

The impact of legal help beyond access to justice: learning from health justice partnership

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Abstract

Health justice partnerships (HJPs) in the Australian context are collaborations to embed legal help in healthcare services and teams. HJP is a service model to improve health and wellbeing for:

- individuals, through direct service provision in places that they access
- people and communities vulnerable to complex need, by redesigning integrated service responses around client needs and capability
- vulnerable populations through advocacy for systemic change to policies which affect the social determinants of health.

This paper draws upon a recent census of HJPs to profile the Australian health justice landscape. It then discusses the individual and systems outcomes anticipated for HJPs and opportunities for work in collaboration with public health researchers to explore this potential.

This paper also explores HJPs as an opportunity to define, assess and share the value proposition of legal help beyond the access to justice frame: to ask how legal assistance contributes to health and wellbeing as part of a broader human service network.

Introduction

Since the World Health Organization (WHO)'s groundbreaking report from the Commission on Social Determinants of Health (2008), evidence has continued to grow regarding the importance of social and environmental factors in driving poor health outcomes for individuals and communities.

The WHO (2016) describes the social determinants of health as 'the conditions in which people are born, grow, work, live, and age, and the wider set of forces and systems shaping the conditions of daily life. These forces and systems can include economic policies, development agendas, social norms, social policies and political systems'. Daily living conditions that affect health include poor-quality housing, unstable or insecure work, limited income, family instability and low social support.

Over the same period, legal needs and access to justice research globally has pointed to: the concentration of legal need among those experiencing disadvantage; the clustering of legal problems; compounding legal and other life and health issues; barriers to help seeking, and inaction about legal problems or, where action is taken, help seeking from sources other than lawyers (see Coumarelos et al, 2012; Pleasence, 2016; World Justice Project, 2018)

This body of work has also identified the bidirectional impact of health (particularly mental health) and legal problems (e.g. Balmer et al, 2005; Pleasence et al, 2008; Balmer and Pleasence 2018; World justice project, 2018, Genn, 2019) and the costs associated with having and resolving legal problems. The Canadian Forum on Civil Justice research project on *Everyday Legal Problems and the Cost of Justice in Canada*, to cite one example, identifies CAN\$101 million spent annually in 'additional health care costs' as a result of 'everyday' (civil) legal problems (Farrow et al, 2016, pp.16-17). More broadly, the OECD estimates that direct costs generated by legal problems, and the cost of their impact on health, employment and income opportunities together exceed 0.5% of GDP in almost all countries (OECD, 2019).

Health justice partnership (HJP) - partnership to embed legal help¹ in health care settings and teams - responds to both socio-legal and public health research evidence, where it coalesces around common patient-client groups: those experiencing disadvantage who have intersecting and unmet health, legal and other needs.

But on the ground, the drive to collaboration or partnership across health and legal services has been spearheaded by practitioners: in the United States by medical and health practitioners and in Australia, the United Kingdom and Canada by legal practitioners. It has been driven by the very real service challenges that health and legal practitioners each face in trying to address the complex needs from single or siloed vantage points. HJP is an opportunity to collaborate and to coordinate efforts to address the intersecting health and legal issues that can lead to and entrench disadvantage.

This paper discusses:

- how HJPs are emerging in Australia
- HJP as an opportunity to explore the value of legal help in language beyond 'access to justice'
- the added value of collaboration between health and legal services to address complex need.

¹The term 'legal help' is used rather than 'lawyers' to note the range of professionals that may provide this related assistance (lawyers, tenancy or welfare advisors, financial counsellors, para-legals).

What are health justice partnerships?

Broadly speaking, HJPs are collaborations to embed legal help in healthcare settings and teams. While ways of working vary within and across countries, localities and individual partnerships (see Beardon and Genn, 2018; Williamson et al., 2018), HJPs, or medical legal partnerships (MLPs) as they are known in the United States, involve:

- legal assistance to individual patients-clients within healthcare settings
- transformation of practice, relationships and service systems through interdisciplinary training, secondary consultation and collaborative practice
- shared advocacy for policy change to improve health and wellbeing (Beeson et al., 2013, p 3-4; Forell and Boyd-Caine, 2018)

In the health setting, legal help is used as a tool to address factors beyond the medical which are affecting patient health:

...legal services can mitigate any of the socio-economic determinants that disproportionately impact upon the health of low income and vulnerable groups by securing critical entitlements, by improving living conditions, by avoiding or diverting threats to employment, to family security and many other health harming risks (Genn, 2019, p 3).

