

The Rt Hon the Baroness Scotland QC



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Dear Andrew

BINYAM MOHAMED

Thank you for your letter of 10 February 2009. You ask for some details of the work which is being done in relation to "the question of possible criminal wrongdoing by intelligence and security personnel in the Binyam Mohamed case".

The Home Secretary referred this issue to me on 23 October 2008. I was provided with the open and closed judgments of the Divisional Court in the case; transcripts of all the evidence given by Witness B; the other evidence and submissions made to the Court; and the Foreign Secretary's PII (public interest immunity) certificates, together with their sensitive schedules and associated documents.

I have also received material from third parties about the case.

After undertaking a preliminary review of this material I took the view that I should seek advice from the Director of Public Prosecutions. All the material provided to me has been made available to the DPP.

It has been said that I or the DPP are carrying out an "investigation" into these matters. That is not correct. Neither my office nor the CPS has the powers or the capacity to conduct investigations. Rather, I am, with the advice of the DPP, considering the material in order to determine whether there is a basis

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for inviting the police to conduct a criminal investigation in relation to one or more individuals. Any decisions on prosecutions would be reached only after such an investigation.

At this stage no decision has been reached and it would be premature to speculate as to the outcome of this consideration.

In performing this function as Attorney General, I act wholly independently of government and in the public interest. Similarly the DPP acts as an independent prosecuting authority, subject to my statutory superintendence.

You ask for an indication of the date by which I aim to conclude my consideration. You will understand it is not possible to give a precise timescale. There is a substantial quantity of material to consider. Some of it is very highly classified and must be handled under the most secure conditions. It is being considered by specialist prosecutors within the CPS who are progressing this important work as quickly as possible.

I would intend to report to Parliament on my assessment. But you will understand that what can be said publicly at any given stage may depend on a variety of factors, including whether any police investigation is to follow (and the need to avoid prejudicing any such investigation and potential prosecution), and the need to protect national security.

In the meantime I do not believe it would be helpful to give a running commentary as to the progress of my consideration and I do not propose to do that.

with best wishes ever



BARONESS SCOTLAND QC