



THE HON KEVIN RUDD MP

MINISTER FOR FOREIGN AFFAIRS
CANBERRA

Hon Robert McClelland MP
Attorney-General
Parliament House
CANBERRA ACT 2600

Dear Attorney *Robert*

I am writing to you in respect of Julian Assange. s 22 1(a)(ii)
s 22 1(a)(ii)

Separately, there have been suggestions that a grand jury has been empanelled in Alexandria, Virginia to investigate whether Mr Assange can be charged under US law for offences related to Wikileaks. I understand that grand juries can issue indictments under seal, and that theoretically one could already have been issued for Mr Assange.

Mr Assange's lawyers have written to me to express concerns that, based on past practice, the US could commence extradition proceedings against Mr Assange in the UK or Sweden, and that the existence of any sealed indictment will only become known at this point.

While the US Government has not confirmed to us the existence of a grand jury or sealed indictment, the US Attorney General, Eric Holder, has said publicly that the Administration was pursuing a "very serious investigation" into the matter. He also said that charges could be brought under the Espionage Act of 1917 or "other statutes, other tools...at our disposal".

Media commentary has suggested that the most likely route to a successful prosecution would be to show that Mr Assange had acted as a co-conspirator - soliciting, encouraging or assisting Bradley Manning to obtain and provide the documents. Commentary has also suggested that any prosecution of Mr Assange under the Espionage Act would be unprecedented.

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FILE: 11/33016
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s 22 1(a)(ii)

s 33 (a)(iii)

While extradition matters are the responsibility of your portfolio, as Minister for Foreign Affairs, I have a consular interest in this matter. At my direction, DFAT have been providing full consular support for Mr Assa-ge. They have attended court hearings, visited him when he was in prison, engaged with the UK prison authorities in relation to his interests, and stayed in touch with his family and legal representatives.

s 33 (a)(iii)

s 47 C

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s 33 (a)(iii)

I am copying this letter to the

Prime Minister.

Yours sincerely



Kevin Rudd

15 x: 2011



ATTORNEY-GENERAL
THE HON ROBERT McCLELLAND MP

MINISTER FOR
FOREIGN AFFAIRS

Minister *DN*

DFAT 18 NOV 2011 *ASAD*

- REPLY TO MINISTER
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- REPLY ADVISER
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- ACKNOWLEDGMENT LETTER
- COPY HELD FOR MINISTER TO SEE
- INFORMATION ONLY
- QUERY
- RESPECT / OTHER
- COMMENTS



The Hon Kevin Rudd MP
Minister for Foreign Affairs
Parliament House
CANBERRA ACT 2600

Dear Foreign Minister

Thank you for your letter dated 15 November 2011 regarding Mr Julian Assange, which has been forwarded on the basis of your consular interest in Mr Assange.

In your letter you seek my views, as the Minister with portfolio responsibility for extradition, s 33 (a)(iii), 47 C

I have sought advice from the Attorney General's Department on the matters you have raised given the international legal complexities associated with extradition. The advice provided to me mirrors the advice I understand has been provided by the Department of Foreign Affairs and Trade to Mr Assange's legal representatives.

s 22 1(a)(ii)

s 33 (a)(iii)

s 33 (a)(iii)

Further, as outlined in legal advice, extradition is a matter of bilateral law enforcement

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cooperation. The decision by a foreign state whether to make, or grant, an extradition request is a sovereign act done in accordance with that state's domestic laws and procedures, and in light of relevant treaty obligations that it has assumed. Australia is not a party to any extradition discussions that may take place between either Sweden and the United States or the United Kingdom and the United States s 33 (a)(iii)
s 33 (a)(iii)

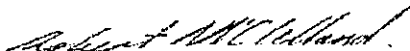
Finally, with regard to Mr Assange's ability to return to Australia at the conclusion of the current proceedings, s 47 F(1)

in the absence of any further action, Mr Assange would be free to return to Australia. Whilst not a relevant consideration at this stage, in relation to any possible extradition requests made of Australia by a foreign country such requests are assessed on a case by case basis.

s 33 (a)(iii)

I note you have copied the Prime Minister with your correspondence and I have similarly provided her with my reply. The action officer for this matter in my Department is Anna Harmer who can be contacted on (02) 6141 3280.

Yours sincerely



Robert McClelland



Australian Government
Department of Foreign Affairs and Trade

File Number: 11/18237

5 December 2011

Ms Gareth Peirce
 Bimberg Peirce & Partners
 14 Inverness Street
 LONDON NW1 7HJ
 UNITED KINGDOM

Dear Ms Peirce

s 22 1(a)(ii)

I am writing today to renew Mr Rudd's and DFAT's undertaking to do whatever is possible within the Government's Consular Charter to support Mr Assange's consular interests. You will understand however, that there are limits to this portfolio's role. In particular, extradition matters are the portfolio responsibility of the Attorney-General's Department.