At Health Justice Australia (HJA), we describe HJP in terms of how and why health and legal services come together:

Partnerships which embed legal help in healthcare services and teams to improve health and wellbeing for:

- *individuals, through direct service provision in places that they access*
- *people and communities vulnerable to complex need, by redesigning integrated service responses around client needs and capability*
- *vulnerable populations through advocacy for systemic change to policies which affect the social determinants of health. (Forell and Boyd-Caine, 2018)*

But of course on the ground, services come together in a variety of ways.

The health justice landscape in Australia

Driven by community lawyers, health justice partnership has been evolving as a movement in Australia since around 2012.

In 2017, Health Justice Australia (HJA) (see Box 1) mapped what we call ‘the health justice landscape’ and identified 48 partnerships providing legal help in healthcare settings. A more recent census completed in late 2018 identified 73 services.² Importantly this increase reflects not only an increase in activity on the landscape but also higher participation of services with HJA and the mapping work. In terms of growth, there were 14 new services in 2017 and eight in 2018.

The 2018 data has not yet been released so limited detail is provided here. Rather I will use some of it, supplemented with 2017 data to illustrate how HJPs are developing in Australia.

² In 2017 and again in late 2018 HJA mapped what we describe as the health justice landscape in Australia. While we targeted HJPs, we accepted responses from any legal services provided in health care settings or teams – including outreach services and integrated services where the lawyer is employed by the health service. In addition to information about location, service setting, clients and partners, we explore a range of features and activities relating to their service provision, systems change and other shared work (Forell, 2018).

The partner services and settings

Public legal assistance services dominate as the legal partners on the Australian landscape. In 2018 we are seeing community legal centres as partners in two-thirds of partnerships and legal aid commissions in nearly 45%. Only one HJP had a private firm as the main legal partner. 2018 also saw the first Aboriginal controlled legal service as a legal partner as an HJP, in this case partnered with an Aboriginal community controlled health service.

Turning to service setting, most partnerships (n=38) were based in one or more primary health settings, 16 of which were Aboriginal health services. Thirty were based in hospital settings and nine in community support settings (e.g. family support services or residential rehabilitation services).³

The patient-clients supported

We speak of HJP as a strategy to support clients with complex need and it is clear from the mapping work that services on the Australian landscape are reaching and assisting these clients. And critically, we are seeing complex need not only in partnerships targeting particular issues, but right across the health justice landscape. For instance while 1 in 5 services targeted women facing family and domestic violence (FDV), nearly all services indicated that at least some of their clients were experiencing FDV.

New analysis from the Law and Justice Foundation of the Legal Australia Wide Survey starkly identifies FDV as a site of complex need. The report identifies that people experiencing FDV are:

- 10 times more likely than others to experience other legal problems, including a wide range of family, civil (e.g. employment, financial, government payment, health, housing, personal injury and rights issues) and criminal law issues and 16 times more likely than others to experience family law problems
- Four in five DFV respondents rated at least one of their legal problems as having a 'severe' impact on their everyday life, compared to fewer than one-quarter of others, and their legal problems were more likely to lead to stress-related illness, physical ill health, relationship breakdown, loss of income or financial strain, and moving home. (Coumarelos, 2019)

Emerging data from HJAs most recent mapping work also points to the prevalence across services of clients with mental health or alcohol and other drug issues, again - well beyond those HJPs that specifically target those client groups. Further, *all* services indicated that at least some clients were experiencing economic disadvantage, with nearly four out of five indicating that most of their clients were facing economic disadvantage.

