



HOUSE OF COMMONS

LONDON SW1A 0AA

Rt Hon David Cameron MP
Prime Minister
10 Downing Street
London
SW1A 2AA

10 March 2011

A handwritten signature in purple ink that reads "David Cameron".

Re: Consolidated Guidance to Intelligence Officers

In my letter of 6 October 2010 I made the point that the consolidated guidance to intelligence officers appears to be defective. Among other things, it does not address rendition. Despite appearances, it is also incomplete as regards unlawful detention. I am writing again because Sir Peter Ricketts' reply to me of 25 November 2010, on your behalf, claimed that the guidance covered unlawful detention "exhaustively".ⁱ It does not. I would be grateful if you could have this issue examined again.

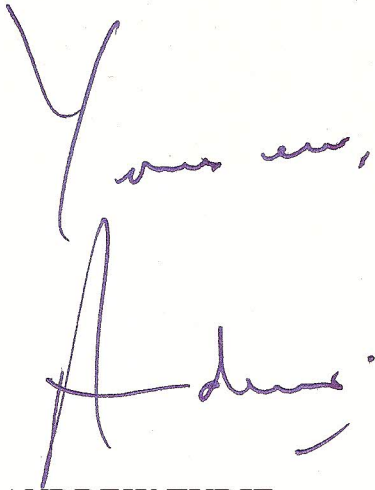
Unlawful Detention

This is addressed in the annex to the guidance. However, it is barely touched upon in the guidance itself. The table at paragraph 11, which officers should use when considering whether to proceed with action in specified circumstances, makes almost no reference to unlawful detention.ⁱⁱ It leaves open the possibility that despite concluding, through application of the annex, that a detainee was being held incommunicado, officers could nonetheless proceed without even consulting Ministers.ⁱⁱⁱ This is inadequate. The amended table I enclosed with my 6 October letter (attached) would prevent this.

Intelligence and Security Committee Report

On 5 March 2010 the Intelligence and Security Committee sent its review of the then draft guidance to you, with the intention that this review would be

published with the finalised guidance. Publication of this report has not yet occurred. It is needed to increase public confidence in the guidance and should be done as soon as possible.



ANDREW TYRIE

Chairman, All Party Parliamentary Group on Extraordinary Rendition

Cc. Rt Hon Sir Malcolm Rifkind MP, Chairman, Intelligence and Security Committee

ⁱ I note that Sir Peter did not claim that the guidance addressed rendition. I made proposals for amendment of the guidance as regards rendition in my 6 October letter.

ⁱⁱ The only reference to unlawful detention is in the second row of the table, which states that where *“there is a lower than serious risk of CIDT taking place and standards of arrest and detention are lawful... You may proceed...”*

ⁱⁱⁱ The annex highlights both the lawfulness of arrest and the lawfulness of detention (including incommunicado detention) as two of the four main heads under which standards of arrest, detention and treatment should be judged. While officers can use the annex to determine what might constitute unacceptable treatment, when it comes to determining what action to take once it has been determined that an individual is being held unlawfully, the table at paragraph 11 provides little assistance. In circumstances in which arrest and detention are unlawful, but the officer does not know or believe that torture will take place, row three of the table (*“In all other circumstances”*) will be applicable. Yet the advice in the second column of this row refers only to *“torture or CIDT”*. There is no reference to the standards of arrest and detention set out in the annex. This appears inadequate. The changes I proposed, attached again here, would improve the guidance.