

ADDITIONAL INFORMATION RELATING TO
EVIDENCE TO THE COMMITTEE AT ESTIMATES
HEARINGS IN MAY 2004 AND FEBRUARY 2005
CONCERNING MR MAMDOUH HABIB

SENATE STANDING COMMITTEE ON LEGAL AND
CONSTITUTIONAL AFFAIRS

ATTORNEY-GENERAL'S PORTFOLIO

1. Letter from the committee to the Secretary of the Attorney-General's Department dated 25 July 2007
2. Letter from the committee to the Commissioner of the Australian Federal Police dated 25 July 2007
3. Letter from the Secretary of the Attorney-General's Department to the committee dated 31 July 2007
4. Letter from the Commissioner of the Australian Federal Police to the committee dated 23 August 2007



STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

²⁵
~~19~~ July 2007

Mr Robert Cornall AO
Secretary
Attorney-General's Department
Robert Garran Offices
National Circuit
BARTON ACT 2600

Dear Mr Cornall

Evidence given in relation to Mr Mamdouh Habib

I am writing to you on behalf of the Senate Legal and Constitutional Affairs Committee regarding evidence you provided to the committee at estimates hearings in May 2004 and February 2005 with respect to knowledge the Australian Government had of the whereabouts of Mr Mamdouh Habib during late 2001 and early 2002.

The committee notes that on 11 June 2007 the *Four Corners* program canvassed evidence provided to the committee at estimates hearings in 2004 and 2005 as well as related documents obtained through a freedom of information (FOI) request.

The committee notes that at its estimates hearing on 24 May 2004 you gave evidence to the committee that:

Mr Cornall—... My understanding is that we have a great deal of difficulty knowing what if anything occurred in relation to Mr Habib in Egypt because the Egyptians have never acknowledged that he was in their custody.

You gave further evidence:

Mr Cornall—... Before consular access was granted the government became aware that he had likely been moved to Egypt. I do not know how the government became aware that he had been moved to Egypt. Despite numerous requests for access by the government, including at the highest levels, Egypt has never acknowledged it had Mr Habib in its custody.

On 14 February 2005 you stated:

Mr Cornall—I have read them in media reports, but we do not know how he got to Egypt, if that is in fact where he was.

Senator BOLKUS—You still cannot confirm that he went to Egypt?

Mr Cornall—My briefing is that we have never received any confirmation from the Egyptian government that he was in their custody. That is as far as I can take that matter.

You gave further evidence on the same issue at pages 9-14 and 18-19 of the *Committee Hansard* of 14 February 2005 and in response to question on notice 74 which was asked at the same hearing.

The *Four Corners* program refers to material obtained under FOI suggesting that the government had concluded Mr Habib was in Egypt in November 2001. In addition, other officers gave evidence to the committee which suggested that the government held a firm view that Mr Habib was in Egypt. For example Mr Dennis Richardson advised the committee on 15 February 2005:

Senator KIRK—When did ASIO become aware that Mr Habib was no longer in Pakistan?

Mr Richardson—We formed a view in mid to late November that he was most likely in Egypt, and that was the basis of the Foreign Affairs representation to the Egyptian authorities for consular access to him. We established to our satisfaction that he was definitely there in February 2002.

Similarly, the AFP advised the committee in response to question on notice 232 which was asked at the hearing on 15 February 2005 that:

The AFP became aware on 19 November 2001 that Mr Habib was no longer in Pakistan and was most likely to be in Egypt.

The committee considered this matter on 16 July 2007. Given the assertions made by the Four Corners program, the committee resolved to write to you seeking clarification of the apparent inconsistency in the evidence provided to the committee.

The committee would be grateful for your response by 20 August 2007.

Please contact me on (02) 6277 3560 if you have any queries in relation to this matter further.

Yours sincerely



Jackie Morris
Committee Secretary



STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

25 July 2007

Commissioner Michael Keelty
Australian Federal Police
PO Box 401
Canberra City ACT 2601

Dear Commissioner Keelty

Evidence given in relation to Mr Mamdouh Habib

I am writing to you on behalf of the Senate Legal and Constitutional Affairs Committee regarding evidence you provided to the committee at an additional estimates hearing on 15 February 2005 with respect to knowledge the Australian Government had of the whereabouts of Mr Mamdouh Habib during late 2001 and early 2002.

The committee notes that on 11 June 2007 the *Four Corners* program canvassed evidence provided to the committee at estimates hearings in 2004 and 2005 as well as related documents obtained through a freedom of information (FOI) request.

The committee notes that at its estimates hearing on 15 February 2005 you gave evidence to the committee as follows:

Mr Keelty—No. We are obviously aware that it is alleged that he went to Egypt, but we are unable to confirm that.

Senator LUDWIG—And when did you make those inquiries? Were they recent inquiries or were they made at the same time?

Mr Keelty—When Mr Habib was interviewed on 15 May 2002 in Guantanamo Bay he was unsure himself whether he had been to Egypt. All he knew was that he had been to a place where the people who were dealing with him spoke Egyptian.

You gave further evidence:

Senator ALLISON—You say there is very little evidence that Mr Habib was in Egypt. Would you expect to see something on his passport? What sort of evidence would you expect to find?

