

**Michael J Todd QPM BA (Hons) M Phil  
Chief Constable**

Ms Shami Chakrabarti  
Director  
Liberty  
21 Tabard Square  
LONDON  
SE1 4LA

Our ref: CC/AN  
Your ref:  
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Dear Shami

**RE: EXTRAORDINARY RENDITION**

I write further to our discussions and correspondence over the past year. The purpose of this letter is to set out the basis for my work into extraordinary rendition, to outline the areas examined and to draw together some conclusions from the evidence available.

In November 2005, you wrote to a number of Chief Constables raising the possibility that offences had been committed on British territory by CIA operatives and others in relation to the use of UK airports by flights chartered by the US Government. Your letters followed media coverage and, in particular, an article published in the Guardian newspaper on 12<sup>th</sup> September 2005. On behalf of ACPO, I agreed to look at the issues. None of the airports involved are located within my own police area and, consequently, I was able to look at the issues with a degree of independence.

When we first met to discuss rendition in December 2005, I outlined my role to examine the evidential basis for allegations that domestic law had been breached by this use of UK airports. My approach has been to examine a number of sources of information to consider whether evidence, admissible in UK courts, to support the allegations, could be reasonably secured.

In terms of the legal framework, I note the possible offences listed in your letters of 29<sup>th</sup> November 2005 and have taken these into account in my deliberations. I have also considered the status of the aircraft allegedly used for rendition operations. These are owned by private US companies and, whatever the origin of these companies, the flights are covered by the Chicago Convention which places a responsibility on signatory nations to allow overflight and transit of aircraft from other signatory nations.

Stephen Gray and Ian Cobain, the main journalists responsible for the Guardian article mentioned above, have been seen to establish whether they have any further information beyond the material published that could form the basis of a police enquiry. Within the bounds of their need to preserve journalistic integrity and protect sources, both were most helpful and agreed to see my officers without hesitation. It is clear that they have extensive knowledge of

the allegations around rendition and the flights mentioned in various reports. In addition, I have also had subsequent, extensive print and broadcast media items on the subject examined.

In addition, a number of relevant reports have been published. These include:

Senator Marty's report to the Council of Europe – *Alleged secret detentions and unlawful inter-state transfers involving Council of Europe member states*.

House of Lords and House of Commons Joint Committee on Human Rights 19<sup>th</sup> session report – *The UN Convention Against Torture*.

Cageprisoners.com – *Fabricating Terrorism; British Complicity in Renditions and Torture*.

Amnesty International – *Below the radar; Secret flights to torture and disappearance*.

From differing perspectives, authors of these reports comment on the extent to which they believe governments have been aware of or actively involved in rendition operations.

Having looked at this material, I am drawn to conclude that none of the information available contributes to the evidential base to support allegations that offences have been committed on UK territory. The material is put together and draws conclusions on a wholly different basis to that needed for the criminal process here in the UK. Much of the information is circumstantial and without any means of testing or corroborating the claims made. Original sources are either outside UK jurisdiction, anonymous or otherwise unavailable for interview to a standard that would support a case brought in this Country.

In addition, I have looked at Her Majesty's Government's response to questions from the Marty enquiry (above). This is in the form of a letter from the Foreign Secretary and restates Government position and attitude to allegations of extraordinary rendition. The content has effectively been in the public domain since December 2005 and adds nothing of evidential value.

In your letter of 3<sup>rd</sup> March 2006 and that of Mr Welch of 7<sup>th</sup> April 2006, the potential use of the General Aviation Report (GAR) as a source of information was raised. The GAR is designed to provide a variety of details that are of interest to the three main border agencies; Police, the UK Immigration Service and Her Majesty's Revenue and Customs. The GAR is submitted by pilots /operators of certain aircraft arriving at or departing from UK airports subject to some time limits on early notice, depending on the status of the airport involved.

I have previously informed you that the GAR is only submitted to police for flights to and from the common travel area.

UKIS and HMRC's respective interests in GARs relate to identifying risk in relation to passengers declared on the form and on movement of prohibited and restricted smuggled goods. Passengers who remain on board an aircraft that lands on UK soil, for example to refuel, are regarded as airside transit passengers and not normally subject to immigration or customs control unless they seek to enter the UK. Both Services firmly point out that if their staff suspected that passengers were being transported illegally or in breach of their human rights, this would be passed to the relevant authority – most likely the Police in the first instance.

It is clear that the GAR is not intended as a long-term record of crew, passengers and cargo but is simply an immediate clearance document for aircraft not flying to a regular schedule. Archives of the document are limited and are not held in a readily searchable format.

The number of flights entering and leaving the UK under GAR requirements is high. The Guardian article of 12<sup>th</sup> September 2005 refers to 210 flights, your letter to me of 7<sup>th</sup> April 2006 mentions a further 86 flights and the Amnesty report (above) details over 130 flights through UK airports by only three of the aircraft involved. On the information available, aside of ownership of the aircraft, there is nothing which points to them being used for rendition operations whilst transiting the UK or otherwise adds to the evidential base.

I believe that, to carry out what would be an extensive document search of GARs against this background without relevant intelligence to focus the exercise would be speculative and call for significant policing resources to be directed away from existing work, with an obvious knock on impact on local service and performance.

In addition, the reports and media coverage mentioned above refer to individual cases in which it is alleged that people have been subjected to rendition operations. None of the accounts given by those involved include allegations that such operations transited UK soil. The issue of rendition has been reported and debated extensively and an authoritative book by Stephen Gray published. Despite the time that has elapsed since I began to look at this, this coverage has not prompted anyone to come forward with relevant material.

At a conference on extradition, deportation and rendition in March 2005, Colin Warbrick, (then) Professor of Law at Durham University and a renowned international lawyer pointed out that there are considerable practical difficulties dealing with these matters, in particular, in bringing the facts together with the law / procedure in this area.

In addition, in December 2005, in a legal opinion to the All Party Parliamentary Group on Extraordinary Rendition, James Crawford, Whewell Professor of International Law at the University of Cambridge stated that:

*"It should be emphasised however, that at present, there is no evidence that the UK has provided any material assistance to the US to carry out renditions in breach of international law. All that can be said is that allegations have been made that the US has seized suspects and sent them to third countries, possibly in aircraft which, in the course of their journeys may have landed in the UK"*

I think that these comments sum up the legal and investigative position. Whilst there have been formal investigations into aspects of rendition in some European countries by domestic law enforcement agencies, (whether by police or other agencies) these have followed tangible and recorded incidents on the soil of the countries involved.

I am encouraged by the reassurances from my colleagues in HMRC and UKIS about the action their staff would take if they thought that these offences were being committed at a UK airport. I can add that police officers would take such allegations made to them, whether from UKIS, HMRC or any other source seriously and take appropriate action including boarding aircraft, if necessary, to investigate.

A good deal of time and effort has gone into looking at the evidence around rendition and I think that this reflects our commitment to taking the matters that you raised seriously and carrying out a thorough examination.

I have also discussed my work on rendition in some depth with the Intelligence and Security Select Committee and have raised the issues around the GAR with them. I look forward to publication of their report later in the year.

I am aware that other work is ongoing into aspects of rendition allegations and, clearly, we remain alive to the possibility that more information may emerge in time. However at this stage and for the reasons set out above, I believe that we do not have the basis for a police enquiry.

Yours sincerely

Chief Constable