First, I want to convey to you that, at the Minister's direction, our Embassies in Washington and Stockholm are seeking from the authorities in the United States and Sweden answers to questions about the possibility that the US might seek Mr Assange's extradition to that country to face charges in relation to the WikiLeaks matter. We are doing this notwithstanding that we have no advice at present that indicates that US authorities have this intention.

Specifically, we have tasked our Embassy in Washington to seek advice from the US as to whether the US now has any such intention, and what processes would be followed if the US Government were to seek Mr Assange's extradition, including what appeal rights would exist under those circumstances.

We have also been consulting our Embassy in Stockholm on extradition processes from that country. As you may know, this follows our Ambassador having repeatedly emphasised our expectation that Mr Assange be afforded due process under Swedish law. Our Ambassador will emphasise this expectation of due process in relation to any extradition process from

R.G Casey Building, Barton ACT 0221 www.dfat.gov.au Telephone: 02-62611111

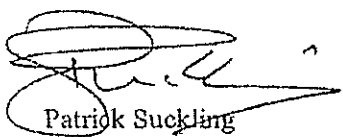
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Sweden. Again, we are not aware of any such process having been canvassed between the US and Sweden.

Beyond these enquiries, we remain ready to consider further steps in support of Mr Assange's consular interests in the future.

s 22 1(a)(ii)

Yours sincerely



Patrick Suckling
First Assistant Secretary
Consular, Public Diplomacy and Parliamentary Affairs Division



Australian Government
Department of Foreign Affairs and Trade

File Number: 11/4540

25 October 2011

Mr Gareth Peirce
Birnberg Peirce & Partners
14 Inverness Street
LONDON NW1 7HL
UNITED KINGDOM

Dear Mr Peirce

s 22 1(a)(ii)

You will appreciate that extradition is governed by the domestic laws and practices of individual states and is a matter of bilateral law enforcement cooperation. On that basis Australia would not expect to be a party to any extradition discussions that may take place between either Sweden and the US, or the UK and the US.

Nevertheless, I can assure you the Australian Government has repeatedly emphasised to the Swedish Government at senior levels our expectation that Mr Assange's case will proceed in accordance with due process. Our Ambassador in Stockholm made this point s 33 (a)(iii) on 7 December 2010 and on 5 January 2011. On 10 February 2011, the Ambassador again addressed this point with the Ministry of Justice, s 33 (a)(iii)

s 33 (b)

s 33 (b)

s 47 F(1)

In answer to the specific questions you raised regarding Australia's extradition relationship with the United States, all extradition requests from the United States are considered in accordance with the Extradition Act 1988 (Cth) and the Treaty on Extradition between Australia and the United States of America done at Washington on 14 May 1974, as amended by the Protocol done at Seoul on 4 September 1990. Within this framework:

- a) Australia can only extradite a person to the United States for prosecution or punishment for conduct that would constitute an offence that would be punishable under both Australian and United States law by more than one year's imprisonment.
- b) Australia will only extradite a person to the United States for an offence for which the death penalty is available if the United States undertakes not to impose or carry out the death penalty for the offence.
- c) Australia will not extradite a person to the United States where there is a relevant 'extradition objection.' Extradition objections include where extradition is sought in relation to a 'political offence', where it is sought for the purposes of prosecuting or punishing the person because of his or her race, religion, nationality or political opinions, or where, on surrender, the person may be prejudiced at trial or punished because of his or her race, religion, nationality or political opinions.
- d) In accordance with its international obligations, Australia will not extradite a person where it has substantial grounds for believing that, on surrender, there is a real risk the person will be subject to torture, arbitrary deprivation of life or cruel, inhuman or degrading treatment or punishment.
- e) A person may only be prosecuted or punished for the offences for which Australia grants his or her extradition to the United States. Australia's consent is required before the person may be prosecuted or punished for additional offences.

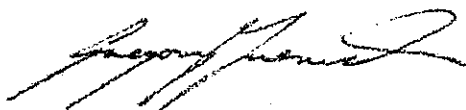
Australia has the discretion to refuse the extradition of Australian nationals to the United States. As a matter of policy, Australia does not refuse extradition solely on the basis of citizenship. The High Court of Australia has confirmed that Australian citizens do not enjoy immunity from extradition from Australia by reason of their nationality. Australia is one of a number of countries, including the United States and the United Kingdom, that may surrender their own nationals.

If Australia exercises its discretion to refuse the surrender of a national it must, if requested by the United States, refer the national to the relevant prosecution authority to consider prosecution of the national for the relevant conduct under Australian law (to the extent that Australian law so permits).