Mr Keelty—I did not say that Mr Habib was in Egypt. The AFP is not in a position to confirm whether Mr Habib was in Egypt. Mr Habib's own words were that, wherever he was, wherever he had been taken to, the people spoke Egyptian.

The *Four Corners* program refers to material obtained under FOI suggesting that the government had concluded Mr Habib was in Egypt in November 2001. In addition, other officers gave evidence to the committee which suggested that the government held a firm view that Mr Habib was in Egypt. For example Mr Dennis Richardson advised the committee on 15 February 2005:

Senator KIRK—When did ASIO become aware that Mr Habib was no longer in Pakistan?
Mr Richardson—We formed a view in mid to late November that he was most likely in Egypt, and that was the basis of the Foreign Affairs representation to the Egyptian authorities for consular access to him. We established to our satisfaction that he was definitely there in February 2002.

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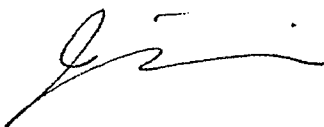
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Yours sincerely



Jackie Morris
Committee Secretary

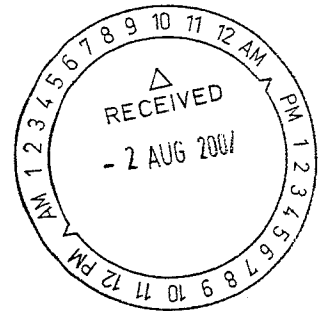


Australian Government
Attorney-General's Department

Secretary

31 July 2007

Ms Jackie Morris
Committee Secretary
Standing Committee on Legal and Constitutional Affairs
PO Box 6100
Parliament House
CANBERRA ACT 2600



Dear Ms Morris

Evidence given in relation to Mr Mamdouh Habib

I acknowledge your letter dated 25 July 2007.

I have viewed the Four Corners program and reviewed the evidence I gave at the Estimates hearings in relation to Mr Mamdouh Habib.

I do not see any inconsistency in my evidence. The evidence I gave in my position as Secretary of the Attorney-General's Department was a correct statement of my understanding and instructions in relation to Mr Habib and his whereabouts.

Similarly, I do not see any inconsistency between my responses set out in your letter and the evidence quoted from Mr Richardson and the answer to a question on notice provided by the Australian Federal Police.

If there are specific assertions made by the Four Corners program which are of concern to the Committee, I would be pleased if you would direct my attention to those particular matters.

Yours sincerely

Robert Cornall AO
Secretary



AFP

AUSTRALIAN FEDERAL POLICE

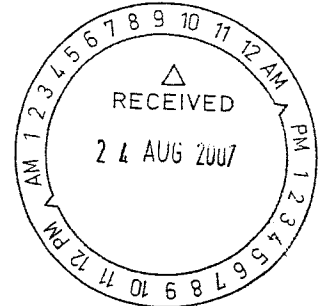
COMMISSIONER

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23 August 2007

Ms Jackie Morris
Committee Secretary
Standing Committee on Legal and Constitutional Affairs
PO Box 6100
Parliament House
CANBERRA ACT 2600



Dear Ms Morris

Evidence given in relation to Mr Mamdouh Habib

Thank you for your letter dated 25 July 2007, in which you refer to the assertions by the *Four Corners* program, aired on 11 June 2007 of perceived inconsistencies in the evidence provided to the Senate Legal and Constitutional Committee in relation to Mr Habib.

I have reviewed transcripts of my appearances before your committee, the answers the AFP has provided to questions on notice and the transcript of the Four Corners program. I do not believe there are any inconsistencies in the evidence I have given to the committee in my position as Commissioner of the Australian Federal Police, either at the estimates hearing on 15 February 2005, or via answers given to questions on notice.

The Four Corners program makes mention of a document sent by a Federal Police Liaison Officer in Islamabad on 19 November 2001. This document states "Information supplied this date by Head of Mission is that above person (*Habib*) is no longer in Pakistan and has been removed to the country of his birth. NFD." This information from the HOM was the first indication to the AFP of Mr Habib's whereabouts. As we were aware he was born in Egypt we took this to be the "country of his birth". This has previously been detailed in my response to Question on Notice 232, tabled during the Additional Estimates hearings of 14-15 February 2005.

After this time, the only direct indication the AFP received that Mr Habib may have been moved to Egypt came during an interview conducted at Guantanamo Bay on 15 May 2002, where Mr Habib stated to AFP officers: "...they drugged me and they took me in Egypt. That's what I believe. I'm not sure where I was. And I meet all Egyptian people. Since the flight, they landed - they land in this country - what country is?". Mr Habib could not confirm he was in Egypt but that they were Egyptian speaking people.

To date, the AFP has not received official confirmation from any source that Mr Habib was definitely in Egypt during his time in custody and I have not provided evidence to this effect. I have been consistent in advising that we were told he had been taken from Pakistan, most likely to Egypt but have been unable to confirm this.

If there are any specific concerns regarding my evidence to the Committee and the assertions of *Four Corners*, do not hesitate to contact my office to have these concerns addressed.

Yours sincerely



M J Keelty
Commissioner