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**Sent:** 31 December 2010 11:43 PM  
**To:** extradition.review  
**Subject:** Extradition Review Consultation submission

Dear Sirs

### **Extradition Review Consultation**

As the mother of Gary McKinnon I have been fighting for almost 9 years now to prevent my son Gary being extradited to America and for extradition to be refused and for him to be tried here in the U.K.

Here are my thoughts and a list of facts as to why extradition to America without prima facie evidence should be halted now.

**Extradition is Punishment:** Extradition is such a serious punishment for the accused and also for the family of the accused, that it should be used only for serious violent crimes and crimes of terrorism and this is what the British Parliament was led to believe the Extradition treaty with America signed by David Blunket in 2003 was to be used for. Extradition can lead to innocent as well as guilty people losing their jobs, their homes, their families, their sanity or their lives, even before a trial has been arranged.

**Safeguard of contestable evidence:** It is imperative that as an essential safeguard, evidence should be provided by America that can be contested in a British court prior to extradition being allowed to take place. British citizens should have equal rights to that of our American counterparts. In this respect our government could and should change the treaty with America to demand that American prosecutors should at the very least, have to provide probable cause in order to extradite any British citizen. Equal rights are essential and it is an absolute betrayal by our government that Americans are afforded a significantly higher level of protection than British citizens are. The removal of the need for a prima facie case to be presented in a British court is a gross affront to British justice and to the interests of British people, and must be overturned urgently.

**Treaty is one sided:** It is clear that the 2003 extradition treaty is one sided in America's favour and that British people do not have the protection which American citizens have. As Baroness Scotland said: the American constitution demands that a higher burden of proof is provided in order for British prosecutors to extradite an American citizen and she makes no apology for that.

**Freedom of Information from the Home Office shows disparity re-extradition.** Of the 33 people extradited from America to Britain since the 2003 U.S./U.K extradition treaty was signed, 30 of those extradited from America were not Americans and the remaining 3 had dual nationality. Despite America having 5 times the population of the U.K Britain has extradited 64 people from Britain to America since the 2003 extradition treaty was signed and 27 of those extradited to

America were British.

**Abuse of Treaty:** The extradition treaty with America is clearly being abused by many American prosecutors who are using it frivolously against British white collar workers and vulnerable British citizens rather than terrorists.

**To prevent the extradition treaty being used frivolously** it would make sense for America to have to lodge a large sum of money with British courts to cover costs of British courts and lawyers including legal aid costs.

**Plea Bargains:** As plea bargains are commonly used in America an accused can be imprisoned for years until they agree to accept a plea bargain. A great deal of pressure is also put on an accused person to accept a plea bargain and threats are frequently made of significantly longer sentences being given to someone who refuses to accept a plea bargain.

In America convicted criminals are often given reduced sentences in return for helping to convict an accused person and this is clearly open to abuse from convicted prisoners who will often say almost anything in order to receive a shorter sentence.

**Evidence:** In July 2009 at my son's last court hearing, we got disclosure from the CPS which showed that the CPS have been given no evidence whatsoever from America of the alleged crimes of my son Gary.

Without the alleged damage my son's crime was not an extraditable offence when he was arrested in March 2002, at which date British citizens had a right to a prima facie case being given which they could contest in a British court of law. An indictment and American arrest warrant was issued against Gary in 2002 but not acted upon by America until mid 2005.

**Superseding indictments loophole:** American prosecutors are being allowed by British courts and our government to use a loophole of issuing superseding indictments in order to allow them to extradite British citizens without providing the evidence that would have been required for offences committed prior to the signing of the 2003 treaty.

In Gary's case the American prosecutors had merely removed American universities from the 2002 U.S indictment against Gary when the American universities contradicted the alleged claims of damage.

**This loophole should be removed.**

**Non extraditable offence:** In July 2009 a Professor of computing provided the court with evidence that showed that the alleged financial damage against Gary was for basic computer security that the American authorities should have had installed in the first place.

A British Judge set a precedent by ruling in the case of Russian hackers in Britain, that having to upgrade computer equipment does not constitute damage.

In British law passwords are not property and cannot therefore be stolen.

