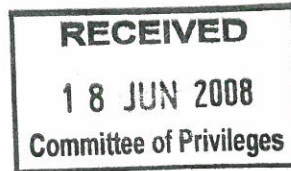


Additional information received by the Committee of Privileges in relation to its 133rd report, *Possible false or misleading evidence before the Legal and Constitutional Affairs Committee*



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16 June 2008

Senator the Hon George Brandis SC
Chair
Committee of Privileges
Parliament House
Canberra ACT 2600

Dear Senator Brandis

Thank you for your letter of 15 May 2008 and provision of a copy of the Committee of Privileges, *Possible false or misleading evidence before the Legal and Constitutional Affairs Committee 133rd Report*. I note that the Committee concluded that no contempt had been committed by me, however it was critical of the quality of evidence provided, and critical of the delay in responding to questions on notice.

Your letter states that the Committee "was critical, in general terms, of incomplete, fragmented and unforthcoming evidence given by officers at estimates hearings." Whilst comments from the Committee state they are "in general" and not necessarily reflective of the officers under examination of the inquiry, the proximity of the comments in the report to references on the provision of my evidence strongly infers that they can be, at least partially, attributed to me.

I would like to formally respond to the Committee's report by stating that I have always accurately relayed my knowledge and understanding from briefings and updates received of the events surrounding Mr Habib, however at times members of the Committee clearly misinterpreted these responses. This fact is evident when one reviews the May 2005 hearing.

To state that "extracting answers from officers at estimates can be like drawing blood from a stone", as expressed in the Committee's report, does not accurately reflect the genuine attempts made to provide information particularly when the information sought by the Committee is not articulated in clearly structured questions. Where questions are posed in a manner which does not reveal the nature of the information sought, witnesses ought not to be presumed to have an understanding of the questioner's intent.

The Committee's report further states that Question on Notice 79 is a reiteration of a question asked in 2005 that had not been satisfactorily answered. The AFP replied to all questions on notice from the 2005 hearing and a review of the transcript at that time revealed there were no clarifications required to the responses I provided.

In relation to criticisms of the response time to answers to two Questions on Notice (79 and 84) asked by Senator Ludwig at the May 2007 Budget Estimates, and due on 6 July 2007, these were delayed due to the coordination of responses by multiple agencies regarding questions relating to Mr Habib. Multi-agency coordination was critical to ensure responses provided by all Agencies were as accurate as they could be based on information held across a number of Commonwealth Agencies.

The delays are regrettable however as is Commonwealth practice, the responses were provided to the Office of the Minister for Justice and Customs on 10 September 2007 for clearance. The uncleared responses were then re-submitted to the Office of the Minister for Home Affairs on 31 January 2008 for clearance. Subsequently, at the Senate Standing Committee for Legal and Constitutional Affairs hearing of 18 February 2008, Senator Nettle asked me Question on Notice 79 again and I provided her the answer.

Until the Budget Estimates hearing on 26 May 2008 the AFP had no outstanding Questions on Notice in relation to any hearings.

Since Estimates hearings of February 2005 our records indicate the AFP has taken, or been asked, 365 questions on notice by the Committee. Of these, 347 answers have been provided to the Minister before the due date. This represents 95% of answers to questions on notice prepared by the AFP by the due date.

I acknowledge that there have on occasions, been delays with the provision of answers to questions on notice because of necessary research involved in providing the answer, or the coordination of multiple agencies. However in this instance it is primarily the Commonwealth practice of obtaining ministerial clearance that contributed to the delay. The Report's attribution to the officers appearing before the committee or the AFP for the delay, is not fairly directed.

It is unfortunate that I was not given the opportunity to comment on the findings of the Report before it was tabled and subsequently published. It is also unfortunate that media interpretation of the report directs your criticism at me which means I have been denied natural justice in not being able to defend myself or my organisation. I seek your support to remedy that situation. I am available to discuss a solution to this situation should that be possible.

Yours sincerely



M. J. Keelty