



## Home Office

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Dear Mr [REDACTED]

Thank you for your letter of 18 May 2006 addressed to the Home Secretary, concerning a request by the USA for the extradition of Gary McKinnon who stands accused of offences connected to computer 'hacking'.

The UK has important international obligations in the area of extradition. It takes those obligations seriously. Where, as here, a request for extradition is made, those obligations become engaged and make it our duty to assist within of course, what the law permits.

The new UK/US treaty and the 2003 Act remove the requirement on the US to provide a prima facie evidential case in support of every extradition request it makes to the UK, this does not mean that the subject of an extradition request from the US will be surrendered with little or no evidence of the conduct for which he or she is being sought. Any extradition request made under the 2003 Act by the US, or indeed any of the other forty-seven countries that do not have to provide prima facie evidence, must contain the following:

- An accurate description of the person sought, including any information that will assist in establishing their location and identity;
- A statement of facts of the offences;

- Relevant text of law describing essential elements of the offence for which extradition is sought and a description of the punishment prescribed for that offence;
- Copy of the warrant or order of arrest issued by a judge or other competent authority in the requesting state;
- Copy of the charging documents.

The US extradition request for Mr McKinnon was found to be valid (within the meaning of the 2003 Extradition Act). Accordingly on 17 November 2005, the Secretary of State certified it. The effect of certifying an extradition request in this way is to place matters before the courts. As you are probably aware on 10 May the court found that there was a case to answer and that the statutory barriers to surrender did not avail Mr McKinnon. The District Judge therefore sent the case to the Secretary of State for a decision as to surrender. At this point, Mr McKinnon has a statutory opportunity inside six weeks to make representations (albeit on limited grounds) against surrender.

If the Secretary of State orders surrender, Mr McKinnon will be able to challenge the decision of the District Judge and/or the Secretary of State by appealing to the High Court. In this way, we hope you will at least feel assured that the procedure ensures all relevant matters are not only considered fairly and properly but are susceptible to challenge on appeal.

Both the old and the current legislation permit extradition for conduct committed outside the requesting state, as with the case of Gary McKinnon. This is a vital provision to combat the increasingly global nature of serious crime.

The key issue is to ensure that offences are dealt with in the place where they can be most effectively prosecuted. For example, where the main witnesses and the main evidence are in another state, and that state has a justice system comparable to our own in terms of fairness, it is more appropriate for the defendants to face justice there.

Any decision on whether to launch a prosecution in this country is for the UK's independent prosecuting authorities, such as the Crown Prosecution Service (CPS), as the Home Office has no prosecutorial role. The published guidance in the Code for Crown Prosecutors is followed when deciding whether to prosecute or continue a prosecution against an individual in the UK.

I hope the explanation above helps to make the situation clearer.

Yours sincerely,

*CA Talbot*  
**Colette Talbot**