As a matter of longstanding practice the Government does not comment publicly on extradition matters, including whether it has received an extradition request, until the person is arrested or brought before a court pursuant to a request. Extradition requests made to Australia are considered on a case-by-case basis.

Thank you for raising your concerns with the Minister.

Yours sincerely



Greg French
A/g Senior Legal Adviser



Date:
Your ref:

Birnborg Peirce & Partners

Solicitors

15 Blythe Street
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Hon. Kevin Rudd MP
Minister for Foreign Affairs
Commonwealth of Australia

Response from
Los covering
letter from
AD/DCAF addressing
substance of
extradition
concerns.

September 15th, 2011

Dear Mr. Rudd,

DN 23/9/11

Malcolm Turnbull, who has taken an interest in the case of Julian Assange, has kindly offered to deliver this letter to you.

I represent Mr. Assange in the UK. A number of concerned persons in this country, some of whom are members of his Defence Fund and others who include prominent Australians in the UK, have suggested that it would be appropriate to place before you important information about this Australian citizen about which you may not be aware.

It is the considered opinion of all of the above, and of his lawyers in this country, that without the help of his government, Mr. Assange may well be in grave danger. His life has been threatened on a number of occasions notably by prominent figures in the United States. The prospect of his prosecution in that country, as the editor in chief of WikiLeaks, for matters that are not crimes, and certainly not crimes in Australia, as well as the further consequences of US prosecution give rise to parallel grave concerns.

We currently await a judgment from the High Court in the UK regarding an application by the Swedish authorities for Mr. Assange's extradition on a European Arrest Warrant (EAW) regarding allegations of sexual offences in Sweden. He has not been charged in Sweden with any crime; one of the central arguments before the High Court is that if Mr Assange were to be prosecuted in Sweden following extradition, on the facts of what is alleged against him no criminal offence would have been committed in the UK or, indeed, in Australia. Given the extent of the public discussion, frequently on the basis of entirely false assumptions, of Mr Assange's potential criminality on either issue (ie potential prosecution in the United States or in Sweden), it is very hard to attempt to preserve for him any presumption of innocence.

The very real danger that faces Mr. Assange is that should the extradition request by Sweden be agreed by the courts here, once Mr Assange is in Sweden (and we are informed inevitably held in custody even if not charged) an application for his temporary surrender by the USA will most likely materialise. This may happen and even before any decision is made to bring criminal proceedings in Sweden. What it means is that Mr. Assange could be, without further ado, on his way to the United States and to a situation of considerable judicial uncertainty, not to say peril.

Partners:
Gareth Peirce
Nigel Leslie
Michael White Stewart

Practice Manager:
Dawn Ekins

Solicitors:
Suzie Bagaria
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Specialist First Point

It is likely that the US has already issued a sealed indictment, and that this would then be activated once the proceedings in the UK have concluded. (One example of commentary on this potential appears on the website below.)

<http://www.esmonitor.com/USA/Justice/2010/1202/WikiLeaks-founder-Julian-Assange-Has-US-already-indicted-him>

So far as the UK is concerned, were the extradition case to Sweden to fail in the courts here, the US would be most likely, if the above presumption is correct, to initiate extradition proceedings in the UK, as opposed to Sweden. It is a matter of public record that the US on a significant number of occasions has synchronised extradition requests with the conclusion of a pending case in the relevant domestic jurisdiction, and has relied on the cooperation of the requested country to do so; the UK and Sweden have in the past provided exactly such close cooperation. Were Mr Assange's appeal in the UK to succeed conclusively in the near future (and were no further appeal to be possible for the prosecution to the Supreme Court), a provisional warrant could be issued at short notice by the USA pending the obtaining of a warrant issued by a US court on the basis of a grand jury indictment, if the potential for such a warrant were claimed to exist.

There have been a number of cases of extradition synchronised in precisely this way. For example:

- The case of Eiderous, who was held in prison in the UK in relation to immigration matters until 9 July 1999, when he succeeded in a habeas corpus application. Within hours a warrant was obtained from the USA on the basis of the testimony of a "co-operating witness" (ie a witness who would otherwise face a severe sentence in the absence of cooperation) and within 24 hours of his release he was arrested.

