

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S DEPARTMENT

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Question No. 75

Senator Boyce asked the following question at the hearing on 26 May 2011:

Senator BOYCE: My area of interest is what involvement, if any, the department has had in looking at options that could be evaluated, researched or suggested around pathways for Aboriginal prisoners with intellectual disability, cognitive impairment or autism who have been incarcerated.

Mr Wilkins: I think we should take that on notice. I do not want to overstate it, but there have certainly been discussions among national justice CEOs—that is sort of my level—around some of these issues. There has been work done between officers in my department and the states and territories in terms of programs in the Indigenous justice area, which include some issues around, for example, the rehabilitation programs in prisons. But whether there are specific things dealing with cognitive impairment, I do not know. I can only take it on notice and come back to you, I think.

Senator BOYCE: Thanks, Mr Wilkins.

The answer to the honourable senator's question is as follows:

Mental health care for people subject to State and Territory court orders is a State and Territory responsibility. However, the Federal Attorney-General's Department is participating in work under the direction of the National Justice Chief Executive Officers' Group to look into this issue further. The work includes examining existing legislation, policies, programs and services for diversion and support of people with cognitive disabilities in, or at risk of engagement with, the criminal justice system and developing options for consideration to reduce the representation of these people within the system.

The links between mental health and the criminal justice system have also been identified as a significant issue by the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs in its report *Doing Time – Time for Doing*, released in June 2011. The Department is considering all the issues raised in the report, and has commenced consultations in order to assist the Government to respond to the report.

The Department is also involved in a number of initiatives that have the potential to address pathways for Aboriginal prisoners with intellectual disability, cognitive impairment or autism who have been incarcerated.

National Indigenous Law and Justice Framework

The Department led the development of the National Indigenous Law and Justice Framework. The Framework was agreed by the Australian and all State and Territory governments in November 2009. It recognises as a strategy the need to 'ensure that all levels of the justice system respond effectively to the mental health needs of Aboriginal and Torres Strait Islander peoples'. Implementation of actions relevant to this strategy, such as 'specialised training to enable police to better identify and respond to Aboriginal and Torres Strait Islander people with mental health issues' falls to State and Territory governments, as they are primarily responsible for the administration of the criminal justice system.

The Department is also looking at highlighting best practice through evaluation of Indigenous justice initiatives identified under the Framework. This work includes a specific focus on programs which target Indigenous offenders and those at risk of offending. These programs do not directly

address disabilities however the prevalence of mental illness and other disabilities among prisoners is widely acknowledged. As such the programs under evaluation may also capture clients with a range of disabilities. Some of the programs being evaluated are:

- Namatjira Haven – Drug and Alcohol Healing Centre (NSW)
- Dthina Yuwali – Aboriginal Alcohol and Other Drugs Program (NSW)
- Aggression Replacement Training (Qld)
- The Salvation Army Trust – Towards Independence Warrondi Program (SA), and
- Koori Cognitive Skills Program (Vic).

Aboriginal Interpreter Services

The Department administers a Memorandum of Understanding (MOU) between the Australian and Northern Territory Governments for interpreter services for Aboriginal people in the Territory. Funding supports free access to interpreters for Northern Territory law and justice and health agencies and AGD funded legal service providers.

Individuals in need of an Aboriginal interpreter are able to access the Northern Territory Aboriginal Interpreter Service, and in particular those people who have come in contact with the criminal justice system and need assistance in understanding their rights and options. The Interpreter Service is not specific to people with disabilities. However, it plays an important role in increasing access to relevant services for people who would otherwise be doubly disadvantaged.

In June 2011 the Department provided an additional \$750,000 to improve training for interpreters and those using the service, which could be expected to improve service delivery for all accessing it, including Aboriginal people with a cognitive impairment.

Indigenous Justice Program

The Department provides grant funding through the Indigenous Justice Program for small projects, including prisoner support and throughcare projects, to help respond to the challenge of the accelerating rate of Indigenous incarceration. While there is no overt reference to working with clients with disabilities, the Program Guidelines and Service Delivery Standards encourage accessibility of services to all in need including those with special vulnerabilities associated with disability, and also require individual assessment as well as appropriate referral to other agencies.

Prisoner throughcare projects however bring comprehensive case management and the provision of a continuum of services across all necessary elements of successful rehabilitation, which assists in identifying key needs including special vulnerabilities associated with a disability. In 2010-11, the Program provided funding for 13 prisoner throughcare projects, including one in New South Wales, one in Victoria, two in Queensland, two in South Australia, three in Western Australia, one in Tasmania, and three in the Northern Territory.

In June 2011 the Department provided an additional \$1.6m for prisoner through-care and youth diversionary projects. These initiatives are intended to help reduce recidivism and incarceration.

National Justice Mental Health Initiative

The Department participated in the National Justice Mental Health Initiative. The Initiative was conducted from March 2008 to July 2010, and aimed to improve the identification, treatment and coordination of services to people with mental illness who come into contact with the criminal justice system in Australia.

The outcomes of that project included: an audit of policy reports, research papers and recommendations relating to mental illness in the criminal justice system; and a publication, *Diversion and Support of Offenders with a Mental Illness: Guidelines for Best Practice*. While the initiative did not focus specifically on Indigenous people who come into contact with the criminal justice system, the publication did identify the particular issues faced by Indigenous prisoners. A copy of the publication can be downloaded at:

http://www.aic.gov.au/crime_community/communitycrime/mental%20health%20and%20crime/~media/aic/njceo/diversion_support.pdf