



# *Refugee and Immigration Legal service*

*Annual Report*  
2015 -2016







Photo No 2. Chains 1. Erynn Michelle.  
<http://www.greystonesguide.ie/wp-content/uploads/syria-refugees-children.jpg>

# About RAILS

## Refugee and Immigration Legal Service

The Refugee and Immigration Legal Service (RAILS) is the only specialist provider of free legal advice to migrants and refugees in Queensland. RAILS is a leading non-profit community legal centre specializing in Australian immigration and refugee law and community legal education. It began as the South Brisbane Legal Service in 1980 and is the second oldest community legal centre in Queensland.

RAILS is part of the national Community Legal Centre movement and obtains core funding from State and Commonwealth governments under the Community Legal Service Program (CLSP), the Department of Immigration and Border Protection, as well as project funding and donations.

*A service based  
on the belief that access  
to appropriate legal  
assistance and equity in  
legal representation is a  
basic right of all people  
from disadvantaged  
backgrounds. We strive  
for access to justice  
especially for migrants,  
refugees and people from  
marginalized sections  
of society*

## RAILS VISION

*Making Justice accessible to a diverse community*



## RAILS MISSION

*Provide a holistic and sustainable legal service for vulnerable refugees and migrants through legal assistance, education and advocacy*

## RAILS VALUES

- *Access to justice*
- *Client-centered*
- *Ethical practice*
- *Diversity*
- *Independence*

## RAILS GOALS

- *Provide a community based legal service that meets the needs of refugees and migrants*
- *Improve the capacity of the community to promote and deliver greater access to justice for refugees and migrants*
- *Promote a humanitarian approach in the formulation and administration of law, policy and procedures as they affect refugees and migrants*
- *Provide an innovative, quality and cost effective legal service*

## HOURS OF OPERATION:

Monday to Friday 9.00 am – 5.00 pm

Monday and Wednesday 6.00 pm – 8.30 pm Evening advice sessions

Tuesday 10 am to 12 noon & 2.00 pm to 4.00 pm Protection Visas clinics

Monday and Thursday 2.00 pm to 5.00 pm Telephone advice to Regional Queensland.

Friday 9.00 am – 5.00pm General Family Law Advice clinics

Wednesday 6.00 pm – 8.30 pm Employment advice sessions

# MANAGEMENT COMMITTEE PROFILES

## Robin Lonergan – President

Robin is a Partner at TressCox Lawyers and has more than 30 years' experience advising on all aspects of contract and corporate law.

He has a long association with RAILS, having commenced as a volunteer at South Brisbane Immigration and Community Legal Service (as it then was called) in the 1980s and having been a member of the Management Committee for more than 10 years before resigning in 2000 and then re-joining the Committee in 2013. Robin is also on the Management Committee of a number of other not for profit organisations including the Queensland Program to Assist Survivors of Torture and Trauma (QPASST). He acts as pro bono Legal Counsel for a number of not for profit organisations including Brisbane Indigenous Media Association and the Congress of Aboriginal and Torres Strait Islander Nurses and Midwives. Robin was selected for inclusion in the Australia Pacific Legal 500 for Corporate/M & A in 2013/2014 and 2014/2015.

## Belinda Taylor – Treasurer and Secretary

Belinda joined the Management Committee at the AGM in 2014 and was appointed treasurer in November 2014. Belinda currently works as an Assurance Manager for Hanrick Curran Audit. Belinda

has over 25 years' experience in Business Services and Auditing with senior roles in several large multinational companies in Sydney and Brisbane. Belinda has a Bachelor of Science from Sydney University, an Associate Diploma in Business Accounting and is a member of the National Institute of Accountants.



Photo No 3. Bruno Catalano. Voyageurs  
<https://pbs.twimg.com/media/CFXPfOqWgAAGLIU.jpg>

## Nitra Kidson – Member

Nitra is a barrister in private practice and specialises in administrative law. Nitra first joined the South Brisbane Immigration and Community legal Service (now known as RAILS) as a solicitor/caseworker in 1995. She advocated on behalf of clients and also represented the organisation on the Board of the Refugee Council of Australia and at many other forums.

## Peter Billings (LLB (Hons), PhD) – Member

Peter is an Associate Professor at the TC Beirne School of Law, the University of Queensland, Brisbane, and a Fellow of the Centre for Public, International and Comparative Law. He is also the Director of

Mooting in the Law School. His research interests are in particular areas of public law, administrative law, immigration and refugee law, social welfare law and the law relating to Indigenous Australians. He has published widely in leading law journals in Australia, UK and USA, and in several edited collections, and his work has been cited in both the High Court of Australia and Supreme Court of Queensland. He teaches at both undergraduate and postgraduate levels in Administrative Law, Immigration and Refugee Law, and Advocacy.

#### **Jo Rinaudo – Member**

She commenced work with the Queensland public sector in 1992 after completing a Bachelor of Social Work (UQ 1991). Jo worked in direct service delivery for many years at Legal Aid Queensland and in the Office of the Director of Public Prosecutions as led various policy and program teams in a number of different public sector agencies. Jo has a long history of involvement in the community sector through her participation on management committees including the Women's Legal Service, Zig Zag Young Women's Service and the Immigrant Women's Support Service.

#### **Kathleen Dare – Member**

Kathleen has been admitted to practice as a solicitor since 1990 and has worked in private practice, the Tenants Union, RAILS and Queensland Advocacy Inc. She is a past member of the Guardianship and Administration Tribunal and has taught in the Justice Studies School within the QUT Law Faculty and at the College of Law.

Kathleen is a current member of the Mental Health Review Tribunal and has her own legal practice as a sole practitioner.

#### **Hiwa Zandi – Member**

Hiwa is a practising lawyer specialising mainly in commercial litigation and migration matters. He graduated with double degrees LLB & BA (International Relations) from the University of Queensland in 2007 and currently studying Masters of Laws (part-time) at the same University. He is currently employed at Shimizu Kokusai Law Office (SKLO) in Brisbane. Before joining SKLO, Hiwa worked for International Organization for Migration for one year in a consultancy position to coordinate asylum seeker Voluntary Return Program in Manus Island and Nauru. Hiwa's association with RAILS goes back to more than 10 years when he initially worked as a voluntary legal clerk between 2004 and 2006.