- The case of Kasir. This Swedish national successfully challenged an extradition request by the US; the Swedish extradition treaty excludes Swedish nationals from extradition to the US. He was freed from prison. However, Kasir was also a Lebanese national. He was arrested in Prague airport while in transit to Lebanon, and subsequently extradited to the US (also on the basis of the evidence of a "co-operating witness"). The Swedish press reported that was probably coordinated by the Swedish special police, SAPC, and that this type of coordination is the standard operating procedure of mutual assistance in transnational crime - link: <http://www.dr.se/nyheter/sverige/ig-alskar-bb-ladin>

I myself have had lengthy experience in cases involving extradition from the UK to the USA and have written about the grave consequences of extradition post 9/11 in this paper: 'America's non-compliance'

<http://www.irb.co.uk/v32/n09/gareth-poirce/americas-non-compliance>

The views I express in the above paper do not represent the viewpoint of a defence lawyer alone; they are shared across the board by many politicians, lawyers and members of the judiciary and are considered of such seriousness

that two Parliamentary committees have been hearing evidence on the issue of UK/US extradition during the past 6 months and a third, judicial enquiry, set up by the government is due to report soon, again on the same issue. The major points of concern relating to prosecutions in the US relate to coercive plea pressure (97% of defendants plead guilty in the USA), the excessive use of extreme isolation in prison and the enormity of potential sentences (the major factor in producing guilty pleas and, indeed, "co-operating witnesses").

It is our understanding that a grand jury has been convened in secret session in relation to Mr Assange in Alexandria, Virginia. The choice of this location for a potential prosecution of Mr Assange has raised expressions of considerable concern by experienced lawyers in the USA, the catchment area for a potential jury being drawn from the penumbra of Washington, DC but in particular from the extensive 'dormitory' area of the national security establishment.

It should be emphasised that Mr. Assange as editor in chief of WikiLeaks has, he has been advised, violated no known American law; indeed, US constitutional experts have given their opinion that he should enjoy complete protection guaranteed by the First Amendment to the US Constitution, safeguarding as it does, freedom of information. Nevertheless however, a secret, or sealed, indictment may well be in existence, and being held until what is considered to be the most appropriate moment at which to issue an extradition request. This is the view of the former legal adviser to the State Department and the National Security Council, John Bellingham, who has said, "We could potentially see if he is prosecuted in Sweden and then still seek his extradition to the United States, and ask the Swedes to extradite him here [to the US]" and the *Independent* newspaper's diplomatic correspondent disclosed last December that Sweden and the US had already commenced talks about Julian Assange's extradition (link: <http://www.independent.co.uk/news/uk/crime/assange-could-face-espionage-trial-in-us-2154107.html>).

In consequence, it appears to us that we should request as a matter of urgency that the Australian government seek specific assurances from both the UK and Sweden regarding Mr. Assange's possible onward extradition.

We believe it is relevant therefore that we respectfully raise the following questions:

1. Is the Australian government aware of the potential for Mr Assange to be transferred under the Temporary Surrender regime (see Article VI of the Supplemental US-Sweden Extradition Treaty of 1994: US - Sweden Extradition Supplementary Treaty - 35 U.S.T. 2501) direct from Sweden to the US, and if so, what inquiries has the Australian government made in relation to the potential for Mr Assange to be transferred in this manner to the US? Has the Australian government sought to be a party to the negotiations between the United States and Sweden in these circumstances?

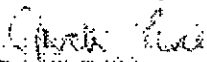
2. What assurances, beyond basic consular assistance, has the Australian government sought or obtained regarding Mr. Assange's due process rights and his ability to return direct to Australia at the conclusion of extradition proceedings in London? Has the Australian government made inquiries about both the UK's and Sweden's position in a possible three-way US-UK-Swedish negotiation regarding any potential request for Mr. Assange's onward extradition to the US?

3. Should Mr. Assange be able to return to Australia following a successful conclusion of the UK appeal, will the Australian government commit to not extraditing Mr. Assange, an Australian citizen, to the United States where there exists the real possibility of a politically motivated prosecution relating to WikiLeaks' publication, bearing in mind in particular that the work of WikiLeaks does not amount to a crime under Australian law -- as we understand has been determined by the Australian Federal Police investigation ordered by the Prime Minister?

We hope that you will consider that these are serious and appropriate concerns for the Australian government to address on behalf of an Australian citizen. In particular the extraordinary prospect that Mr. Assange has now hanging over him not one but two Democracies swords, of potential extradition to two different jurisdictions in turn for two different alleged crimes, neither of which are crimes in his own country, and that his personal safety and security has become at risk in circumstances that have become highly politically charged. As I hope I have been able to indicate, the issue of the consequences of extradition to the USA in particular has become one of exceptional concern in the UK in recent years in precisely such situations as those in which Mr. Assange finds himself now. Should it assist you to have any further information in relation to the body of evidence being currently considered in the UK to determine whether such extradition arrangements should in fact continue in the future, I would be very pleased to provide it.

Thank you for giving this letter your attention. I very much look forward to hearing from you.

Yours sincerely,


Gareth Peirce
Blinberg Peirce & Partners

EMBARGOED: 12.01AM MONDAY 19 DECEMBER 2011

EMBARGOED: CITIZENS CALL ON RUDD TO PROTECT ASSANGE

74 prominent citizens have called on Foreign Minister Kevin Rudd and new Attorney-General Nicola Roxon to take urgent steps to safeguard the human rights of WikiLeaks's founder Julian Assange.