**ACPO evidence standards not followed:** In Gary's case after viewing CPS disclosure to the court computer expert Professor Somer's told the court that ACPO evidence standards were not followed in Gary's case when his computer and disk drive was removed and taken to America, yet ACPO standards are a requirement on both sides of the pond.

Without any evidence being provided and although ACPO evidence standards were not followed; the extradition process against Gary was not stopped.

**USA standards:** The USA retains the death penalty and when the indictment against my son was issued by America in 2002 the prosecutor publicly announced that "he would like to see McKinnon fry". This prosecutor is now the governor of New Jersey and is tipped as a likely presidential

candidate at the next American election.

America also uses coercive plea-bargaining practise, carries out water boarding/torture against terrorist suspects and many of their courts fail to protect the rights of the mentally ill. Vulnerable prisoners are frequently kept in isolation for 23 hours per day which is known to cause serious psychological damage.

On a Virginia prison, 23 year old Bradley Manning is not even allowed to have a sheet or a pillow for comfort despite not being deemed at risk of suicide.

**Forum:** If an accused was physically in this country when the alleged offence was committed then the accused should automatically be tried in this country. It cannot be left to judges to decide as all too often our judges are overly keen to please the American prosecutors rather than to afford British citizens the protection they are entitled to expect from their own courts, in the same way that America first and foremost protects their own citizens from extraditions.

**Cyber Crime:** When someone is on a computer in Britain, they are no more in another country than were they making a long distance telephone conversation. Cyberspace a term coined by science fiction and is no more real and has no more legal standing than never, never land.

Cyber crimes should be tried in the country the accused was physically in at the time of the crime. American prosecutors could provide their evidence via video link and their witnesses could appear via video link. In this age of technology this would be very easy to arrange.

**Extraditions refused:** The extraditions which have been refused by British courts since the 2003 extradition treaty was signed include **American citizen Mrs B Tollman** whose extradition to America was refused in 2006 because of deterioration in her mental health.

The extradition to America of Mrs Tollmans **American husband Mr Tollman** was refused in 2007 on the grounds of the passage of time and took into account the detrimental effect it would have on Mrs Tollman's mental health if her husband was to be extradited.

In 2007 the extradition of **Roisin McAiskey** who was an **alleged IRA terrorist**, was refused on the grounds of the passage of time.

**Precedents have been set** in the three cases above. However it surprises me that British courts seem to be much more willing to refuse to extradite American and Irish citizens, whilst continuing to agree to extradite vulnerable British citizens.

**Mental Illness:** My son Gary McKinnon has Aspergers Syndrome/a form of autism. He never travels abroad and has a pathological terror of travel. There is a proven history of mental health issues in Gary's case. It seems clear that in cases such as this that the accused should automatically be tried in the country where the accused was when the alleged crime was committed.

**Sentence:** My son Gary McKinnon has already served just under a nine year excruciating sentence of mental torture and continuous terror of waking up every day in fear of being dragged from the Island he was born on.

I have also served this sentence and it feels akin to Gary being on death row and akin to how Jewish people must have felt when they or their children were dragged by the Nazis from their homeland facing the possibility of dying or spending their lives in a foreign prison.

In my son Gary's case he faces a sixty year sentence (10 years per count x7 .... 60 years is the Max.) Gary therefore faces the very real prospect of dying in a foreign prison for a crime that would have likely attracted a 6 month sentence in Britain.

At 62 years of age I face the very really prospect of never seeing my son again if extradition was to

take place as I would be likely to be dead even if Gary served a 25 year sentence. I additionally face the prospect of losing Gary to suicide as three eminent Psychiatrists have said that suicide would be an inevitability were Gary to be extradited.

It is impossible for me to convey the almost nine years of fear and mental torture we have been living under and how this affects our entire family. British citizens deserve protection from their own courts and government.

The 2003 U.K/U.S extradition treaty is one of the biggest betrayals ever inflicted on British citizens by their own government.

**Prime Minister David Cameron said pre-election when speaking about my son Gary McKinnon:** *'It should still mean something to be a British citizen – with the full protection of the British Parliament, rather than a British Government trying to send you off to a foreign court'*

Yours Sincerely

Janis Sharp (Gary McKinnon's Mum)

**As regards the European Arrest Warrant, this is an anathema to the very notion of justice and must be abolished immediately.**

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