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Budget Estimates — May 2010 —AGD Opening Statement

Intro/portfolio overview

The Attorney-General's portfolio continues to make significant progress on initiatives for the Government to fulfil its core responsibility of achieving a just and secure society.

The Budget has provided funding over the four years from 2010-11 for a range of strategic measures.

The key measures include:

- Strengthening national security
- Combating organised crime
- Improving access to justice through legal assistance services
- Enhancing promotion and protection of human rights
- Countering violent extremism in our communities
- Strengthening Australia's border security

National Security and Border Security— measures to address tasks critical for sustaining national security including significant intelligence gathering initiatives and regional security cooperation, and tackle border security issues with substantial funding for the staged commissioning of eight new replacement Customs patrol vessels.

Combating Organised Crime—A Criminal Intelligence Fusion Centre will be established within the Australian Crime Commission and new analytical technologies will greatly enhance the work of AUSTRAC. Together these projects will help combat organised crime enterprises that are now estimated to cost the community more than \$15 billion annually.

Implementing Australia's Human Rights Framework – to enhance the protection and promotion of human rights and responsibilities, the Government will provide \$18.3 million over four years, including \$6.6 million to the Australian Human Rights Commission and \$2.1 million in grants to non-government organisations.

Countering Violent Extremism—Almost \$10 million over 4 years will be directed to countering violent extremism by developing programs at all levels of government that focus on identifying and diverting people at risk of violent extremism. Programs will be developed in partnership with local communities to supplement the work of law enforcement agencies.

Access to Justice—to implement the 'Strategic Framework for Access to Justice', the Government will invest an additional \$154 million over four years to improve access to justice in the community by resourcing and support for legal aid, Indigenous legal services and community legal services.

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These initiatives were developed in close collaboration between the Department and our portfolio agencies.

Overview of funding for AGD

- The funding for new measures for the Attorney-General's Department, announced in the Budget, amounts to \$153.4m over four years.
- Further funding of \$91.8m has been provided for legal assistance payments to states and territories under National Partnership Agreements paid through Treasury.
- In addition to the new measures, the Department will provide savings of \$83.5m over four years from its existing programs.

The new measures for the Department are as follows:

\$154 m over four years for improving access to justice

- In September 2009 the Government adopted the Strategic Framework for Access to Justice. The Strategic Framework helps government to best target resources across the justice system.
The framework is based on principles of accessibility, appropriateness, equity, efficiency and effectiveness
- Consistent with the Framework, the Government is injecting significant resources towards legal assistance services in the Budget. This new funding is a central element of a package of measures to improve access to justice across the federal civil justice system.
- The 2010-11 Budget provided \$154m over four years for legal assistance. This includes \$92.3m for legal aid, \$34.9m for Indigenous legal aid and \$26.8m for community legal services.
- The funding provided in the Budget will address service pressures faced by legal assistance providers. The funding will also be provided with a more strategic approach to legal assistance service delivery. It is intended that the focus of legal assistance services be directed away from high cost litigation to 'early intervention' services, which help people resolve disputes before they escalate to larger problems which we know can impact severely on people's wellbeing.
- The reforms will be driven by the National Partnership Agreement on Legal Assistance Services, currently being negotiated with State and Territory Governments. The agreement will modify Commonwealth funding policy to allow legal aid commissions to be able to spend Commonwealth funds on vital early intervention and prevention services of all law types, Commonwealth and State. This policy reform will be made possible through the additional funding for legal aid commissions from the Budget.

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- The additional funding for Indigenous legal services will allow service providers to meet increased demand for services, particularly in the areas of criminal law and family law.
- New funding for community legal services will be directed to enhance services targeted towards groups of identified need, including older persons, persons at risk of family violence, consumer credit and those in regional, rural and remote areas.
- Funding has also been provided in the Budget to allow the continuation of a successful pilot scheme under which community legal services are providing valuable legal assistance to clients of Family Relationship Centres.

\$11.7m over four years to contribute to the implementation of a new Australian human rights framework

- This provides funding for positive and practical measures to improve human rights protection in Australia, focussing on enhanced education and increased consideration of human rights in the development of laws, and includes \$2.1m in grants to non government organisations for community education.