The group comprises some of Australia's most eminent public figures, including former Prime Minister Malcolm Fraser, as well as international figures such as Noam Chomsky, David Gilmour and Ken Loach. They ask Mr Rudd to seek assurances from the Swedish and United States governments that Julian Assange will be treated in line with basic international standards of due process.

The United Kingdom Supreme Court last week granted Assange leave to appeal against his extradition to Sweden, with a hearing to be held on 1-2 February. Pending the outcome of his appeal, Assange may be extradited to Sweden and held incommunicado even before being charged with any offence. Regardless of the outcome of both the appeal and possible proceedings in Sweden, Assange will continue to face the threat of extradition to the US.

The open letter to the Foreign Minister and Attorney-General raises concerns that Assange faces persecution in the US because of legitimate journalism conducted entirely outside America. WikiLeaks recently received the 2011 Walkley Award for Most Outstanding Contribution to Journalism.

The letter makes no comment on the allegations against Assange in Sweden, which are serious and deserve appropriate investigation. However, the group calls on the Australian government to publicly state that all Assange's rights as an Australian citizen will be protected.

The signatories hope more citizens will endorse their stance by adding their names to the letter, which can be viewed at <http://overland.org.au/2011/12/mr-rudd-protect-assange/>.

Contact: Bernard Keanes 47 F(1) Lizzie O'Shea 47 F(1)

The Hon Kevin Rudd MP
Minister for Foreign Affairs
Parliament House ACT 2600

Dear Minister

We write to express our concern about the plight of Julian Assange.

To date, no charges have been laid against Mr Assange by Swedish authorities. Nonetheless, we understand that should he be sent to Sweden, he will be held on remand, incommunicado. We note your comments last year about the need for Mr Assange to receive appropriate consular support. We trust that this consular support is being provided and will continue.

We are concerned that should Mr Assange be placed in Swedish custody, he will be subject to the process of "temporary surrender", enabling his removal to the United States without the appropriate legal processes that accompany normal extradition cases. We urge you to convey to the Swedish government Australia's expectation that Mr Assange will be provided with the same rights of appeal and review that any standard extradition request would entail.

Any prosecution of Mr Assange in the United States will be on the basis of his activities as a journalist and editor (Mr Assange's status as such has been recently confirmed by the High Court in England). Such a prosecution will be a serious assault on freedom of speech and the need for an unfettered, independent media.

Further, the chances of Mr Assange receiving a fair trial in the United States appear remote. A number of prominent political figures have called for him to be assassinated, and the Vice-President has called him a "high-tech terrorist". Given the atmosphere of hostility in relation to Mr Assange, we hold serious concerns about his safety once in US custody. We note that Mr Assange is an Australian citizen, whose journalistic activities were undertaken entirely outside of US territory.

Mr Assange is entitled to the best endeavours of his government to ensure he is treated fairly. He is entitled to expect that his government will not remain silent while his liberty and safety are placed at risk by a government embarrassed by his journalism. Australians also expect that their government will speak out against efforts to silence the media and intimidate those who wish to hold governments to account.

We ask that you convey clearly to the United States government Australia's concerns about any effort to manufacture charges against Mr Assange, or to use an unrelated criminal investigation as the basis for what may effectively be rendition. We also urge the government to publicly affirm that Mr Assange is welcome to return to Australia

once proceedings against him in Sweden are concluded, and that the government will fully protect his rights as an Australian citizen once here.

We have copied this letter to your colleague, the Attorney-General.

Yours sincerely

The undersigned

Phillip Adams AO
 Adam Bandt MP
 Wendy Bacon
 Greg Barns
 Susan Benn
 Senator Bob Brown
 Dr Scott Burchill
 Julian Burnside QC
 Dr Leslie Cammold
 Mike Carlton
 Professor Noam Chomsky
 David Collins
 Lieutenant Colonel (ret) Lance Collins,
 Australian Intelligence Corps
 Eva Cox
 Sophie Cunningham
 Roy David
 Andrew Denton
 Senator Richard Di Natale
 Peter Fitzsimons
 Rt Hon Malcolm Fraser AC CH
 Anna Funder
 Professor Raymond Gaita
 David Gilmour and Polly Samson
 Kara Greiner
 Senator Sarah Hanson-Young
 Liz Humphrys
 Professor Sarah Joseph
 Bernard Keane
 Professor John Keane
 Stephen Keini SC
 Steve Killelea
 Andrew Knight
 Mary Kostakidis
 Professor Theo van Leeuwen
 Ken Loach
 Antony Loewenstein
 Senator Scott Ludlam

