



HOUSE OF COMMONS

LONDON SW1A 0AA

Rt. Hon. John Hutton MP
Secretary of State for Defence
Ministry of Defence
Floor 5, Main Building
Whitehall
London
SW1A 2HB

21 October 2008

Des Browne

Re: Extraordinary Rendition

I am writing further to a letter from your predecessor, Rt Hon Des Browne MP, dated 5 September 2008. I have written to the Director of Information Exploitation at the MOD to request an internal review of the decision not to disclose the information I requested in my letter of 20 June 2008 (attached).

In his letter, Mr Browne wrote: "*it is MOD policy that we do not normally comment on UK Special Forces matters. I see no reason to deviate from that policy in this instance.*" Serious and credible allegations made by a former member of the UK Special Forces provide a basis for deviation from this policy on this issue. This is primarily because the allegations relate to possible serious wrongdoing and breaches of the law. Separate findings of misconduct and allegations of abuse have been made in relation to task forces operating in Iraq¹. If you do not accept that the circumstances of this issue warrant deviation from the general policy of not normally commenting on UK Special Forces matters, I would be grateful if you could explain why the issues referred to in my letters of 20 June and 10 July 2008 are 'normal' for the purposes of this policy.

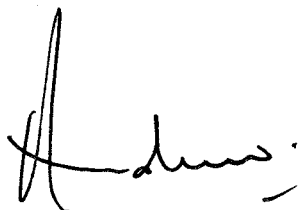
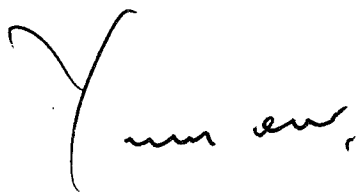
In response to my second question in the letter dated 20 June 2008, Mr Browne set out that "*The Ministry of Defence's position regarding the legal obligations of our armed forces is that our obligations to those we arrest, capture or detain will vary depending on the circumstances...*" Is it the position of the Ministry of Defence, or has it ever been the position of the Ministry of Defence, that a

¹ Jameel Jaffer and Amrit Singh, 'Administration of Torture', (Columbia University Press, New York, 2007), 38

person who has been arrested by UK Forces is protected by the Human Rights Act, but that a person who has been captured or detained but not arrested is not? The answer to this question does not depend upon the circumstances of a particular situation.

In his letter Mr Browne wrote: "*all elements of the UK Armed Forces operate within a strict operational policy and legal framework and are fully compliant with applicable UK domestic and international law.*" I have attached a Legal Opinion prepared for the APPG on Extraordinary Rendition by Michael Fordham QC and Tom Hickman of Blackstone Chambers, on instruction from solicitors Michael Davison and Emma Colquhoun, at the law firm Lovells LLP. I would be grateful if you could confirm that MOD policy is consistent with the legal position set out in this Opinion.

I am placing a copy of this letter in the public domain.



ANDREW TYRIE

Chairman, All Party Parliamentary Group on Extraordinary Rendition