\$9.7m over four years for countering violent extremism

- To counter the threat of home grown terrorism that was highlighted in the Counter Terrorism White Paper, this funding will provide for measures to identify and divert people at risk of violent extremism. This will be done in consultation with the community and the States and Territories.
- Of the allocated \$9.7million, \$2.9 million will be reallocated from the existing funding for the National Action Plan to build on Social Cohesion, Harmony and Security.

\$47.3m over four years, including capital of \$25.1m, for projects to support the increased population on Christmas Island

- Services included in this package of measures include: adequate sewerage treatment, provision of additional staff housing, and continuation of expanded health, education and community policing services.
- Essential infrastructure on Christmas Island is designed for a population of 2,000. The population of the Island is currently approaching 4,500 due to immigration activity.
- This package is further to a \$50m package announced in December 2009 that has funded additional education, medical and policing personnel as well as expansions to waste water treatment infrastructure, to be completed by October 2010, and upgrades to the Christmas Island power station, to be completed in 2011.

\$7.5m over three years from 2011-12 for ongoing maintenance of the Cocos (Keeling) Islands runway (after a \$28m refurbishment project is completed by the Department of Finance and Deregulation during 2010-11.)

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- Refurbishment of the runway will ensure the vital link with the Australian mainland is maintained, essential services to the local community are delivered and operational support for Australia's northern defences is maintained.

\$17.9m, including capital of \$5.3m, in additional resourcing to establish the Personal Properties Security Register.

- The funding will allow a new PPS Registrar to begin work in mid-2010 to manage the transition to the new system. The funding provided in this Budget will be recovered through user fees once the new PPS Register is operational.

Other measures to implement the Access to Justice Framework [and generate savings in the portfolio] include:

Court and AAT fees

- Consistent with the Attorney-General's Access to Justice strategic framework, \$66.2 million will be available from changes to fee structures of the federal courts and the AAT.
- In November 2009 the Standing Committee of Attorneys-General agreed to develop a harmonised approach to options for greater cost recovery of justice services. A working group is working on a methodology for a national approach.
- While these changes will make a contribution to the services being provided the changes fall substantially short of implementing full cost recovery.
- Fee increases will take account of the ability of parties to pay – increases for corporations will be more significant than for individuals.
- Parties facing financial hardship will pay a modest fee to make an application. This is significantly lower than normal fees. This will encourage parties to resolve matters without resorting to hearing and ensure that they make some contribution to the service provided.
- Increases to fees for long trials in the federal court – with higher fees for those over 5 days and more for those over 10 days – will provide incentives to take steps to identify the real issues in dispute so as to minimise the length of hearing. It is appropriate that parties involved in long trials which take up significant resources should make a greater contribution.
- Agencies in the AAT will also be subject to a fee for unsuccessfully defending or for challenging a decision unless there are compelling reasons to do so. This was a recommendation of the Access to Justice Taskforce report.
- These measures seek to reinforce a cultural shift away from expensive adversarial litigation and multiple layers of merits review. Regulations are currently being developed in consultation with the courts to implement those fee changes.

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Judiciary

- In consultations with the federal courts efficiencies have been identified where it is expected that early intervention and more active case management will lead to continued reductions in workloads.
- \$17 million over four years is available from not filling 2 vacant positions in the FMC and not reappointing 4 judicial officers in the Family Court and 1 judicial officer in the Federal Court following upcoming retirements.
- Since 2006-07, Federal Court filings declined 21.5% - from 4925 in 2006-07 to 3864 in 2008-09.
- The impact of the active case management provisions passed by the Parliament last year and the roll out of the so called 'rocket docket' which was trialled in Victoria is expected to lead to further efficiencies.
- Family law filings (in both the Family Court and the FMC family law jurisdiction) in the same period also decreased a total of 12.48% - 20,539 in 2006-07 to 19,200 in 2009-10.
- The Government is confident funding cuts to the federal judiciary will not impact on the ability of the courts to deal with their workloads.