David Lyle
 Associate Professor Jake Lynch
 Dr Ken Macnab
 Professor Robert Marine
 Alex Miller
 Senator Christine Milne
 Alex Mitchell
 Reg Mombassa
 Gordon Morris
 Jane Morris
 Julian Morrow
 The Hon Alastair Nicholson AO RFD
 QC
 Nicole Nolan
 Rebecca O'Brien
 Elizabeth O'Shea
 Michael Pearce SC
 John Pilger
 Justin Randle
 Senator Lee Rhiannon
 Guy Rundle
 Angus Sampson
 Senator Rachel Siewert
 Martin Smith
 Jeff Sparrow
 Professor Stuart Rees AM
 Rob Stary
 Stephen Thompson
 Dr Tad Tietze
 Mike Unger
 Dale Vince
 Brian Walters SC
 Rachel Ward
 Senator Larissa Waters
 Tracy Worcester, Marchioness of
 Worcester
 Senator Penny Wright
 Spencer Zifcak

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s 22 1(a)(ii)

Title: CONSULAR: Cat 1: Arrest - ASSANGE, Julian Paul (RED)
MRN: s 22 1(a)(ii)
To: Canberra
Cc: PP : London, Stockholm
From: Washington
From File: s 22 1(a)(ii)
References:

Response: Priority, Information Only

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Summary
s 22 1(a)(ii)

s 22 1(a)(ii)

s 22 1(a)(ii).

REDACTED

s 22 1(a)(ii)

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s 22 1(a)(ii)

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s 22 1(a)(ii)

s 22 1(a)(ii)

s 22 1(a)(ii)

s 47 F(1)

s 47 G(b)

s 22 1(a)(ii)

s 22 1(a)(ii)

s 22 1(a)(ii)

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s 22 1(a)(ii)

REDACTED

s 22 1(a)(ii)

REDACTED

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s 22 1(a)(ii)

Title: CONSULAR: Cat 1: Arrest: ASSANGE, Julian Paul (RED)
MRN: s 22 1(a)(ii)
To: Canberra
Cc: RR : London, Washington
From: Stockholm
From File: s 22 1(a)(ii)
References:
Response: Routine, Information Only

CONSULAR-IN-CONFIDENCE

+++ Personal information about individuals contained in this cable should not be disclosed unless authorised under the Privacy Act 1988 (Cth). Any unauthorised disclosure of personal information may constitute a breach of the Privacy Act 1988 (Cth) +++

Summary s 33 (a)(iii), s 47 F(1) s 33 (a)(iii), s 47 F(1)
As requested, Post contacted [redacted] (Swedish Ministry of Justice) who said he could not answer hypothetical questions about how Swedish authorities would interpret an extradition request based on the US Espionage Act or other Wikileaks-related offences. [redacted] said there were too many permutations of how the US could word such a request for him to make any kind of preliminary assessment. Nevertheless, [redacted] reiterated that full extradition checks and balances (as per refels) would be followed in the event of any extradition request by the US. s 33 (a)(iii), s 47 F(1)

text ends
s 22 1(a)(ii)

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 FILE: 11/33016
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s 22 1(a)(ii)

Title: CONSULAR: Cat 1: Arrest: ASSANGE, Julian Paul (RED)
 MRN: s 22 1(a)(ii)
 To: Stockholm
 Cc: RR : London, Washington
 From: Canberra (CHCH/DFAT/CPD/CPB)
 From File: s 22 1(a)(ii)
 References:
 Response: Routine, Information Only

CONSULAR-IN-CONFIDENCE

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Summary

Thanks for Post's valuable reporting on issues related to extradition processes in Sweden. Grateful Post seek more detailed views on Sweden's likely response if the US were to seek extradition of Julian Assange for offences related to Wikileaks.

Thanks for Post's reporting on a range of issues with regard to Mr Assange and possible extradition scenarios.

2. We would be grateful for further reporting and confirmation from Swedish authorities on their extradition process. We appreciate your reporting that the Swedish Ministry of Justice s 33 (a)(iii), has again confirmed that the temporary surrender clause in the Sweden-US extradition treaty could not be used as a short cut means to transfer Assange to the US. Any temporary surrender or extradition (to a non-EU or Nordic country) would require the approval of the Prosecutor-General, the Supreme Court and then the Government (and, in Assange's case, the UK Government due to the application of the European Arrest Warrant). The Swedish Government could deny an extradition or temporary surrender that the Supreme Court had approved, but if the Supreme Court denied an extradition or temporary surrender application, then the matter ended there.
3. Against this background, we seek views on how Swedish authorities might respond to an extradition request for the kinds of Wikileaks-related offences with which Mr Assange might conceivably be charged in the United States. We appreciate, of course, that neither we nor Sweden (according to your reporting) has been advised of what, if any, charges the US might be contemplating. Nevertheless, there has been considerable public discussion in the US on this question (see, for example, Washington reftels). It would be useful to know whether Swedish officials have considered such questions, even informally, and what their views might be on the likely outcome of any extradition request based on the mooted charges. The application of 'dual criminality' principles may be one issue.
4. Please make clear to your interlocutors that we do not have any information to suggest that the United States intends to seek Mr Assange's extradition or to bring charges against him: our questions are hypothetical at this stage.

