

26 July 2004

Mr Sands
Secretary
Australian Senate
Parliament House
CANBERRA ACT 2600

Dear Mr Sands

Thank you for your correspondence of 29 June 2004 giving me the opportunity to respond to the evidence which has been given to the Senate Select Committee on the Lindeberg Grievance, which the Committee considers may reflect adversely on me.

I note that the only such evidence which has been specifically drawn to my attention by the Committee is at pages 28 to 29 of the *Submission by Keith Lindeberg* of May 2004. In so far as is relevant this is as follows:

"Hence, one limb of the charge pertaining to the CJC and its officials suggests that it is open to conclude that section 129 of the *Criminal Code (Qld) 1899* has been deliberately misinterpreted not only to unlawfully benefit another... from facing possible criminal charges in respect of the shredding of the Heiner Inquiry documents (and the disposal of the original complaints...), but, by putting its known false and misleading interpretation, the Senate may have been wilfully obstructed from making full and proper findings and recommendations and treated with criminal contempt in order to cover up crime and advantage the contemtor.

On the available evidence, it is therefore open to suggest the following CJC officials ... may be parties to the alleged conspiracy:

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- Mr Marshall Irwin – CJC General Counsel in early 1994 and early 1995 in so far as his involvement in Senate submission 106A of the 24 June 1994, the February 1995 Senate submission and/or evidence concerning his role in the legal contents and/or assertions in respect of the Heiner affair.

I advise that I unequivocally deny the allegations either express or implied in these assertions.

The assertion contains a number of factual errors in that:

- I was not CJC General Counsel in early 1995. I left the CJC on 28 August 1994 and commenced private practice as a barrister.
- I have not at any time given evidence or made any assertions in respect of the Heiner affair.
- I have not given evidence before any previous Senate Committee concerning this matter.

I note that the assertions at pages 28 to 29 are the only times that my name is mentioned in the evidence given to the Committee. In these circumstances it is not possible to be more specific in the absence also of any particulars of my alleged involvement, the passage of approximately 10 years since I last worked for the CJC, and the lack of access to any documentation to refresh my memory.

However in addition to my unequivocal rejection of the general allegations I can advise the Committee that to the best of my recollection I have had no involvement directly or indirectly in either of the Senate submissions referred to, and I have not at any time deliberately misinterpreted section 129 of the *Criminal Code*.

I again thank the Committee for this opportunity to reply to the evidence.

Yours sincerely,

Marshall Irwin