#### **Gary Body – Member (Secretary until October 2015)**

Gary holds a Dip. Teaching, B Ed, and has been connected with RAILS since the service commenced in the early 1980s at the Brisbane Migrant Resource Centre as one of the first volunteer night coordinators, a role which he continued through to 1990s when he moved to the UK for 5 years. He has worked in education as a teacher and policy officer both in Queensland and the UK. Gary moved from Education Queensland to Queensland Health in the late 1990's and then served as a senior bureaucrat in public health programs most recently as a Unit Director in the Communicable Diseases Branch.

Gary resigned from the committee due to personal reasons in October 2015.

**Russell Hinchy (B Com, LLB (Hons), LLM) – Member**

Russell is a lecturer at the TC Beirne School of Law at The University of Queensland and he currently teaches in the areas of legal method and statutory interpretation. Prior to being admitted to practise as a barrister in 1993, Russell worked in various areas of public sector research, finance and law within the Queensland Government. Since 1994 he has taught in a variety of areas including foundations of law, contract, torts, trade practices and company law. Russell has an interest in company law and is co-author of *Company Law* (Pearson Prentice Hall, Sydney, 2<sup>nd</sup> ed, 2009). Russell is also the sole author of *The Australian Legal System: History, Institutions and Method* (Thomson Reuters, Sydney, 2<sup>nd</sup> ed, 2015). However, his current particular areas of interest and research are related to the teaching and learning of legal method and statutory interpretation through research-intensive, inquiry-guided learning using relevant digital technologies. Russell has previously held a Bar Association of Queensland Practising Certificate and is currently a Legal Practitioner of the Supreme Court of Queensland.





# OUR STAFF

▪ RAQUEL ALDUNATE	DIRECTOR
▪ BRUCE WELLS	PRINCIPAL SOLICITOR
▪ ROBERT LACHOWICZ	EDUCATION OFFICER
▪ KARINA FONSECA	ADMINISTRATION OFFICER
▪ CHRISTOPHER McGRATH	UAS PROJECT COORDINATOR
▪ SUSAN HOGARTH	PAIS CASEWORKER
▪ KYLIE McGRATH	CASEWORKER
▪ GRACE GATBONTON- PRINCE	CASEWORKER
▪ BUNU GAUTAM	CASEWORKER
▪ TIM MADIGAN	CASEWORKER
▪ TAYA HUNT	CASEWORKER
▪ DARRYL SEAN McNEILL	CASEWORKER
▪ NOEL REEVES	CASEWORKER
▪ IMKE VOLSCHENK	CASEWORKER
▪ JEANNETTE ALDUNATE	RECEPTIONIST
▪ KYLIE ELLIOT	PARALEGAL



Photo No 4: Full HD Pictures. Meeting  
<http://fullhdpictures.com/wp-content/uploads/2016/09/Meeting-HD-Wallpaper.jpg>

## PRESIDENT'S REPORT – ROBIN LONERGAN

I have been very pleased to serve as President of RAILS for another year.

The past year has seen substantial growth in the service and funding has remained stable. I acknowledge the benefit we receive from funding from the Commonwealth and the State under the National Partnership Agreement, DIBP, DSS and Legal Aid Queensland.

As always, the high standards that RAILS achieves reflect the professionalism and dedication of our staff. Over the past year as always, some new staff have been appointed and others have left. In particular I would like to thank Hannah McConnachie, Susan Bothmann, Mallory Wankel and Anna Carlson and our paralegals Lisa Atkinson and Charlotte Greener as well as Jee-Weun Ju. We are pleased that Imke Volschenk has been admitted and is now back as a case worker.

I thank Kathleen Dare for leading the service as Director while Raquel was on extended leave. We will also welcome back Rob Lachowicz from his much deserved long service leave.

RAILS offers a number of specialist services including the domestic violence research project into migrant and refugee communities funded by LAQ, a family law clinic provided with the assistance of Legal Aid Queensland and an employment law clinic which is being supervised by Rachel Drew.

The evening advice session remains possible through the generous support of volunteer migration agents and co-ordinators. We are looking to expand this service into Logan with a collaborative arrangement with Queensland Program of Assistance to Survivors of Torture and Trauma (QPASTT). At present this is managed through permanent staff attending day time sessions. We have also entered into a collaborative arrangement with Access Inc at Logan. We provide legal services across Queensland particularly through the Settlement Grants Program funded by DSS. Services are provided in Cairns, Townsville, Gatton, Toowoomba, Gold Coast, Brisbane and Goodna. While these outreach programs

increase the administrative complexity of the service, we recognise the need of migrant and refugee people throughout the State to have access to the specialist service provided by RAILS.

RAILS also provides student clinics with University of Queensland, Griffith University and the Queensland University of Technology during the past year and we are looking at implementing a second student clinic next year with UQ.

One of the most complex projects we have undertaken over the past couple of years is the Unrepresented Asylum Seeker (UAS) Project which has been funded totally by donations from individuals and members and from funds of RAILS. This is an important project which provides assistance to asylum seekers who have no access to legal advice funded by the Government and whose prospects of successfully lodging an application to remain in Australia would be greatly diminished without this project and the dedicated support of our numerous pro bono lawyers. In particular, I acknowledge the support given to RAILS by our pro bono law firm partners – Allens Linklaters, Maurice Blackburn, McCullough Robertson, Minter Ellison, Norton Rose Fulbright and TressCox. These firms provide expert supervision, encourage their lawyers and other staff to volunteer their time at our clinics and provide pro bono assistance to our clients when we are unable to provide the assistance through our funding models.

RAILS also receives assistance from other partners including Legal Aid Queensland, Future Changes, QPASTT, Romero Centre, Indooroopilly Uniting Church, Immigrant Women's Support Service and Settlement Services. All of these professional partners assist us in providing a wide range of services

to our clients in the refugee and migrant community.

Finally, I would like to thank the Committee for their dedication and professionalism. They make my role easy with their enthusiasm and commitment.

The role of specialist services such as RAILS continues to grow and to become more important to provide representation for migrants generally in specialist areas such as family law, domestic violence and employment law, even at a time when government funding for community legal centres is being reduced. This is a continuing challenge for RAILS.

It is worth going back to basics on why we are members of RAILS, volunteer at RAILS, work at RAILS and participate as the Management Committee of RAILS: to provide assistance to people working their way through the complex visa regulations and perhaps most importantly to provide legal assistance to those who are without any other source of advice regarding their legal rights, particularly refugees.

While we provided advice to 2344 people this year, we also represent clients who experience extreme hardship in the areas of domestic and family violence, refugee status resolution and refugee family reunion.