Family Law Payments to States

- \$9.1m over four years has been reallocated from Family Law Payments to States for services provided under the *Family Law Act 1975* and child support scheme.
- Claims in this area from the States have reduced in recent years consistent with the decrease in total family law filings with the introduction of the Family Relationships Centres and compulsory mediation before court.
- These savings can be achieved within the framework of existing arrangements with the States and will not impact on the services provided by States.

Family Relationship Services Program.

- The Government has reallocated \$48.4m over four years from the Family Relationship Services Program which had a total appropriation across both this department and FaHCSIA of \$253m in 2009-10. This is a program which has grown significantly in recent years from a total appropriation of \$121m in 2006-07.
- The reallocation represents a reduction of only around 3% to the overall program.

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- The majority of these savings (\$27.9m over 4 years) have been found by reducing internal government spending.
 - There is a reduction of \$6.4m over 4 years for forums and the development of resources – these activities were primarily held to establish new services, the sector is now well established and operating many of its own forums which the government uses to actively engage with the sector
 - There will be a reduction of \$6.5m over 4 years for research and evaluation activities – 6 major research proposals were concluded this financial year including the AIFS evaluation which was the largest empirical examination of the family law system ever. The research has provided a huge evidence base in this area which has reduced the need for funding of this type of activity over the next 4 years.
 - a transfer of \$16.8m to provide free legal assistance services in Family Relationship Centres. – this is actually money being reinvested in the family law system through the community legal sector. Providing early and targeted legal assistance contributes to better outcomes which will increase the likelihood of parents being able to resolve their disputes without going to courts by having a better understanding of their legal position.
 - There is only a limited impact on direct service delivery. These are:
 - The Government will achieve efficiencies by implementing a more consistent approach to how post-separation services collect fees from individuals who have the capacity to pay. It is estimated that these changes will net savings of around \$1.2m per year beginning in 2010-11 (moving upwards – total around \$5.2m over four years).
 - Introduction of a means test for the second and third hour of family dispute resolution at Family Relationships Centres. Clients with incomes over \$50,000 will make a modest contribution of \$30 per hour for the 2nd and 3rd hour after the first free hour. This will only affect 32% of clients. It is appropriate for those that use mediation services to contribute to the costs if they are able to afford it. Separating families will continue to receive all the other free services and support from FRCs including intake and assessment screenings, information sessions and group programs on parenting after separation.
 - \$4.5m over four years is achieved from administrative efficiencies and streamlining service delivery of counselling services provided under the Family Relationship Services Program with other types of post separation services.

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- After this reallocation there will still be some \$164m for 2010-11 in the FRSP program.
- That funding will continue to be used to provide post separation services (\$155m), Family Pathways Networks (\$2.8m), Legal Advice Service (as part of the Family Relationship Advice Line - \$1.0m pa), Support services related to International Child Abduction (Hague Convention - \$0.2m). It will leave approximately \$5m for continued work on Family Law Development Initiatives. In 2009-10 this funding was used for a range of family violence initiatives, support and education for service providers, and research.

Financial Assistance

- \$9.1m in savings over four years will be achieved from efficiencies created by a review of the guidelines for a range of schemes of legal assistance administered by this Department.
- Changes to the guidelines for these schemes will result in better targeting of assistance to the circumstances in which it is needed the most, ensure the schemes complement legal assistance services provided by legal aid commissions and other service providers, and that remuneration for solicitors under these schemes is consistent with other schemes of legal assistance.

NNTT

- Savings on \$17.1m over four years will be achieved by increased efficiencies in the National Native Title Tribunal. Recent amendments to the Native Title Act 1993 are likely to lead to reduced reliance on the NNTT's mediation function, making these savings possible.

Indigenous Justice Program (Night Patrol services)

- Savings of \$6m over four years will be achieved from the 'Closing the Gap in the Northern Territory Law and Order' measure. Night patrol services are now rolled out in all designated communities and in most instances major capital investment is in place. The revised funding levels are adequate to ensure service levels are maintained, while also retaining a capacity to respond to emerging issues.

[Other efficiencies leading to savings:]

Savings of \$9.7m over four years for the completion of the National Chemical, Biological and Radiological program

- Provisional funding in the forward estimates is no longer required as the objectives of the Capability Improvement Program have been achieved.

