

16 October 2007

Our Ref: 50337

Andrew Tyrie MP
House of Commons
London
SW1A 0AA



Foreign &
Commonwealth
Office

London SW1A 2AH

From The Minister of State

Dear Andrew

Thank you for your letter of 20 September following the Westminster Hall adjournment debate on Extraordinary Rendition in June, and publication of the Intelligence and Security Committee's Report on Rendition in July. I have addressed the points you raised below.

1. It is the long-standing policy of the UK Government not to comment on operational intelligence matters. I cannot comment on the views of the US President on this specific area. However, many of the terrorist threats to the UK have international connections, which can only be dealt with effectively in co-operation with the intelligence and security agencies of other States. When working with the US Administration, or any other foreign government, we ensure that we act in accordance with our human rights obligations.
2. The Government believes that exposing a person to a real risk of torture by means of rendition or otherwise is both wrong and illegal - under British law and international law such as the UN Convention Against Torture.
3. The UK Government has not made any assessment of the use of extraordinary rendition as an anti-terrorist tool. I see no need to do so. We have not and will not approve a policy of facilitating the transfer of individuals through the UK to places where there are substantial grounds to believe they would face a real risk of torture.
4. As I said in response to your first point, I cannot comment on operational intelligence matters. This includes matters related to recruitment for the Security Agencies.
5. You ask about the UK's policy on the CIA's programme of prisoner transfers. The UK opposes any form of deprivation of liberty that amounts to placing a person outside the protection of the law. We are clear that the US would not render any detainee through UK airspace, or that of our Overseas Territories, without our permission. Should the US seek our assistance in transferring detainees, we would look at each request on a case by case basis. We would decide whether or



not to assist taking into account all the circumstances, including our obligations under domestic and international law. You are aware of the 4 cases from 1998, where we looked at such details. Accordingly we agreed to assist in two cases and refused in two others. We have not received any further requests since the current US Administration came into power in 2001.

6. You ask if a CIA chartered plane falls under the category of State or civilian aircraft. I am unable to comment on how the CIA implements operations or flights.

An aircraft is registered by reference to its primary use. If a civilian aircraft carries out a job for military purposes, for example, it would not necessarily be reclassified as a "State aircraft". The determinant in any given case would include the purpose for which the aircraft was being used, the aircraft's registration and the identity of the parties chartering the aircraft. It is the responsibility of the pilot/aircraft operator to identify the nature of the flight on the flight plan in accordance with one of the five International Civil Aviation Organisation categories.

It is possible that a civil aircraft chartered by the CIA would remain classed as a civil aircraft. However, regardless of the question of aircraft classification, we are clear that the US would ask for permission before rendering a detainee through UK airspace, and I have outlined our criteria for granting that permission in the point above.

7. As mentioned above, it is the long-standing policy of the UK Government not to comment on intelligence issues. However, the comprehensive Intelligence and Security Committee's Report on Rendition in July concluded that they "found no evidence that the UK Agencies were complicit in any 'Extraordinary Rendition' operations." (Conclusion D, p.29).

You also refer to the Intelligence and Security Committee's Report on Rendition. You state that "[W]e also know that the Intelligence Services were complicit, albeit unintentionally, in the renditions of Bisher al-Rawi and Jamil el-Banna to Guantanamo Bay." I do not agree. We did have a number of concerns over this particular case, which were highlighted by the Intelligence and Security Committee's report. We have discussed these with the US authorities, and both governments are determined to avoid a repeat of these problems in the future.

I have absolute confidence that the UK is not complicit in carrying out torture. The UK Government, including its intelligence and security agencies, never uses torture for any purpose, including obtaining information. We would not instigate action by others to do so either.

Equally, let me assure you that we took the Intelligence and Security Committee's recommendation on record keeping seriously, and my officials



have ensured that a proper system of maintaining FCO records on rendition is in place.

Your last three points referring to new legislation on the issue of transferring detainees through the UK are still under scrutiny. We have been assessing the options for some time. As I reach an informed decision in the coming weeks, I shall let you know. My officials will be happy to brief you on our assessment at that time and I will ask them to contact you.

*Yours
Kim*

KIM HOWELLS