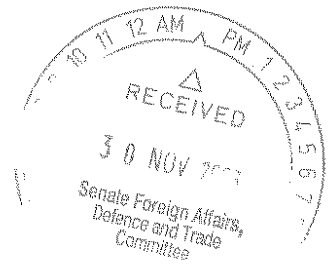




**Australian Government**  
**Department of Foreign Affairs and Trade**



24 November 2006

Dr Kathleen Dermody  
Committee Secretary  
Senate Standing Committee on Foreign Affairs, Defence and Trade  
Department of the Senate  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Dear Dr Dermody

I would like to clarify and add to evidence I gave to the Committee on 2 November concerning consular assistance to Mr David Hicks in Guantanamo Bay.

First, I would like to clarify that the Australian Consul-General in Washington did meet briefly in private with Mr Hicks during his visit to Guantanamo Bay on 27 September this year. While Mr Hicks had informed prison authorities that he did not wish to see the Consul-General (as I indicated in my evidence), the Consul-General did meet with him for approximately ten minutes in an interview room, with no guards or prison authorities in attendance. It was during this time that the Consul-General tried to persuade Mr Hicks to allow the visit to proceed in the interests of his welfare. Mr Hicks declined. The Consul-General remained available to see Mr Hicks for the remainder of that day, should he have changed his mind.

Second, in relation to questions concerning DFAT's knowledge of claims by Major Mori, Mr Hicks' lawyer, that Mr Hicks believed he was being punished for raising concerns with the Australian Consul-General, it has been brought to my attention that on 3 May 2006, the department received an email from Mr David Hicks' father, Mr Terry Hicks, forwarding an email from Major Mori (dated 2 May) alleging that Mr Hicks saw his move to Camp 5 "as punishment for speaking about all his complaints to the Australian Consul". Major Mori indicated the same concern to the Australian Embassy in Washington on 26 April. The department instructed the Embassy in Washington on 4 May to take these concerns up with US authorities. The Embassy did so the same day.

The Embassy reported, also on 4 May, that US authorities advised in response that Mr Hicks had been transferred to Camp 5 for two reasons: as part of a camp consolidation from older to newer facilities, and, consistent with Army regulations, because individuals with a pre-trial status are separated from the general prison population. Mr Hicks was thus detained in Camp 5 with other detainees charged by the Office of Military Commissions. US authorities rejected the claim that Mr

Hicks' transfer was to punish him for complaints made to the Consul-General.

This advice was conveyed to Mr Terry Hicks on 8 May 2006.

It is important to note that this exchange took place before the Consul-General visited Mr Hicks in Guantanamo Bay on 8 June 2006. As I explained in my evidence to the Committee, Mr Hicks spoke with the Consul-General for 90 minutes during that visit. Mr Hicks told the Consul-General that he was fit and well and did not complain that he had been or would be punished for raising concerns with the Consul-General. Nor did Mr Hicks make this complaint when he saw the Consul-General on 27 September, despite opportunity to do so in a private meeting.

However, as Major Mori has raised this matter again, we are again referring the complaint to US authorities (with Major Mori's consent) for a response.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rod Smith', with a stylized flourish at the end.

Rod Smith  
First Assistant Secretary  
Consular, Public Diplomacy  
and Parliamentary Affairs Division