



## Defence Committee

House of Commons London SW1A 0AA  
Tel 020 7219 5745 / 3281 / 5857 Fax 020 7219 6952  
Email [defcom@parliament.uk](mailto:defcom@parliament.uk)  
Website [www.parliament.uk/defcom](http://www.parliament.uk/defcom)

From the Chairman, Rt Hon James Arbuthnot MP

Andrew Tyrie MP  
House of Commons  
London  
SW1A 0AA

Wednesday 24 June 2009

*Dear Andrew,*

On 30 April, I sent you a copy of my letter to the Secretary of State, inviting his comments on your letter to me regarding extraordinary rendition. I have now received a reply, a copy of which is attached.

*Yours ever  
James*

**CHAIRMAN**



SECRETARY OF STATE

MINISTRY OF DEFENCE  
FLOOR 5, ZONE D, MAIN BUILDING  
WHITEHALL LONDON SW1A 2HB

Telephone 020 721 89000  
Fax: 020 721 87140  
E-mail: [defencesecretary@mod.uk](mailto:defencesecretary@mod.uk)

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// June 2009

*Dear Jaidee*

Thank you for your letter of 30 April 2009 to my predecessor, Rt Hon John Hutton MP. The attached correspondence between you and Andrew Tyrie MP details Mr Tyrie's concerns in the light of the comprehensive statement made by John Hutton about the handling of detainees by the Ministry of Defence on 26 February 2009. You will be aware that immediately following the statement, John Hutton paid tribute to Mr Tyrie for the honourable and distinguished role he has played in highlighting these issues. I shall respond individually to each of the issues raised by Mr Tyrie.

Issue 1

As John Hutton said in his statement on 26 February, UK Forces have undertaken operations in areas outside Multi-National Division (South-East) where they have captured individuals who were subsequently detained by US Forces. I can assure you that this is not, as Mr Tyrie appears to suggest, a policy designed to enable the UK to avoid legal responsibilities. As our track record overwhelmingly shows, UK Forces take all of their legal and policy responsibilities particularly seriously, as do I. The reason is in fact very simple: in MND(SE) the UK had its own detention facility; in areas outside of MND(SE) it did not. As you know, operations in Iraq are undertaken as part of a coalition and the coalition's assets and facilities are shared and utilised for best effect. It would have been impractical and unnecessary to maintain a separate UK detention facility outside our main area of operations.

As John Hutton made clear in the House, Ben Griffin was given the opportunity to substantiate his claims as part of our review, but was unable to do so.

Issue 2

The detention review that was referred to by John Hutton in the House on 26 February was comprehensive and detailed and thus took a considerable period of time. The information relating to the transfer of two Lashkar e-Taiba individuals from Iraq to Afghanistan by the US only emerged in the final stages of the review. Thus, although the initial findings were exactly as quoted by Andrew Tyrie, further information continued to be brought to the attention of my officials and, following the completion of the review, John Hutton updated the House on its findings on 26 February.

The Rt Hon James Arbuthnot MP  
Chairman  
House of Commons Defence Committee

I am satisfied that the review was thorough and that it allowed us to bring the full facts before Parliament. MOD officials have spent a great deal of time and effort ensuring that this was the case.

### Issue 3

I have nothing further to add to the facts that John Hutton set out in his statement – namely that my officials have sought and received assurances from our American allies on the treatment and conditions of detention, pertaining to these two LeT individuals. I am satisfied that these are reliable assurances.

### Issue 4

The UK operates with international allies all over the world in a range of different circumstances. Our arrangements are robust, as are our working practices and the relationships we build.

As I have stated above, I remain satisfied that our close working with the US has elicited reliable assurances surrounding the treatment and conditions of detention pertaining to these two LeT individuals.

### Issue 5

During the warfighting phase of Operation TELIC, detainees were held – often for very short periods of time – fully in accordance with our national and international legal and policy obligations. Where we have held detainees on behalf of other coalition forces, this would be also fully in accordance with our duties and obligations.

### Issue 6

We have reviewed the available historical records, which suggest that British officials became aware of an intention to transfer in March 2004, although this was some days after the initial capture had occurred. As John Hutton said in his statement to the House, I agree that this transfer should have been questioned at the time.

As John Hutton also made clear in my statement, inaccuracies in detention record keeping have been thoroughly examined and corrected and robust measures are now in place to ensure that the picture we have now, and that we will maintain in future, is both full and reliable.

### Issue 7

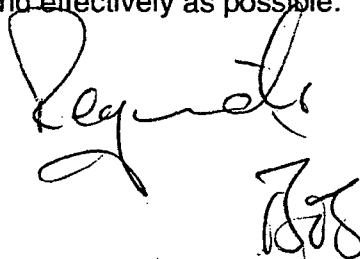
Given that the individuals referred to in John Hutton's statement and in Mr Tyrie's letter were held in US detention facilities, it is entirely appropriate that my officials worked with US colleagues on this issue. It was also entirely right and appropriate that John Hutton paid tribute to the due diligence search conducted by US officials to enable us to cross-reference records and thus enable me to assure the House that this one example was the only case of individuals captured by UK Forces being transferred from Iraq to another country.

In his statement, John Hutton acknowledged that mistakes had occurred in records of detention and I apologised for this. I am satisfied that the correct mechanisms have

now been put in place to correct these mistakes and to ensure that future records are maintained effectively.

Let me conclude by reiterating the commitment by my Department to ensuring that detention operations and issues are treated with the gravity and importance that they deserve. This is a difficult area of modern operations and one that we constantly review and monitor. It is absolutely critical to operations in Afghanistan and Iraq that detention operations take place to ensure that our troops are protected, that local people are kept safe from dangerous terrorists, and that we are able to improve our intelligence picture and thus prevent future attacks.

These are complex and difficult issues. The public and Parliament naturally have a desire to ensure that the MOD undertakes such operations in compliance with the law and policy obligations. But I will make no apologies for the continued use of such operations given the overwhelming operational need for them, and the very considerable success that they have achieved in saving lives both of our people and of others. Our Armed Forces put themselves in harm's way on a daily basis to protect ordinary Afghans and Iraqis from the indiscriminate terrorism which has taken such a tragic toll in civilian lives. It is absolutely critical that we do not shy away from ensuring they have the operational tools and capabilities in place to do the difficult job we as a nation ask of them as safely and effectively as possible. I trust that Mr Tyrie feels the same way.

A handwritten signature in black ink, appearing to read 'Bob Ainsworth', with a stylized flourish below it.

**BOB AINSWORTH**