An example, of the work performed by our staff is the following case study which highlights issues of regional resettlement; assisting people to avoid dangerous journeys at sea; (plus engagement with our partner services).

*RAILS assisted a Rohingya man who had left Burma in 2008. Rohingyans are not recognised as citizens of Burma, and are commonly stateless. He had left his family and travelled to Indonesia where he registered with UNHCR, and was then resettled in Australia in 2012. Our client had been referred to RAILS by the **Queensland Program of Assistance to Survivors of Torture and Trauma (QPASTT)** because ongoing separation from his family was contributing to serious mental illness.*

*Our client explained that he had been out of contact with his family for many years, but that he had recently learned that they had travelled to Indonesia and were preparing to travel to Australia by boat. After speaking with RAILS, our client advised his family to remain in Indonesia, and with our assistance he proposed them to be resettled through Australia's humanitarian program. Of the tens of thousands of applications made through that program each year, our client's family's visas were among the 5000 granted globally.*

*The International Organisation for Migration (IOM) then assisted the family to be lawfully and safely reunited in Australia.*

Finally, on a very sad note, I must advise you that Raquel Aldunate has decided to leave us effective tonight. Raquel has been a wonderful Director over many years and provided stability, enthusiasm and dedication to the Service. We will all be very sad to see Raquel go but I am also pleased to introduce you to our new Director Greg Mackay. Greg has great experience working in the administration of not for profit organisations particularly in relation to social justice including more than 7 years as Director of Uniting Care Queensland's Centre for Social Justice. I am sure you will all join me in welcoming Greg to this fantastic organisation.







Photo No 6: Ico. Data record  
<https://ico.org.uk/media/1376/data-records-800x537.jpg>

## TREASURER'S REPORT – BELINDA TAYLOR

RAILS has achieved another financial success for the 2016 financial year despite continued funding uncertainty and many staff changes. It has met budgeted milestones in the majority of services areas and continues to provide quality legal services in a very tough environment.

RAILS has produced a healthy surplus of \$46,375 for 2016, increasing net assets by \$100,000 and improving the cash position by over \$50,000. This increase in net assets has placed the organisation in a sound financial position to face any future funding challenges for the 2017 financial year. The organisation now has a very strong current ratio of 3.1 (an improvement from 2.6 in 2015), which gives an indication of how well RAILS is placed to pay debts as they fall due.

Praise must be given to the accounting staff (Mae and Camille) who have tightened the accuracy and timeliness of end of month reporting, which has assisted the Finance Committee in making financial decisions.

RAILS will go into the 2017 financial year with a very strong cash position which will assist the organisation to meet the budgeted expectations for 2017. Kathleen Dare and Raquel Aldunate have worked very hard to secure State and Federal grant funding over the next 3 years and should be commended for their efforts. Securing financial stability will assist the organisation to grow and expand quality legal and educational services for the next financial year.

A special thanks to Raquel who has worked tirelessly for the organisation for so many years, and will be sorely missed by all staff and committee members.

## DIRECTOR'S REPORT – RAQUEL ALDUNATE

This year's report is my last report as the Director of the Refugee and Immigration Legal Service. After a challenging, difficult at times but mostly rewarding 7 + years I am resigning from this extremely worthwhile and wonderful organisation. I believe I am leaving an organisation where values of social justice, professionalism, solidarity and high regard for diversity and human rights are high on the agenda and lead the service delivery of the agency.

This report is the reflection of the work carried out by staff, volunteers, the pro-bono law firms, the Universities (particularly the law schools) which is possible with the financial assistance of the funding bodies and generous donations from the public.

The work RAILS carries out has always been underpinned by the contribution from volunteers. Volunteer lawyers and migration agents are the key for our evening advice sessions (EAS) and without their commitment and regular support it would be impossible to provide legal advice to disadvantaged migrants and refugees. More recently volunteer lawyers have also been extremely supportive and committed to the unrepresented asylum seekers project (UAS) in our Brisbane office.

During 2015-16 RAILS received funding from the Commonwealth and the State under the National Partnership



Agreements for Legal Services (NPA), the Department of Immigration and Border Protection (DIBP) under the Immigration Advice and Application Assistance (IAAAS) program, The Department of Social Services (DSS) under the Settlement Grants Program, Legal Aid Queensland under the Community Legal Education grants program and the one - off grant to assist people who are experiencing domestic and family violence. RAILS also received donations from the Presentation Congregation Queensland and other individuals.

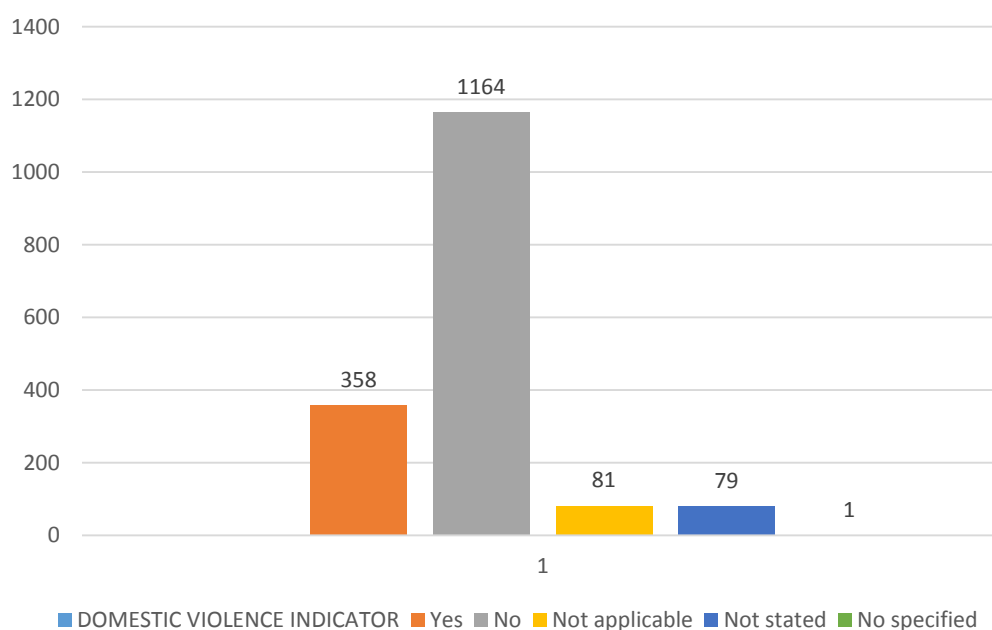
In this period RAILS also signed a contract with our sister organisation in New South Wales, the Refugee Advice and Casework Service (RACS) to provide services under the *Primary Application Information Service* (PAIS) program funded by DIBP.