text ends

s 22 1(a)(ii)

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s 22 1(a)(ii)

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s 22 1(a)(ii)

Title: CONSULAR: Cat 1: Arrest: ASSANGE, Julian Paul (RED)
 MRN: s 22 1(a)(ii)
 To: Washington
 Cc: PP : London, Stockholm
 From: Canberra (CHCH/DFAT/CPD/CNB)
 From File: s 22 1(a)(ii)
 References:
 Response: Priority, Information Only

CONFIDENTIAL

Summary

We continue to have a strong interest in Mr Assange's case, including possible legal action by the United States. We would be grateful if HOM could make representations and enquiries with relevant senior US officials across the Administration with regard to any legal action the United States may be contemplating or have in play regarding Mr Assange. Grateful continued detailed reporting on the Manning trial and links to Mr Assange.

s 33 (a)(iii)

we would be grateful if HOM and post could approach senior interlocutors on the case of Mr Assange.

2. We seek representations at senior level given the importance placed by the Government on providing consular support to Mr Assange s 33 (a)(iii)
3. Further to reftel s 22 1(a)(ii) we would be grateful if in discussions with the Department of Justice, State and relevant others the following representations are made:
 - reinforcement of the importance the Government attaches to its consular responsibilities in the Assange case;
 - enquiries seeking advice on the US approach to Mr Assange, including:
 - any intention to seek his extradition to the United States
 - the circumstances and process in which any extradition might be (a) sought and (b) occur
 - information on possible charges the United States may seek to press in relation to Mr Assange and the legal basis for such charges under US law
 - information and assessment of material links between the Manning trial and Mr Assange.
4. In making these representations and seeking further information, you may also wish to underline the public and media interest in Australia on US intentions regarding Mr Assange.

text ends
 s 22 1(a)(ii)

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s 22 1(a)(ii)

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 FILE: 11/33016
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s 22 1(a)(ii)

Title: CONSULAR: Cat 1 : Arrest: ASSANGE, Julian Paul: Visit to
 Stockholm by Senator Ludlam (RED)
MRN: s 22 1(a)(ii)
To: Canberra
Cc: RR : London, Washington
From: Stockholm
From File:
References: s 22 1(a)(ii)
 The cable has the following attachment/s -
 Swedish Prison and Probation Service.PDF
Response: Routine, Information Only

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Summary

The Ministry of Justice has confirmed that the temporary surrender clause in the Sweden-US extradition treaty could not be used to fast track Assange's extradition to the US. Any surrender, even temporary, would require a full extradition process. s 22 1(a)(ii)
 s 22 1(a)(ii)

On 12 December Senator Scott Ludlam and his adviser Felicity Hill met HOM and Second Secretary to discuss Julian Assange's case. Post also arranged meetings for Ludlam and Hill with the Swedish Justice Ministry s 33 (a)(iii), s 47 F(1) and the Swedish Prison and Probation Service s 33 (a)(iii), s 47 F(1) which we attended as well. We provided a contact for Hill to pursue a meeting for Senator Ludlam with the MFA, but this could not be arranged.

2. Ludlam told HOM he was visiting Stockholm in his own time and at his own expense to investigate concerns about Julian Assange's case. His particular concerns were the conditions and entitlements Assange would face in remand should he be extradited to Sweden and, in that case, the possibility that Assange could be surrendered or extradited to the US, including under the temporary surrender clause in the Sweden-US extradition treaty. Ludlam and Hill were also concerned that Assange had been treated unfairly in the Swedish media, that earlier comments by Prime Minister Reinfeldt had prejudiced his case and that the Swedish prosecution authority was politicised.

s 22 1(a)(ii)

4. HOM outlined the process that would apply to Assange on his possible return to Sweden s 22 1(a)(ii) He also clarified (based on advice from the

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s 22 1(a)(ii)

Justice Ministry) that, although the Sweden-US extradition treaty did include a temporary surrender clause, this did not provide a fast-track alternative to extradition and that full extradition proceedings still needed to be followed in temporary surrender applications. s 22 1(a)(ii)

s 22 1(a)(ii)

s 33 (a)(iii), s 47 F(1)

