

STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

11 October 2007

Senator John Faulkner
Chair
Committee of Privileges
Parliament House
Canberra ACT 2600

Dear Senator Faulkner

Inquiry regarding evidence given in relation to Mr Mamdouh Habib

I refer to your letter of 20 September 2007 concerning the Committee of Privileges inquiry into whether any false or misleading evidence was given to the Legal and Constitutional Affairs Committee, or any other Senate committee, concerning the government's knowledge of the rendition of Mr Mamdouh Habib.

The committee notes that on 11 June 2007 the *Four Corners* program canvassed evidence provided to the Legal and Constitutional Legislation Committee (the Legislation Committee) at estimates hearings in 2004 and 2005. The program also examined related documents obtained through a freedom of information (FOI) request. The program referred to the material obtained under FOI and suggested that the government held a firm view Mr Habib was in Egypt in November 2001. The program then inferred that despite this firm view, the Secretary of the Attorney-General's Department, Mr Robert Cornall AO, and Commissioner Michael Keelty APM of the Australian Federal Police provided evidence to the Legislation Committee which 'sought to cast doubt on whether Habib had been in Egypt at all.'

The committee received a letter from Senator Nettle dated 18 June 2007 requesting that the committee investigate 'inconsistencies in answers given in estimates hearings about the knowledge of government agencies of the fact that Mr Mamdouh Habib was taken to Egypt after his arrest in Pakistan.'

The committee considered this letter on 16 July 2007. The committee noted that it could examine the apparent inconsistencies in the evidence by writing to the officers concerned for clarification, holding a public hearing or conducting an inquiry. The committee also noted that Senator Nettle's preference was to hold an inquiry.

The committee examined the evidence provided to the Legislation Committee at estimates hearings in May 2004 and February 2005 with respect to knowledge the Australian Government had of the whereabouts of Mr Habib during late 2001 and early 2002. The committee also reviewed responses to questions on notice in those estimates rounds and the transcript of the *Four Corners* program. As a result of this examination, the committee identified some *apparent* inconsistencies in the evidence it had received on this issue. The committee did not consider that there was any *necessary*


inconsistency in the evidence it had received. However, given the assertions made by the *Four Corners* program, the committee believed it would be appropriate to provide the officers with an opportunity to clarify their evidence. The committee therefore resolved to write to Mr Cornall and Commissioner Keelty seeking clarification of the apparent inconsistency in the evidence provided to the committee.

The committee wrote to both officers on 25 July 2007 and received responses from Mr Cornall on 31 July 2007 and Commissioner Keelty on 23 August 2007. The committee considered these responses at its meeting on 10 September 2007. Based upon its earlier examination of the evidence and the responses provided by the two officers, the committee, except for Senator Nettle, was satisfied that the Legislation Committee had not received false and misleading evidence. The committee decided to publish the committee's letters to Mr Cornall and Commissioner Keelty, both dated 25 July 2007, and to accept and publish the responses from both officers.

To assist the Committee of Privileges, this committee resolved at its meeting of 10 October 2007 to provide a copy of the correspondence relating to this matter as well as other material the committee collated to assist its deliberations. That material is enclosed with this letter.

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

Yours sincerely



Senator Guy Barnett
Chair