## Service delivery and funding

RAILS has complied with the financial and activities requirements for the funding received as per service agreements.

During this period and under the NPA for Legal Services we provided legal advice and casework assistance to a total of 1653 clients. RAILS also provided advice to 358 people who have experienced domestic and family violence and represented 105 of people to make an application under the Domestic and Family Violence Provisions under the Migration regulations. RAILS also represented 26 to seek review at the AAT Migrant and Refugee Division.

**NAP Advices with Domestic Violence Indicator**



The challenges faced by RAILS' staff are varied and constant due to the changes to policy and procedure under this piece of legislation coupled by the lack of services that are willing and able to provide social/welfare support to our clients. It is not uncommon to find our lawyers and migration agents not only providing legal advice and representation but also trying to assist clients to resolve issues related to social disadvantage. For example, women from PNG experiencing domestic and family violence and who do not fit eligibility criteria for housing and financial assistance. For these women, RAILS staff are constantly trying to negotiate entry to homelessness services who refuse them assistance because these women do not have any source of income.

RAILS also continued to provide employment law advice to migrants and refugees. This year we provided legal advice to 28 clients with the assistance of our pro-bono partner TressCox Lawyers.

Again this year and in collaboration with Legal Aid Queensland we provided legal advice on family law matters and domestic violence to our client group. The family law/domestic violence advice is complemented by the expert advice provided at the same time by RAILS lawyers/migration agents when there are issues of immigration. This collaborative project has been functioning successfully as it provides a holistic response to clients.

*A former RAILS client returned to RAILS in February 2015 after she had reconciled with her spouse but then DIBP refused her Permanent Partner visa subclass 801 anyway on 19 January 2015. The refusal decision was based upon a declaration by the DIBP delegate that the client's five-year relationship with her sponsor was not a genuine marriage. We represented her at the AAT Migration and Refugee Division process. She has limited English and no family in Australia except her two sons.*

*DIBP previously grant her Subclass 300 Fiancé visa in 2011 and her Subclass 820 Partner visa in August 2012 as the marriage was genuine at that time. Around the time of the subclass 820 visa grant in late 2012, the Husband/Sponsor sustained a head injury in an accident at the couple's home. The injuries resulted in a major change in his mental state and behaviour leading to an aggressive manner and verbal and physical abuse towards his wife. She was compelled to leave the marriage at times in 2013 due to domestic violence perpetrated by her husband. She was a RAILS client at this time in 2013-14 but we closed the file when she reconciled with her husband. RAILS had sought to have DIBP grant the Subclass 801 Partner visa, under the family violence provisions of the Migration Regulations. A submission providing the requisite evidence for grant of the subclass 801 was forwarded to DIBP Brisbane on 16 January 2014.*

*After the RAILS submission to DIBP in January 2014 the client reconciled with the sponsor in June 2014 and decided to withdraw the application to have her subclass 801 finalised under the domestic violence provisions. RAILS closed the file and the couple liaised directly with DIBP to provide all their documents for the finalisation of the permanent subclass 801 visa. In January 2015 DIBP refused the permanent visa even though couple were still living together. Her husband lodged the MRT application as he and his wife believed their 5 year relationship was genuine. Unfortunately the following month, February 2015, her husband's behaviour again forced her to seek safety at a women's shelter due to her fear of the on-going violence and abuse.*

*RAILS represented the client and did the legal submission, requested updated psychologist report in regards to the domestic and family violence and the effects on the client. The AAT finally had the Hearing in September 2016. The Hearing lasted less than 40 minutes and the Tribunal accepted all RAILS submissions in relation to the genuineness of the marriage and the domestic and family violence in the marriage. The only discussion was in relation to whether*



*or not her sons were still dependents. RAILS argued this was not an issue as they had been assessed as dependents in granting the subclass 820 and as such met the criteria for grant of permanent visa.*

*A week later the AAT agreed and notified that all parties were being remitted to DIBP for visa grant. We are still waiting for DIBP to restart finalising the visa process.*

### **Community Legal Education**

In 2015-16 we presented 41 general legal education sessions, to 874 participants. We provided 8 sessions of community workers training to 180 workers along with 8 CPD workshops to 237 lawyer/migration agents. A total for the year of 57 sessions to 1291 people. Information provided in education and training often gets passed on by participants to others, which widens the footprint of our work.



RAILS legal education practice aims to be responsive to researched need, targeted, creative, designed with communities of interest and well-evaluated if possible. Our programs are designed around education principles endorsed by the National Association of Community Legal Centres.

### **Continuing Professional Education Program**

RAILS caseworkers and guest presenters delivered 8 CPD workshops (accredited by the Migration Agents Registration Authority) to 237 attendees throughout the year. CPD workshops aim to ensure staff, volunteers and other colleagues are updated on latest developments and gain CPD points to enable professional registration.

Topics covered were

- Updates on Migration law.
- Business Management.
- Ethics and Professional Practice.
- Visa cancellation on Character grounds Working with Clients from Diverse backgrounds.
- Onshore Refugees – Permanent Protection Onshore Refugees – Temporary Protection.

### **CLE to New Arrivals**

RAILS continued to hold regular sessions at MDA for new arrival refugees as part of their Life Skills program.

We developed a Street Law clinic in collaboration with UQ, QUT and MDA where 14 law students worked together to build street law resources to present to a group 52 clients from Rohingya, Somali and Tamil backgrounds at Inala House. We included the Legal Health Check resource that QPILCH has developed. The project

also served to provide the law students with an introduction to the CLE program and community work in general.

### **Domestic Violence Education**

RAILS participated in a 'Peaceful Communities textile workshop' in collaboration with MDA at the Inala Community Hub, combining sewing skills, food sharing and conversations about peaceful communities including domestic violence law in migration situations and accessing assistance in DV situations. .

### **Youth Legal Education**

RAILS delivered two 'Women's art and discussion workshops' in partnership with the Brisbane Youth Service discussing healthy relationships and self-care, and the legal context of DV and women's rights in Australia.

*Polyglot:* youth engagement workshops at MDA were also held focussing on sharing creative skills and getting young people

connected with legal information and services.