Box 1: Health Justice Australia

Health Justice Australia was established in 2016 as a national charity and centre of excellence, with a brief to support the expansion and effectiveness of health justice partnerships. HJA does this through:

- knowledge and its translation: developing evidence and translating that evidence into knowledge that is valued by practitioners, researchers, policy-makers and funders.
- building capability: supporting practitioners to work collaboratively, including through brokering, mentoring and facilitating partnerships.
- driving systems change: connecting the experience of people coming through health justice partnerships, and their practitioners, with opportunities for lasting systems change through reforms to policy settings, service design and funding (<https://www.healthjustice.org.au>).

³ While most partnership only operate in one type of setting, some are in two or more: e.g. a hospital and a public health setting and/or a community setting.

Health justice partnership activity to address complex need

The mapping work provides insight into how services are embedding legal help into health care settings and teams, to assist these clients. It indicates:

- formal referral processes largely embedded from health to legal services, with informal referrals more commonly reported back to the health service.
- services providing more than just information, advice and referral. The vast majority of services indicated they could undertake 'legal tasks' for their clients (writing letters etc) with around two thirds able to provide casework or representation.
- secondary consultations, where health staff can seek information from the lawyer concerning a patient legal issue, are common across services. To a slightly lesser extent we also secondary consultations with health staff by partner lawyers.
- coordinated health and legal care for at least some clients reported in 2018, by more than half of the health justice services.

Cross disciplinary training is another key feature of health justice partnership, where for instance, lawyers are providing training to health staff about issues such as FDV, how to identify a legal issue, and how to link with the lawyer. On the Australian landscape most HJPs said their legal staff provided training to health staff, though at this point, we see less training by health staff for lawyers.

The high prevalence of client mental health issues indicated across the landscape in the census, suggests the value training by health partners would offer their legal partners: training around how mental health may affect client engagement and decision making, trauma-informed care and practice and complex care coordination.

Structures and activity to support systems change

While the activity above has been described as individual service delivery, this can also be understood as 'systems change', particularly, as the new mapping is indicating, from the point of view of health practitioners: it a new way of working which involves new resources, new processes and practices to better address complex need in the health setting.

But to explain how these localised service changes can also make a material difference to service outcomes, I again turn to an example related to managing family violence.

Health services are recognised as a critical entry point for identifying people affected by family violence and it is a policy priority for hospitals and primary health services to screen for family violence among key patients groups (e.g. [Strengthening Hospitals Response to Family Violence strategy](#)). Through a number of HJP, lawyers are supporting these efforts by training health staff about family violence, about related legal processes and protections, and about the cluster of legal issues that commonly surround violence (e.g. family law, housing, debt, employment) and how lawyers can assist with these. However, while this type training is necessary, it is not sufficient. A paediatrician connected with one HJP noted, even trained health staff may fail to screen or 'see' the violence when they feel there is nothing they can do to address it. Critically however, having an HJP provides a trusted pathway of support by having lawyers available on site to take referrals from the health staff when violence is identified.

Moving beyond direct client service delivery and localised systems change, only a small number of partnerships report in the mapping work that they are engaged in shared systemic advocacy for broader change. However, where we have seen it, striking examples are again around family violence. Health and legal partners in one partnership together gave evidence to the Royal Commission into Family Violence in Victoria, which in turn led the Strengthening Hospitals Responses to Family violence strategy described earlier.

This profile of growth reflects a pathway identified in partnership literature, of partnerships being founded in practical attempts by partners to work together around an issue. Once established and working well they inevitably have influence, for instance, in the environment in which they operate. In due course, even modest partnerships can then lead to and/or provide inspiration for broader policy change. This is the trajectory we envisage for health justice partnership in Australia.⁴

The sustainability of HJPs

The mapping work explored funding sources as well as the financial and non-financial contributions of the partners. The overall picture indicates that in around 60% of services on the landscape, the legal partner (or the legal sector) was the main source of funding. The partner health service was the main funder in two partnerships. Other funding sources included state, territory and commonwealth government departments and philanthropy.

This first reflects the genesis of the movement in Australia in the legal sector. However, it also suggests to us that, while internationally there is solid evidence around the impact of legal problems on health, the capacity of health services and on health costs generally, we have more to do to build the case for legal assistance generally - and HJPs specifically - as part of the solution to these issues.

