children might be removed by government agencies, or grandparents might be caring for children in informal arrangements, having people unaware of even the possibility of legal representation can have very serious consequences."

Professor Cunneen said poor access to legal advice could sometimes cause a civil law matter to escalate and become a criminal law problem.

"Where people are attempting to resolve an issue themselves, perhaps a matter of family law or a dispute between neighbours, there's a danger that it can end badly, with criminal acts, charges, and a perpetuation of the over-representation of Indigenous people in our courts and prisons."

This three-year project aims to inform successful models of legal service delivery, better access to justice, enhanced human rights compliance and improved social justice outcomes for Indigenous people.



Pictured: Chris Cunneen researching civil and family law needs of First Nations mob.

Source: James Cook University Media Unit

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1800 012 255

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Address Suite 11B, 101A Main Street, Beenleigh 4207
Telephone (07) 3804 5033 Facsimile (07) 3804 5202

Palm Island (Satellite Office)

Address Lot 47, Cnr Main Street and Police Lane
Telephone (07) 4770 1222 Facsimile (07) 4770 1501

Charleville (Regional Office)

Address 51 Wills Street, Charleville 4470 (PO Box 51)
Telephone (07) 4654 1721 Facsimile (07) 4654 3182

Brisbane (Head Office)

Address 183 North Quay, Brisbane 4000
Telephone (07) 3025 3888 Facsimile (07) 3025 3800

Cairns (Regional Office)

Address 78 Spence Street, Cairns 4870
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