*Radio:* RAILS in collaboration with 4EB produced three radio programs about settlement and refugee issues. Information about several areas of street law and asylum seeker processes was included in these programs.

### **DIBP – IAAAS**

RAILS has also received funding from the DIBP under the IAAAS to provide legal advice and assistance to clients seeking protection in Australia and who have arrived legally. RAILS provided 180 legal advices and represented a total of 70 at primary level. We also represented 4 clients with their applications for review at the AAT Migrant and Refugee Division.

The following case study is a reflection of the complexity of the work and the need of a service that specialises in immigration and refugee law.

*RAILS assisted a woman from PNG to apply for a permanent protection visa. When she approached RAILS, she explained that as a very young woman she had left her village and travelled to Port Moresby, where she had married. She experienced family violence in that relationship, and some years later her husband drove her out of their family home, and continued to harass and threaten her. She was assisted to travel to Australia by a church group in order to have some respite from that harassment.*

*RAILS assists many PNG women in circumstances similar to this, and is well aware of the issues which PNG women face. These include widespread police and societal indifference to family violence; very few resources available to support women escaping family violence; and lack of education and very limited capacity for economic independence. It is also our experience that PNG women will often minimise their experiences when describing previous harm. For those reasons,*

*RAILS advised our client to apply for a permanent protection visa, and we agreed to represent her through that process.*

*When she arrived in Australia, this woman had no income, no savings, and no family or community support. Her visa did not allow her permission to work. She was not eligible for any income support, assistance with housing, or counselling for the family violence that she had experienced.*

*As a protection visa applicant represented by RAILS, she was assisted to apply for income support through the Status Resolution Support Service (SRSS) administered by the Australian Red Cross. She also received counselling through RAILS' collaboration with Change Futures psychology.*

*RAILS assisted our client to complete the detailed visa application forms, attend identity and health appointments, prepare a detailed statement of her claims and the evidence she could provide to support those claims, prepared legal submissions in support of her application, and attended a DIBP interview in which her claims were tested over several hours.*

*With that support, our client was able to disclose her true circumstances: that when living in her home village, her mother, a widow, had been accused of practicing witchcraft and burnt alive. Our client was also deemed to be a witch, and so had fled to Port Moresby where she later married. Eventually her husband became aware of the witchcraft accusations against her, and that was the reason she had been driven from their home. While trying to support herself in Port Moresby without a male protector, she had been gang-raped by men she believed to be associated with her home village. It was at that time she was helped to flee to Australia.*

*DIBP accepted that there would be a real chance of our client experiencing serious harm if she returned to Port Moresby. DIBP also accepted that there was nowhere in PNG where she could safely relocate.*

*In June 2016, she was granted a protection visa and she is now a permanent resident of Australia.*

This year RAILS saw an expansion of Refugee Family Reunion Project (RFR) funded by DSS under the Settlement Grants program. We received additional funds to expand the RFR outreach service to Townsville, Cairns and the Gold Coast due to the demand for services in these areas. The outreach service at Rockhampton ceased due to the decrease in the number of migrants settling in that region. However, we continue to service that area via other means such as phone advice.

*A South Sudanese refugee who was re-settled in Australia in 2005 approached RAILS on 14 January 2016 for assistance with preparing for his AAT hearing on 2 February 2016.*

*A copy of the relevant department file was provided to RAILS by the tribunal on 19 January 2016.*

*The circumstances of the case were:*

- *Client's wife had applied for an offshore Partner Visa in November 2012*
- *Included in her application as dependents were her own step-sister and client's cousins.*
- *Her visa was granted in mid-2014 but the visas of the dependent applicants were refused, because:*
  1. *In relation to the cousins – that cousin-in-law does not fall within the definition of relative or close relative for the purpose of satisfying the requirement that they were members of the principal applicant's family unit.*
  2. *In relation to the step-sister – that she was not usually resident with the principal applicant.*

*From the Department file, it was suspected that the residence of the children with the principal applicant had been contrived to attempt to fit within the definition of member of the family unit. In fact the four dependent applicants had been usually resident with the principal applicant since her marriage to the sponsor in 2009.*

*It was successfully argued on review that the cousins had been customarily adopted by the sponsor and as such could properly be deemed to be members of the family unit of the principal applicant. The tribunal was satisfied with the evidence of the sponsor and the principal applicant that the dependent applicants had been usually resident with the principal applicant since 2009.*

*The matter was remitted for reconsideration with relevant directions made.*

The **Unpresented Asylum Seekers** (UAS) Project started in 2014 to provide free legal support to an estimated 3,000 asylum seekers in Queensland who are now eligible to apply for Temporary Protection visas (TPV) or Safe Haven Enterprise visas (SHEV). The UAS is solely funded by donations, and we thank our dedicated team of volunteer solicitors who attend in the evenings to assist clients to complete statements of their claims for protection. The clinic runs every Tuesday and Thursday evening and has now represented more than 500 clients.

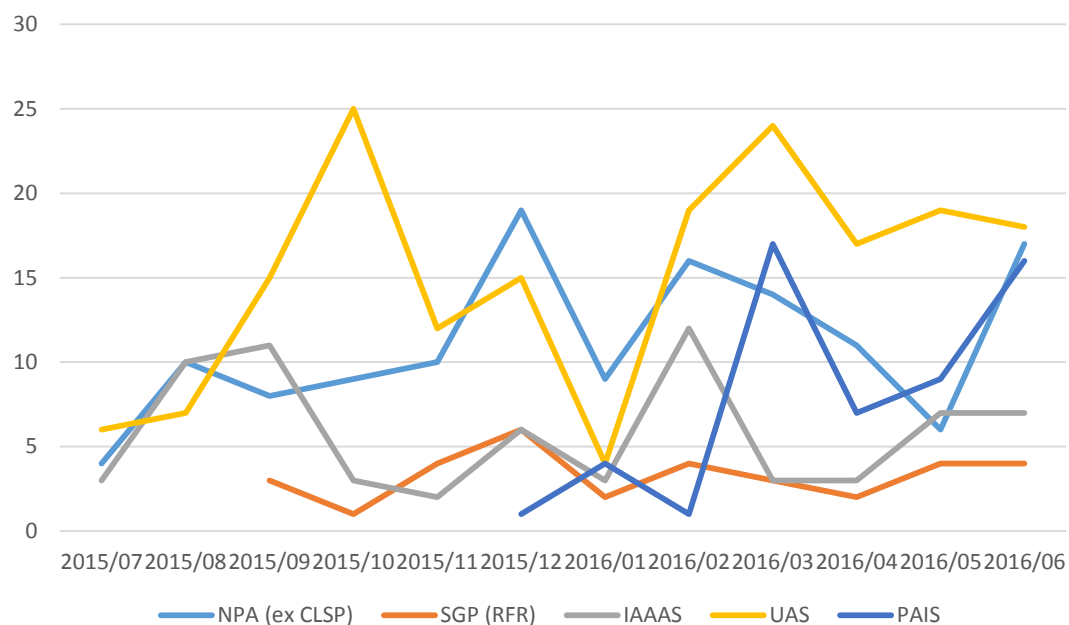
During 2015-16, RAILS held induction and training for volunteer solicitors, hosted by Holding Redlich, Maurice Blackburn and King & Wood Mallesons. Currently, we have 61 volunteer lawyers on our books, 31 of whom have been recruited in the last 12 months. At the time of

