

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

Sub Program 1.1.2

Question No. 129

Senator Ludlam asked the following question at the hearing on 27 May 2009:

It was noted with concern, in the concluding observations of the Human Rights Committee (Ninety-fifth session), the lack of adequate access to justice for marginalized and disadvantaged groups, including indigenous peoples and aliens in Australia. How is the government responding to these concerns?

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

The Australian Government, through the Attorney-General's Department, funds a number of programs to provide access to justice for marginalised and disadvantaged groups in Australia. In 2009-10 the Australian Government will provide \$302.396 million for the following programs that assist with access to justice for marginalised and disadvantaged groups in Australia:

Legal Aid Program

The Australian Government funds legal aid commissions in each State and Territory to provide legal assistance to disadvantaged persons in matters arising under Commonwealth law. Services include information, advice and minor assistance, community legal education, family dispute resolution services, duty lawyer services in family court registries, grants of aid for representation, funding for services in rural, regional and remote areas, the Expensive Commonwealth Criminal Cases fund, and veterans' affairs. Indigenous people are able to access mainstream legal aid services. Non-citizens with matters in Australian courts are also able to apply for legal assistance.

In 2009-10 the Australian Government will provide funding of \$172.157 million for legal aid to disadvantaged persons in matters arising under the Commonwealth law.

Legal Aid for Indigenous Australians Program

Under the Legal Aid for Indigenous Australians Program, the Government contracts state-wide or zone-wide Aboriginal and Torres Strait Islander Legal Services (ATSILS) to deliver high quality and culturally sensitive legal aid services to Indigenous Australians. The ATSILS provide advice, duty lawyer and casework services for criminal, civil and family law matters from 85 metropolitan, regional and remote locations around Australia. The Program specifies clear eligibility requirements and priority categories to ensure legal aid services are available to those Indigenous Australians most in need.

The ATSILS provide legal services at Indigenous-specific courts, such as Circle Sentencing and Nunga, Murri, Koori and bush courts. Indigenous-specific courts are an expanding feature in Australian jurisdictions and provide greater capacity to respond flexibly to client needs.

This Program also provides Indigenous Test Case funding for legal matters that promote the review of laws and administrative practices that have the effect of discriminating against Indigenous Australians, the recognition of Indigenous Australians' social, cultural, economic, legal and political rights through the conduct of litigation, and the resolution of inconsistencies and

ambiguities in the application of existing laws to Indigenous Australians, or to an identifiable group of Indigenous Australians, through the conduct of litigation.

The Program also provides funding for expensive Indigenous cases to enable ATSILS to supply legal casework to clients whose cases require funding of an amount that would severely impact upon the ATSILS' ability to fund their daily operations and provision of other legal services if they were pursued.

In 2009-10 the Australian Government will provide funding of \$52.541 million for Indigenous legal aid services.

Community Legal Centres

Under the Commonwealth Community Legal Services Program, 128 community legal centres are funded to provide legal information and assistance to disadvantaged and marginalised groups. Some Program funding is specifically targeted to assist Indigenous women, people living in regional, rural and remote Australia, people experiencing a legal problem under the Disability Discrimination Act, and people experiencing difficulties with Centrelink payments.

There are a number of community legal centres that directly target services to particular groups, for example, immigration and refugee services, the HIV/AIDS legal services, tenancy services, Indigenous women's services, consumer credit legal services, women's services, youth services, and legal services for prisoners.

In 2009-10 the Australian Government will allocate funding of \$26.085 million to the Commonwealth Community Legal Services Program. The States also provide funding to community legal centres under State Community Legal Services Programs.

Family Violence Prevention Legal Services Program

This program assists Indigenous adults and children who are victims of family violence, including sexual assault, or who are at immediate risk of such violence. The program also performs early intervention and prevention functions that seek to prevent family violence and sexual assault or abuse from occurring, with a view to changing the behaviours and attitudes of individuals, empowering them and the community to stop family violence.

In 2009-10 the Australian Government will provide funding of \$19.389 million for Indigenous family violence prevention legal services.

Northern Territory Emergency Response Legal and Welfare Rights Services

In 2009-10 the Australian Government will provide funding of \$2.5 million to meet the legal needs of Indigenous Australians arising from the Northern Territory Emergency Response (NTER), including legal advice and representation and community legal education and outreach services. A further \$1 million will be provided for welfare rights legal assistance and outreach services, including providing early dispute resolution services to divert Indigenous people away from the legal system by providing information and advice on their social security rights in relation to NTER measures.

Financial Assistance Schemes

The Attorney-General's Department also administers 26 statutory and non-statutory schemes for the provision of financial assistance for legal and associated costs. The schemes exist to provide legal or financial assistance in cases where legal aid is not available from legal aid commissions or pro bono practitioners and where the circumstances give rise to a special Commonwealth interest.

In 2009-10 the Australian Government will provide funding of \$11.833 million for financial assistance schemes.

Law and Justice Advocacy Development Program

This program supports the advancement and protection of the legal rights of Indigenous Australians under Australian law by funding advocacy, law reform, research and community education activities.

In 2009-10 the Australian Government will provide funding of \$2.58 million for activities which advance and protect the legal rights of Indigenous Australians.

Prevention, Diversion, Rehabilitation and Restorative Justice Program

The Prevention, Diversion, Rehabilitation and Restorative Justice Program (PDRRP), develops and undertakes projects to help reduce Indigenous Australians' adverse contact with the justice system.

The PDRRP also develops and undertakes projects to help in the rehabilitation of Indigenous juveniles and adults who have been incarcerated in prison or detention, including support to assist in their successful reintegration back into the community.

In 2009-10 the Australian Government will provide funding of \$10.089 million for the PDRRP.

Northern Territory Aboriginal Interpreter Service

The Australian Government, in conjunction with the Northern Territory Government, funds the Northern Territory Aboriginal Interpreter Service (NTAIS) to assist in alleviating the language barriers faced by Indigenous people throughout the Northern Territory, particularly in relation to health and legal issues.

In 2009-10 the Australian Government will provide funding of \$1.219 million for Indigenous interpreter services in the Northern Territory.

One-off additional funding in 2007-08 and 2008-09 for legal assistance services

In the 2007-08 the Australian Government provided \$288.3 million for legal assistance services to disadvantaged Australians. This included one-off additional funding of \$7 million for legal aid in Commonwealth law matters, \$10 million for community legal centres and \$10.9 million to support Indigenous legal aid services.

In 2008-09 the Australian Government provided \$281.3 million for legal assistance services to disadvantaged Australians. This included one-off additional funding of \$10.1 million for legal aid in Commonwealth law matters, \$9 million for community legal centres and \$7.29 million to support Indigenous legal aid services.

Strategic Approach to Improving Access to Justice

The Attorney-General has identified the need for a strategic approach to improving access to justice. In January 2009 he established a taskforce to examine how the justice system can be more fair, simple, affordable and accessible. Funding for legal assistance programs is being considered in this broader context of improvements to accessibility in the justice system.

State/Territory funding for legal assistance for marginalised and disadvantaged groups

State and Territory Governments also make a significant contribution to support access to justice for disadvantaged groups. While the Australian Government does not collect State/Territory Government funding figures for legal aid, the Department estimates that in the 2008-09, State and Territory Governments provided \$357.243 million for legal assistance for marginalised and disadvantaged groups. This includes \$330.977 million through the State/Territory Legal Aid Program and \$26.266 million through the State/Territory Community Legal Services Program. State and Territory Governments do not provide funding to ATSILS for Indigenous-specific legal aid services.