

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S DEPARTMENT

Program

Question No. 86

Senator Fierravanti-Wells asked the following question at the hearing on 22 February 2011:

1. (a) Why was Mamdouh Habib refused an Australian passport?
(b) Will he ever be able to hold one?
2. When did Mamdouh Habib receive his secret compensation payment?
3. (a) Was Mr Habib told by any representative of the Attorney-General or his department to dismiss the lawyers who had represented him before he received a secret compensation payment. If so, who advised and when did this occur?
(b) Is the Attorney-General or his department aware when Mr Habib dismissed the lawyers who had represented him? If so, when were they dismissed?
4. How much did it cost to get Mr Habib to drop his long-running civil suit in which he alleged misconduct by Australian Government officials in relation to his imprisonment in Pakistan, Egypt and Guantanamo Bay?
5. Did the settlement include any payment for legal fees?
6. Who helped Mr Habib negotiate the secret settlement?
7. (a) What is the state of the inquiry ordered by the Inspector-General of Security and Intelligence
(b) When will it be completed?
(c) Will the report be made public?

The answer to the honourable senator's question is as follows:

1. (a) Foreign Ministers have refused to issue Mr Habib an Australian passport on security grounds on two occasions.
(b) It is not appropriate to comment one way or the other. Decisions on passport applications are a matter for the Minister for Foreign Affairs.
2. Mr Habib and the Commonwealth reached a settlement of his civil claim for compensation against the Commonwealth on 17 December 2010.
3. (a) No.
(b) Yes. The Attorney-General's Department was notified Mr Habib had dismissed his legal representatives on 18 November 2010.

4. The Commonwealth settles claims against it in accordance with the Legal Services Directions 2005 (see paragraph 4.5 of the Directions). Both parties to the negotiations agreed that details of the settlement, including the settlement amount, be subject to a legally binding confidentiality agreement.
5. Please see response to Question 4.
6. Mr Habib was assisted by a legal representative of his choosing throughout the settlement process.
7.
 - (a) On 22 December 2010, the Prime Minister requested the Inspector-General of Intelligence and Security to conduct an inquiry in accordance with the *Inspector-General of Intelligence and Security Act* into the actions of relevant Australian agencies in relation to the arrest and detention overseas of Mr Habib from 2001 to 2005. That inquiry has now commenced.
 - (b) As the Inspector-General of Intelligence and Security indicated in her response to the Senate Estimates Committee on 21 February 2001, the inquiry is expected to take the 2011 calendar year to complete.
 - (c) As the Inspector-General of Intelligence and Security indicated in her response to the Senate Estimates Committee on 21 February 2001, there are matters of national security that could be discussed in the report which will affect what can be made public.