writing, there is an approximate wait time for clients of two to three months to be represented through our UAS project.

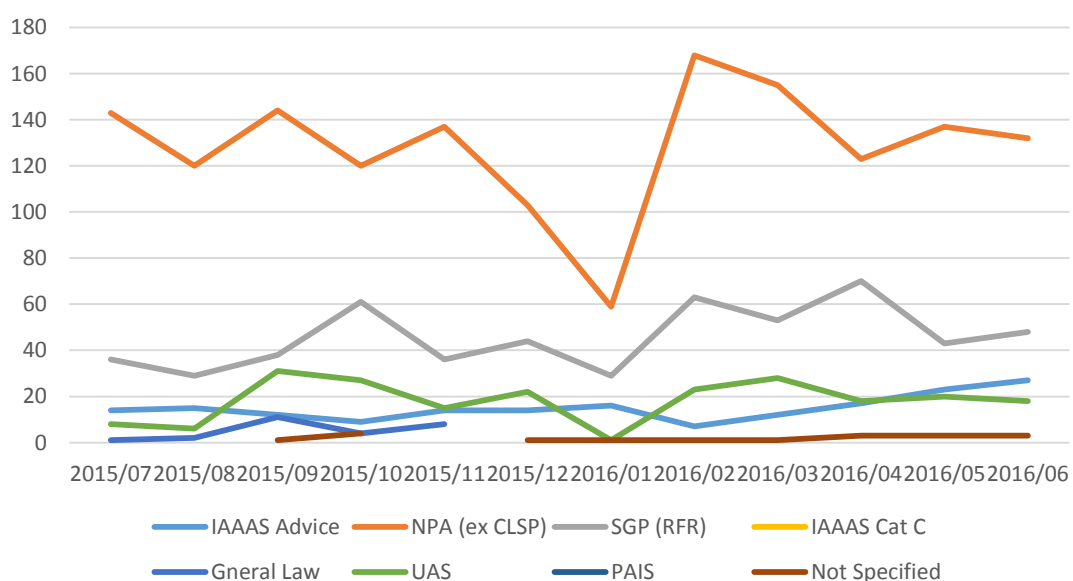
RAILS also trained new volunteer students for the Unrepresented Asylum Seeker program in statement taking, aspects of cross-cultural lawyering, reflexive practice and effective legal storytelling. University students assisting unrepresented asylum seekers with form filling in other programs were trained by RAILS in relevant legal issues around the form filling.

Although the management committee has committed to keep running the project until June 2017, the donations for this project have decreased in the past 12 months in comparison to the previous period making the maintenance of this project very challenging.

### CASES BY FUNDING BODY



### ADVISES BY FUNDING BODY



## Student Clinical Legal Education

RAILS caseworkers supervised 12 students each semester from University of Queensland, and Griffith Law Schools as part of their clinic programs. Students provided general case support as decided by casework priorities and worked in pairs with three caseworkers responsible for each cohort. The Education Officer is involved in the orientation program for students.

## Employment Law project

As part of a Legal Aid CLE Collaboration grant RAILS partnered with Caxton Legal Service to develop workshop material about rights and responsibilities at work. We delivered this information to 186 participants in 5 double sessions with African communities and 4 double sessions with Middle Eastern communities. RAILS worked closely with Queensland African Communities Council and Hazara and Iranian community associations. Employment law flyers were produced and are being distributed broadly.

## Help Me!

The 'Help Me!' legal education theatre was completed and performed at the end of 2014-15.



The film and dialogue guide of the 'Help Me!' theatre show were completed this year and uploaded onto our website. This is a powerful resource that promotes community dialogue about ways to discuss and deal with family violence. The project was funded under the LAQ Community Legal Education Collaboration Fund.

Following two performances with the Queensland African Communities Council, RAILS partnered with the Brisbane Domestic Violence Service and Community to hold another live performance with actors at Inala Community House. This resource has proven useful and innovative and other organisations are interested in utilising it.

This period, RAILS and Legal Aid Queensland collaborated in a research project 'Domestic Violence in Migrant Communities'. The research project was to undertake a scoping exercise, including an environmental scan of existing community legal education activities in migrant communities as well as to identify the most appropriate ways to deliver training and community legal education to migrant communities. Mallory Wankel was appointed as the research officer at RAILS to conduct the research and prepare a report and a reference group was also established to guide the research and report writing.

A number of community organisations across Queensland were contacted and participated in the project providing pivotal information as to the experiences of the members of their communities. The final report with a suite of

recommendations was submitted to Legal Aid Queensland.

Particular thanks to Anthony Reilly (CEO, LAQ) and Mary Burgess (Principal Policy Officer, LAQ) for their commitment to this issue and subsequent funding support; Jo Rinaudo (representative of RAILS management committee), Linda Richards and Katherine Gorter (policy officers at LAQ) for their support and guidance in this project.

RAILS is optimistic that the second stage of this project will continue in order to test some of the recommended steps and actions.

As every year we have continued to enhance our pro-bono partnerships with law firms. I would like to acknowledge their commitment and time spent at RAILS attending relevant training and providing very valuable and needed legal services to a disadvantaged group of people.

This year has been no different and we have continued and extended our engagement with Minter Ellison to include their involvement in assisting clients who are making applications for permanent resident under the domestic violence provisions of the Migration Act. This is further to their historical pro-bono assistance in the refugee family reunion sphere.

Allens Linklaters, Norton Rose Fullbright, Holding Redlich, Maurice Blackburn and King Wood Mallesons engagement has been primarily providing pro-bono assistance in the UAS sphere. This is a much needed support for clients who do not have access to legal services to assist them with their applications for protection.

