



North Australian Aboriginal Justice Agency

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4 July 2014

Dr Warren Mundy
Presiding Commissioner
Productivity Commission

By email: access.justice@pc.gov.au

Dear Dr Mundy,

Access to Justice: supplementary submission

At the public hearing on 17 June 2014 in Darwin, NAAJA was asked to quantify the amount of additional funding NAAJA believes it requires to provide access to justice for Aboriginal people in the Top End.

In response we noted the difficulty in providing a figure given the vast unmet legal need, particularly in the area of civil law, which to a large extent simply cannot be quantified. However, we agreed to provide some estimates of the extent to which NAAJA is currently under-funded relative to mainstream legal aid services to provide a sense of the scale of the issue.

NAAJA emphasises that in providing this comparative information it is not suggesting that other legal assistance agencies are over-funded. This is clearly not the case.

Salary parity

Based on what we know of salary levels in other government legal agencies (particularly advertised positions), NAAJA's staff are paid 10-30% less than their counterparts. Our junior solicitors and support staff, for example, are paid 10-15% less than similarly qualified staff at other government agencies. Our senior and executive-level staff are paid 30% less than their counterparts. A broad comparison of personnel expenditure between NAAJA and the NT Legal Aid Commission suggests that the gap is about 25% (comparing total personnel costs divided by number of employees at each organisation).

Applying a conservative average of 20% to the current salaries paid within our legal practice (excluding additional law and justice projects such as Indigenous Prisoner Throughcare), NAAJA estimates that it would need an additional \$1.5m annually to achieve salary parity.

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Workload parity

In terms of funding required to achieve workload parity, we are only able to make a comparison in the context of our criminal law practice where we have counterparts at the NT Legal Aid Commission who undertake similar work. The work of our civil law service is not replicated elsewhere in the NT so we are not able to make a useful comparison in that context.

NAAJA criminal lawyers undertook 5,575 new cases (excluding duty lawyer matters) in 2012-13. NAAJA employed 24 criminal lawyers that year. Each lawyer therefore averaged 232 new cases in that year.

The NT Legal Aid Commission (operating across the whole of the Northern Territory) undertook 1,170 new cases (excluding duty lawyer matters) in 2012-13. NTLAC employed 20 lawyers. This amounts to 59 new cases per lawyer per year.

It must be recognised that differences in our client groups and needs means that a larger proportion of NAAJA cases will involve less serious charges and will therefore often (although not always) be less complicated. Aboriginal people are much more likely to face charges for 'public order', traffic and summary offences. They are also much more likely to require representation for less serious criminal charges because language and communication barriers mean they are not able to represent themselves. The raw numbers therefore need to be treated with some caution.

However, even a very conservative estimate would be that NAAJA requires double its current number of criminal lawyers to achieve anything close to workload parity. This would see NAAJA lawyers carrying only twice the file load of their counterparts at NTLAC.

This would require additional funding in the order of \$2.4 million based on current salary levels and including support staff. We emphasise that this only relates to the work of our criminal section.

Conclusion

Thank you for the opportunity to provide this additional information. We hope these estimates provide at least some useful context in which to assess the relative scale of the underfunding of Aboriginal Legal Services such as NAAJA.

If we can provide any additional information please let me know.

Yours sincerely,

Jonathon Hunyor
Principal Legal Officer