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- Achievements included:
 - joint initiatives with the United States through the Department of the Prime Minister and Cabinet;
 - joint research with the Defence Science and Technology Organisation; and
 - establishment of research oriented forums between the first responder community, researchers and the National Security Science and Technology Unit.

There are also significant savings generated by other agencies in the portfolio, which they will speak about.

In addition, the Government will continue to fund a number of programs administered by the Department:

- National leadership and coordination of intercountry adoption in Australia - \$11.1m over four years
 - This program allows the Australian Government to continue to meet its obligations under the *Hague Convention on Protection of Children and Cooperation in respect of intercountry adoption* and the Commonwealth-State agreement on intercountry adoption.
- The 2009-10 Budget saw \$79.3 million allocated over four years to the Natural Disaster Resilience Program (NDRP) for natural disaster mitigation.
 - This is in addition to funding already committed through several existing programs which will operate under the umbrella of the NDRP, bringing the total amount to \$110 million over four years. The Department is implementing this program through a national partnership agreement (NPA). This agreement with all jurisdictions was signed by the Prime Minister on 9 December 2009. The NPA has two key advantages. First it provides a significant increase in efficiency in administration of national funding for emergency management. Second it improves the targeting of funds within States and Territories through the completion of state-based risk assessments. A small part of the program has been used to undertake projects of national significance to emergency management as recommended by the National Emergency Management Committee (NEMC) and approved by the Attorney-General.
- National leadership of identity security policy – \$23.6m over four years
 - The use of false or stolen identities facilitates terrorism and organised crime, and undermines the security of our borders. Robust identity security can significantly contribute to current and future reform initiatives including: enhancing border security (including through the use of biometrics), the prevention of terrorism and

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organised crime, and support citizen participation with government online (including supporting holistic service delivery reforms). Funding will also complete implementation and continue operation of the national Document Verification Service (DVS).

- National Emergency Call Centre Connectivity – \$1.7m over four years
 - This funding provides for the technical solution that will enable time critical calls to the National Emergency Call Centre to be answered quickly during crises.
- Anti-money-laundering and counter-terrorism financing reforms – \$1.8m over four years.
 - To ensure that Australia has a strong anti-money laundering and counter terrorism financing legislative framework, this funding will enable the Department to develop a range of AML/CTF measures.
 - This includes the enhanced regulation of alternative remittance dealers to reduce the risk of money transfers being used to fund people smuggling ventures and other serious crime, announced by the Government on 9 April 2010.
- Telecommunications interception capability – \$11.2 m over four years for AGD (as part of multi-agency resourcing of \$101.6m over four years)
 - This funding will ensure that our telecommunications interception capability keeps up with technological changes in the telecommunications industry.

Support the AG as First Law Officer

- I would also like to make some comments on media reports about the Department in recent months arising from a review of the Department by Roger Beale that I commissioned soon after becoming Secretary, now some 18 months ago. Most of the recommendations in the Beale report have already been implemented, including a restructure of the Department and a greater focus on both strategic policy and timely implementation.
- In relation to the Department's support for the Attorney as First Law Officer, we have taken steps since the Beale Report was completed in 2008 to address issues raised:
 - amendments to the Legal Services Directions to require copies of all requests for constitutional advice from the Australian Government Solicitor to be provided to the Department, which ensures better monitoring of significant constitutional issues
 - release of a new Guidance Note on the obligations on FMA Act agencies to report to the Office of Legal Services Coordination on significant issues that arise in the provision of legal services

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- new arrangements for coordination of Cabinet submissions which ensure that the Department now receives a copy of all Cabinet submissions and is able to obtain AGS input if it is required and has not already been obtained
- improved coordination and cooperation with AGS is ensuring that the Attorney-General is advised of significant matters, particularly Cabinet matters
- the Department now gets the opportunity to advise on all Cabinet matters at an early stage, and
- commissioned the Blunn Krieger Review of the procurement of Commonwealth legal services.
- These changes have improved the Department's capacity to support the Attorney in his role as First Law Officer, but of course we continue to keep these issues under review. Specifically we will give further attention to the suggestions raised in the Blunn Krieger Report.