A rationale for building this case is to draw interest from a broader group of stakeholders in the value of civil and family legal work, for which there is limited justice funding. Among these stakeholders are health and other funders concerned about the high human, service and financial costs of complex and compounding disadvantage.

Building the value proposition of legal help and HJP

The challenge of demonstrating the worth of HJPs starts with the question of what ‘worth’ or ‘value’ looks like and to whom – and then framing legal help in language and data that resonates with these groups. A resource produced by the National Centre for Medical Legal Partnership, about how to ‘message’ the value of civil legal aid, states:

... for health care leadership and policymakers to see civil legal aid as a valuable tool for improving health and invest in it, civil legal aid’s role in improving health and health care must be clear. The only way to make legal care visible and necessary to health care is to describe it in the words and values of that community. (Marple, 2015, p. 1)

This is not to suggest that lawyers do more than legal work – but that we are open to different language to describe the potential and the benefit of the work that lawyers do. It means stepping beyond of an access to justice framework when describing the value of legal assistance – and being able to talk about ‘legal help’ as, if you like, a health care or social care intervention.

On the ground this means making the connection between the social and environmental factors that health services recognise as affecting the health of their patients and filling their emergency rooms - and the type of help lawyers can provide. As an emergency doctor told us recently ‘I am aware of how social determinants of health affect my patients – I just don’t know what to do about it’.

And I can tell you, that day, when we spoke to a room full of health and medical specialists - emergency doctors, women’s health professionals, specialists in rural health and mental health, experts in chronic conditions - about the help that community lawyers can provide their patients, eyes lit up. The type of legal help I am referring to is that which, for instance:

- prompts landlords to do minor modifications to housing, which supports independent living – so people can leave hospital

⁴ This pathway was attributed to Simon Zadek in training provided to HJA. Direct source not yet located.

- addresses health harming living conditions such as mould or pests in housing, which in turn reduces readmissions for those with chronic conditions
- challenges a fine-related driver licence suspension that prevents a parent from bringing their child to physiotherapy
- supports women to get an apprehended violence order and live safely with her kids.
- manages escalating fine debt, such that people can afford health related costs.⁵

Making that link between the work of lawyers and health outcomes for clients completely reframes understanding of the contribution that lawyers can make and speaks to a very different audience about the value of what you do.

And importantly, the best evidence to tell that story is not just access to justice evidence or public health evidence but the combination of both. For instance, access to justice evidence around how best to reach clients and provide legal help for housing tenure and quality issues, can be linked with public health evidence, on the impact of housing tenure and quality on the health of tenants (e.g. Andersen et al., 2017, 2018) to tell the full story of the value of this assistance.

The value of collaboration beyond co-location

The story of legal care as health care can probably be told about legal assistance – wherever it is delivered: in health justice partnerships or in legal offices – assuming it reaches those who need it.

However, the HJP work also indicates the additional value of *collaboration* across health and legal service silos, particularly for patient-clients facing the multiple and inter-related legal, health and other social issues that we are seeing in HJPs.

For these clients, HJPs provide more than the sum of their parts: not just co-located health services and legal services, but the scope for client specific, timely and genuinely multi-disciplinary solutions to complex problems:

When medical and legal professionals collaborate, they contribute different skill sets and perspectives. This in turn promotes complementary, multifaceted solutions to patient-clients' clinical and non-clinical needs. (Mantel and Knake 2018, p. 191)

BOX 2: Collaboration beyond co-location

Lisa is a young mum of two, and is expecting her third in a little over 2 months. Recently, Lisa moved interstate to flee a violent relationship. While attending her antenatal appointments, both Lisa and her midwife were becoming increasingly concerned about the risk that her violent ex-partner and her unstable housing situation posed. Child Protective Services had also been notified, and were expressing concern for the welfare of Lisa's children if left in her care.

Lisa's midwife recognized lots of the challenges Lisa was experiencing could be helped by the clinic's HJP and SW team, and made a referral. Working with the social workers, the HJP solicitor made an urgent application to the Court for an interim order that would include the protection of Lisa's three children and would prevent the perpetrator entering the state. At the same time, the SW team was able to secure alternative accommodation and additional community-based support for Lisa and her children. With the order successfully granted by the Court, Lisa is now living with her two children as they eagerly await the arrival of her third.

