



Foreign &
Commonwealth
Office

King Charles Street
London SW1A 2AH

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Andrew Tyrie MP
House of Commons
London
SW1A 0AA

Thank you for your letter of 5 May, and for clearly setting out your questions relating to Diego Garcia and 'Circuit Flights'. I have given as full a response as possible, but you will appreciate that in relation to some of your queries we are unable to confirm or deny whether we hold information for reasons of national security and international relations.

On the issue of Diego Garcia, you note that the Detainee (Gibson) Inquiry will 'clearly need to be provided' with the information held by government relating to the flights and detainees that the US Government disclosed to us in 2008. The Prime Minister has committed that the Detainee Inquiry will have access to all government papers it requires as relevant to its examination. I can assure you that the Inquiry will have access to all relevant material held by the Foreign and Commonwealth Office (FCO) and will be able to take evidence from claimants and other interested parties.

You submit that the agreements between the US and the UK relating to Diego Garcia require strengthening. As you will be aware from the former Foreign Secretary's Statement on 3 July 2008, the US has underlined its firm understanding that there will be no rendition through the UK, our Overseas Territories and Crown Dependencies or airspace without first receiving our express permission. We have made clear that we would only grant such permission if we were satisfied that the rendition would accord with UK law and our international obligations.

You also raised the issue of 'Circuit Flights'. You make the point that legislation on the subject of extraordinary rendition is distinct from the need to 'look back and to establish precisely what happened in the past.' As set out in my letter of 28 April, the government awaits the findings of the Detainee Inquiry with interest. Should the Inquiry make recommendations on this point, we will of course look at them closely in determining a future position, and consequent action as required. In the meantime, I would stress again the necessity for the government to avoid prejudging or prejudicing the Inquiry's findings.

You further suggest that the Detainee Inquiry is likely to examine the issue of rendition circuit flights. It will, naturally, be for the Inquiry to determine the scope and range of its investigation. In any case, you suggest that the British Government could provide assistance to the Inquiry by making further representations to the US

Government on its behalf. As you will be aware, the PM made clear in his letter of 6 July 2010 to Sir Peter Gibson that the purpose of this Inquiry is to examine whether, and if so to what extent, the British Government and its intelligence agencies were involved in improper treatment of detainees held by other countries in counter-terrorism operations overseas, or were aware of improper treatment of detainees in operations in which the UK was involved. Since this is an Inquiry into the actions of the UK, there is no further reason to revert to the US.

Finally, you suggest that a refusal to revert to the US on circuit flights will inevitably lead some to conclude that this is 'because the British Government didn't want the answers.' It is, of course, open to others to draw their own conclusions. However, I am clear that all necessary steps have been taken. Chief amongst these was the submission of 391 flights to the US Government where the British Government had been alerted to concern about rendition through the UK or our Overseas Territories by MPs, members of the public, multilateral organisations and non-governmental organisations.

Thank you also for setting out your questions clearly and succinctly. In accordance with your request, please find the original questions set out, with responses, below.

1. What information does the government now have about the two rendition flights through Diego Garcia?

We have been told that two rendition flights stopped on Diego Garcia in January and September 2002. In both cases a US plane with a single detainee on board refuelled at the US facility in Diego Garcia. The detainees did not leave the plane, and the US Government has assured us that no US detainees have ever been held on Diego Garcia. US investigations show no record of any other rendition through Diego Garcia or any other Overseas Territory or through the UK itself since then.

2. Are details of the flights, including dates, times, destinations and flight logs known to the British Government?

The British Government can neither confirm nor deny whether or not it holds additional information.

3. Are details of the detainees, including their names, place(s) of detention and treatment known to the British Government?

We have been told that neither of the men were British nationals or British residents. As of February 2008, one was a resident of Guantanamo Bay, the other had been released. You may recall from the Government's response to the Seventh Report from the Foreign Affairs Committee that both individuals have both now been returned to their country of nationality. We have also been informed that the two individuals involved were not taken to a secret detention facility or subject to water-boarding or other similar forms of interrogation.

4. If you are unable to answer questions 1-3, please explain why.

The British Government can neither confirm nor deny if it holds additional information for any of the questions above. This, as you will be aware from related queries, relates to national security and international relations considerations. If we did hold any additional information relevant to the

Inquiry's terms of reference, which we neither confirm nor deny, we would of course provide it.

5. Has the information covered by 1-3 been requested from the US by the British Government?

As explained in the main body of the letter, the British Government has requested all of the information it deems necessary in order to get to the bottom of issues related to rendition.

6. Is information on the two rendition flights through Diego Garcia being withheld by the US administration? Has it been withheld in the past?

The intelligence and counter-terrorism relationship with the US is vital to the national security of the UK. There must, and will continue to be, the strongest possible intelligence and counter-terrorism relationship between our two countries, consistent with UK law and our international obligations. As made clear above, the UK has requested, and received, comprehensive assurances on flights where the British Government had been alerted to concern about rendition through the UK or our Overseas Territories. We have further received concrete assurances from the US that there will be no rendition through the UK, our Overseas Territories and Crown Dependencies or airspace without first receiving our express permission. Of course, in the theoretical event that any country were withholding information, this would by nature, be difficult or impossible to determine.

7. Is your more comprehensive assurance that "no [rendition] flights, other than the two previously referred to, had been through the UK, UK airspace or Overseas Territories since 11 September 2001", based on further more recent information provided by the US?

The quotation from my letter of 5 May read "As you noted, the then Foreign Secretary passed a list of possible rendition flights to the US who confirmed in June 2008 that no flights, other than the two previously referred to, had been through the UK, UK airspace or Overseas Territories since 11 September 2001." This should have set out the confirmation given to the UK by the US as announced by the former Foreign Secretary on 3 July 2008 which reads "The United States Government confirmed that, with the exception of two cases related to Diego Garcia in 2002, there have been no other instances in which US intelligence flights landed in the UK, our Overseas Territories, or the Crown Dependencies, with a detainee on board since 11 September 2001".

On the topic of UK airspace, as the former Director General of the Security Service informed the Intelligence and Security Committee in its July 2007 Report into rendition, 'We have no knowledge of any detainees being subject to rendition through British territory since 9/11; nor have we helped any "Extraordinary Renditions" via UK airspace or territory; nor have the US sought our assistance or permission to use UK airspace or facilities...'

It is also worth noting that there are inherent difficulties with the UK making a denial of the type you suggest above, that "no [rendition] flights, other than the two previously referred to, had been through the UK, UK airspace or Overseas Territories since 11 September 2001". Dame Eliza Manningham-Buller goes on to say in the Report that "Unless you say you are going to search every

aircraft to check the truth of what you are told, it is a difficult issue... As you know... we are prioritising ruthlessly and I could not possibly justify diverting people to check whether aircraft are CIA-sponsored and what they contain, and frankly I doubt the police have the resources to do this." This is echoed in the conclusions of the Report, which state that "we consider that it would be unreasonable and impractical to check whether every aircraft transiting UK airspace might have been, at some point in the past, and without UK knowledge, involved in a possibly unlawful operation".

For information that I cannot provide more readily, I hope that you will understand my justification for not doing so.

Please rest assured, however, that the FCO remains committed to a thorough and open Inquiry that draws a line under allegations that the British Government was involved in, or aware of, the improper treatment or rendition of detainees after the 9/11 attacks. To this end, it is of critical importance that the public is satisfied that the FCO is professional and accountable and learns from any past mistakes. Only by building greater public trust can we ensure that the FCO can deliver its core business of building security, prosperity and first class consular services.

Your ever
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