

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

Sub Program 1.1.2

Question No. 173

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

In relation to the proposition of Aboriginal people having the option of receiving justice through means of Aboriginal custodial law:

- a) What are the Government's positions on this?
- b) Has the Department provided any advice to the Government on this matter? If so, could you identify and provide?

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

Senator Barnett's office has advised that the question should read 'customary law', not 'custodial law' and that his interest is in traditional punishment.

- a) Section 16A of the *Crimes Act 1914* (Cth) allows a court to take account of traditional punishment that has been or will be imposed on a federal offender as a result of the offending behaviour when determining an appropriate sentence. This has been the case since section 16A was inserted into the Crimes Act by the *Crimes Legislation Amendment Act (No 2) 1989* (Cth).
- b) No.