⁵ See Marple, 2015, p. 3 for examples of evidence around civil legal aid interventions link to health outcomes.

This recognises that while health and legal services can each make a material difference to these clients, *neither* alone has the range of solutions to address all aspects of the problem or range of related issues arising. Collaborative practice provides opportunity to reach in and provide legal help where it is needed, but also to step back on those issues that other professionals are better placed to address.

The relative timing and coordination of legal, health and social care can also affect outcomes. Take, for example, a person who is acutely unwell with mental health issues and who is at risk of losing their tenancy. There may be little hope of retaining the tenancy if the client remains unwell and unable to sustain their housing. The timing and coordinating health and legal care for this person may make the difference to their keeping their housing, which in turn supports their longer term mental health prognosis.

The example in Box 2, drawn from an Australian HJP, also illustrates how the coordinated efforts of a lawyer, a midwife and a social worker each were critical to the successful outcome for Lisa, and arguably, make a difference greater than help from each individually.

Where to from here?

As a strategy that straddles the health and legal sectors, we think HJPs provide a unique opportunity to test two ideas:

- the value of legal help as a health care initiative
- the value of collaborative health and legal care to address complex need.

The mapping data describing what services look like on the landscape is foundational data to address the question of what works. As we have argued in earlier work, we need to know what the 'what' is – what the intervention actually involves- before we can ask if it is effective (Forell and Boyd-Caine, 2018). As we draw together outcomes data from different services across the landscape, we can then use the census data to help explore which features of HJP are important, in what circumstances, and for which client groups.

The second key area of research work for HJA is to explore the impact and value of health justice partnership: to patients and clients; to service systems including health and legal staff capability, and to government in terms of service effectiveness and efficiencies.

The starting point for this, is to engage with why health and legal services come together in the first place and what they seek to gain from working together, for their clients and for their services.

However, we are also interested in thinking about what the shared value looks like – beyond the individual goals of partnering organisations – in terms of the wellbeing of clients and communities with complex needs: impact which may resonate to funders beyond the health and legal service silos.

To this end, we have commenced a project working health and legal partners on the landscape, together with the Centre for Social Impact (CSI) at the University of NSW⁶, to develop a core set of outcomes, measures and measurement tools for HJPs in Australia. By partnering with CSI, we are looking to leverage off their considerable expertise to identify workable measures that also resonate those engaged in social impact more broadly. We are looking to have a draft evaluation framework for health justice partnership to test with the broader network at our National Conference in September 2019.

Separately to this, HJA is forging partnerships with public health researchers to explore legal help as a health care initiative. To provide an example, HJA is joining a five-year study led by a leading health

⁶ <https://www.csi.edu.au/research/our-research-focus/measuring-outcomes/>

research institute, looking to reduce the impact of childhood adversity on children's mental health. The study involves the trial of multidisciplinary service hubs in two high needs neighbourhoods, one in Melbourne, one in Sydney. The opportunity here is to bring lawyers into that multidisciplinary health hub and then explore the value of adding legal help to that team.

Conclusion

I came to Health Justice Australia from the Law and Justice Foundation of NSW, which provided much of the access to justice research evidence in Australia suggesting the value of strategies such as health justice partnership.

The opportunity to work as Research Director at HJA – and to view legal assistance through an entirely new lens - has really broadened my appreciation of the value and potential of legal work beyond – an addition to - access to justice. It has been a reminder that legal or justiciable problems are not just legal or justiciable problems – they can also be health problems and can be social problems. And that legal help can be understood not only as legal care, but also as health care and social care.

This perspective is timely as, in many jurisdictions, funding has been and continues to be squeezed from the legal assistance sector: and relative to other human service funding, it was starting from a low base. To attract broader interest, we need to be sharing the contribution that legal assistance can make, particularly to addressing complex need.

That effort requires collaboration in research too. Access to justice and public health research has independently identified the impact of legal problems on people's health, health systems, and health costs (Genn, 2019). By bringing this scholarship together around HJP, we can explore legal help as part of the solution to complexity which includes intersecting, health-harming legal need.

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