

**Senate Finance and Public Administration Legislation Committee**  
**ANSWERS TO QUESTIONS ON NOTICE**  
**ADDITIONAL ESTIMATES 2015**

Prime Minister and Cabinet Portfolio

**Department/Agency:** Office of the Registrar of Indigenous Corporations

**Outcome/Program:** 2 – Indigenous

**Topic:** Registrar of Indigenous Corporations

**Senator:** Nick Xenophon

**Question reference number:** 88

**Type of question:** Written

**Date set by the committee for the return of answer:** 10 April 2015

**Number of pages:** 1

**Question:**

Does the Registrar of Indigenous Corporations receive legal advice from a Barrister (as per the "Jawoyn case") and/or the AGS regarding whether or not to pursue each individual case?

Who ultimately decides whether to prosecute through a civil case and or a criminal case?

**Answer:**

No.

The Registrar of Indigenous Corporations does not prosecute criminal offences. All criminal prosecutions are undertaken by the Commonwealth Director of Public Prosecutions (CDPP). The Commonwealth Director of Public Prosecutions (CDPP) independently decides whether to prosecute a criminal offence.

Prior to the commencement of civil penalty litigation under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* the Registrar of Indigenous Corporations always:

- consults with the CDPP
- obtains independent external legal advice that there are reasonable grounds for commencing the litigation, in accordance with the Australian Government's *Legal Services Directions 2005*.

The Registrar of Indigenous Corporations ultimately decides whether to commence civil penalty litigation.