I wish to extend our gratitude and thanks to Legal Aid Queensland family law section, Minter Ellison, Allens Linklaters, TressCox, Norton Rose Fullbright, Maurice Blackburn, Holding Redlich, McCullough Robertson Lawyers, Fragomens and King Wood & Mallesons for their constant support and commitment.

RAILS also saw a new pro-bono partnership this year with Change Futures entering into a collaborative arrangement with RAILS to provide a much needed counselling service to clients. Change Futures provide counselling services at RAILS each Thursday to PNG women in particular, who are seeking protection on the grounds of domestic violence and who are unable to access other services due to the geographical location of where the domestic violence occurred, that is offshore. The program has been a great success with 2 psychologists attending RAILS each week. I would like to acknowledge Julie Aganoff and Lisa Atkinson as they have very committed to see this project developed to support RAILS clients.

This year RAILS attended a number of conferences and events which are related to our core business. Of particular importance was the QAILS Parliamentary Reception where members of Parliament met with Directors and Principal Solicitors of Community Legal Centres across Qld to discuss the need for government to continue its commitment to the CLC sector and how centres can best support constituents and electoral officers.

RAILS has continued to be an active member of the national Refugee and Immigration Network CLCs, where we have collaborated on issues such as the impact



of legislation and policy with the view of providing an informed and coordinated position to the relevant government agencies and relevant politicians. RAILS also has input into law reform activities with the Queensland Association of Legal Services (QAILS) and the National Association of Community Legal Centres (NACLC). RAILS also contributed to a collaborative submission authored by the UQ Pro Bono Centre to the Parliamentary Inquiry into a possible Human Rights Act for Queensland. Thank you also to YAC, EDO and PLS for their contributions.

A very significant challenge for RAILS clients and caseworkers this year has been the approach by DIBP to claims by visa applicants that they have experienced family violence perpetrated by their sponsoring partner.

DIBP enforces very short and rigid timeframes for clients to provide mandated evidence to support their claims. This creates enormous stress for our clients, and places great strain on the resources of RAILS, and DV services more broadly.

Where clients are able to provide the necessary evidence, our experience is that DIBP processing of those applications has slowed considerably. Clients are increasingly likely to be referred to an 'independent expert' for external assessment of their claims. These referrals often occur many months after DIBP was made aware of the claims, and in our experience can re-traumatise the visa applicants.

RAILS has raised with DIBP and the 'independent experts' many concerns

about procedural fairness for these clients, and we intend to continue to advocate for systemic change in these processes.

RAILS and the UQ Pro Bono Centre collaborated on an examination of issues emerging with the use by DIBP of 'independent experts' to assess claims of domestic and family violence. It is anticipated that this research will be a valuable asset as we continue to advocate for procedural fairness for these vulnerable clients.

This year RAILS has seen staff leave us and others join us. I would like to acknowledge the contribution of those who left RAILS. Recognition for their commitment and tireless efforts to Hanna McConnachie, Lisa Atkinson, Mallory Wankel, Anna Carlson, Susan Bothmann, Walter Leggett, Charlotte Greener as well as Jee-Weun Ju. A welcome to Susan Hogarth, Christopher McGrath, Imke Volschenk who have joined RAILS as caseworkers.

Many thanks to Gary Body for his service to the Management committee throughout the year. Gary resigned during the year due to personal reasons. Gary has been associated with RAILS from its early and humble beginnings.

I am glad that Russell Hinchy is back on the management committee after many years of absence.

A very big thank you, to all members of the management committee for their dedication and support. I am glad to see that all of you will continue to support RAILS into the future and wish the best to Greg Mackay in his role as Director of RAILS.



Thank you to Kathleen Dare for her support throughout the years and most particularly for having taken the acting Director's role while I was on leave.

My time as the Director of RAILS has been extremely gratifying and although the environment in which we perform our role is challenging and the fiscal environment continues to shrink I believe we manage to do an extraordinary job with ordinary people who have extraordinary values and dedication. A special recognition to my colleagues, Karina, Mei, Jeannette, Taya, Kylie, Bunu, Kylie E, Grace, Imke, Susan, Bruce, Noel, Robert, Tim, Darryl, Chris; who day in and day out continue to do what they do best, provide our clients with a glimpse of hope for their future.

*Above all, always be capable of feeling deeply any injustice committed against anyone, anywhere in the world. (Guevara)*



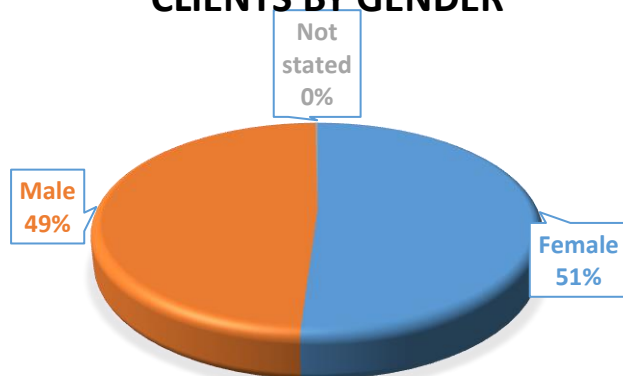
*(This report was written with input from Kathleen Dare, Karina Fonseca, Robert Lachowicz and Bruce Wells)*



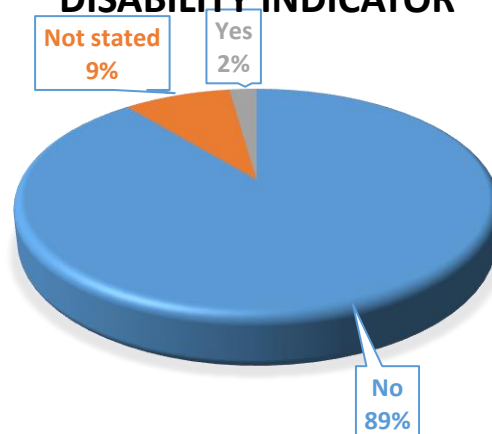
# STATISTIC REPORT

TOTAL CLIENTS: **2344**

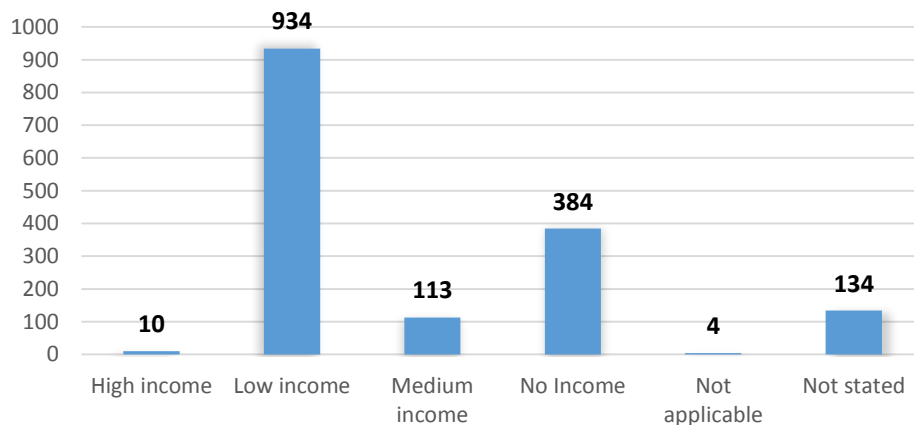
CLIENTS BY GENDER



DISABILITY INDICATOR



PERCENTAGE OF CLIENTS BY INCOME LEVEL



TOTAL ADVICES: **2548**



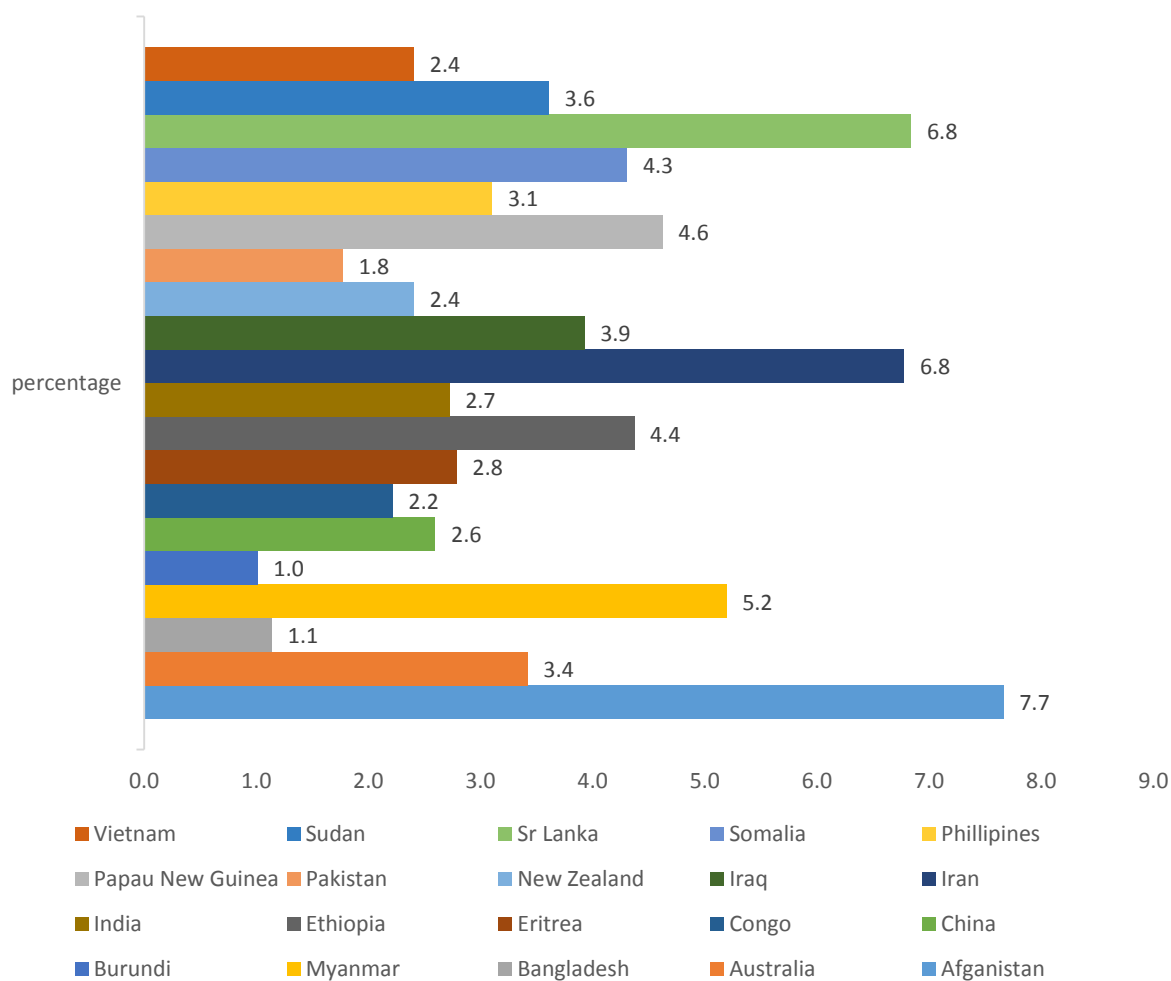
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**734**

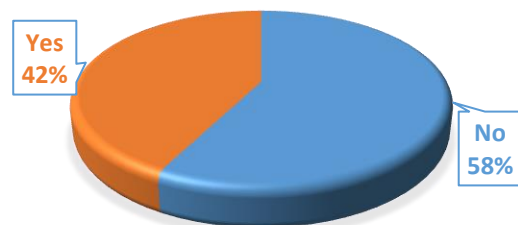
**6**

**5**

## PERCENTAGE OF CLIENTS BY COUNTRY OF BIRTH

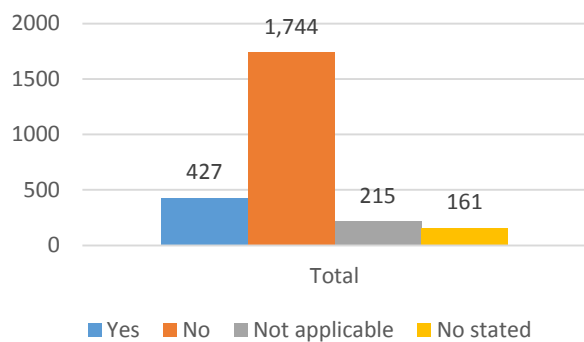


## USE OF INTERPRETING SERVICES



**ASSISTED WITH 417 PIECES  
OF INFORMATION**

## ADVICES WITH DOMESTIC VIOLENCE INDICATORS



## Opened and Closed files