5. In the meeting with [redacted] he confirmed again that the temporary surrender clause in the Sweden-US extradition treaty could not be used as a back-door means to transfer Assange to the US. Any temporary surrender or extradition (to a non-EU or Nordic country) required the approval of the Prosecutor-General, the Supreme Court and then the Government (and, in Assange's case, the UK Government due to the application of the European Arrest Warrant). The Swedish Government could deny an extradition or temporary surrender that the Supreme Court had approved, but if the Supreme Court denied an extradition or temporary surrender application, then the matter ended there. i.e. the Government could not approve a process that the Supreme Court had rejected. While the process for temporary surrender could begin before the court had made a final decision, the surrender would only occur after a guilty verdict and prison sentence had been delivered.

s 22 1(a)(ii)

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s 22 1(a)(ii)

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s 22 1(a)(ii)

Title: CONSULAR: Cat 1: Arrest: ASSANGE, Julian Paul (RED)
MRN: s 22 1(a)(ii)
To: Canberra
Cc: RR : London, Stockholm
Ministers: Foreign Minister
From: Washington
From File: s 22 1(a)(ii)
References:

Response: Routine, Information Only

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Summary
s 33 (a)(iii)

s 22 1(a)(ii)

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s 22 1(a)(ii)

s 33 (a)(iii)

s 22 1(a)(ii)

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s 22 1(a)(ii)

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s 22 1(a)(ii)

Title: CONSULAR: Cat 1: Arrest: ASSANGE, Julian Paul (RED)
MRN: s 22 1(a)(ii)
To: Canberra
Cc: RR : London, Stockholm
Ministers: Foreign Minister
From: Washington
From File: s 22 1(a)(ii)
References:

Response: Routine, Information Only

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s 22 1(a)(ii)

Summary

s 33 (a)(iii)

s 22 1(a)(ii)

s 33 (a)(iii)

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s 22 1(a)(ii)

s 33 (a)(iii)

s 22 1(a)(ii)

s 33 (a)(iii)

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s 22 1(a)(ii)

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s 22 1(a)(ii)

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s 22 1(a)(ii)

Title: CONSULAR: Cat 1: Arrest: ASSANGE, Julian Paul (RED)
 MRN: s 22 1(a)(ii)
 To: Canberra
 Cc: RR : Stockholm, Washington
 Ministers: Foreign Minister
 From: London
 From File:
 References: s 22 1(a)(ii)
 Response: Routine, Information Only

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Summary
 s 22 1(a)(ii)

Further to s 22 1(a)(ii) and late on 5 December, Ms Felicity Hill (Policy and Research Officer to Senator Scott Ludlam) sent us, by email, draft questions on notice submitted to the parliamentary Table Office concerning Mr Julian Assange. s 22 1(a)(ii)
 s 22 1(a)(ii)

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s 22 1(a)(ii)

Question on Notice

Date: 1 December 2011

s 22 1(a)(ii)

1. Has the Attorney General ascertained whether there are any charges by the US government against Mr. Julian Assange, including under the US Espionage Act or other statutes.
2. Has the government ascertained, whether formally or informally the accuracy of reports of a sealed indictment of a US Grand Jury.
3. What steps, if any, has the Minister taken to establish any facts pertaining to (1) and (2)

s 22 1(a)(ii)

5. Can the Attorney General confirm that the Government would not permit the extradition of Mr Assange to the US should he return to Australia.

s 22 1(a)(ii)

Question on Notice

Date: 1 December 2011

s 22 1(a)(ii)

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s 22 1(a)(ii)

s 22 1(a)(ii)

4. When the government sought assurances on three occasions from Sweden that Mr. Assange's case would be handled in accordance with due process on 7 December 2010, 5 January 2011 and 10 February 2011, did the government seek specific assurances that Mr. Assange would not be subject to the temporary surrender mechanism that could specifically result in his extradition to the United States of America (US).

5. Did the government seek such assurances in the form of writing or through verbal communications.

6. When the government sought assurances on three occasions from Sweden that Mr. Assange's case would be handled in accordance with due process on 7 December 2010, 5 January 2011 and 10 February 2011, what was the government told by the Swedish authorities and in what form.

7. Given the answer to question 1282 indicated that the government 'has no formal advice of any Grand Jury investigation' when the question asked related to whether the government sought advice, has the government actually sought clarification, formally or informally, from the US government about the existence of a Grand Jury investigation and what crimes Mr. Assange is being investigated for.

s 22 1(a)(ii)

text ends

s 22 1(a)(ii)

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s 22 1(a)(ii)

Title: CONSULAR: Cat 1: Arrest: ASSANGE, Julian Paul (RED)
 MRN: s 22 1(a)(ii)
 To: Canberra
 Cc: RR : Stockholm, Washington
 Ministers: Foreign Minister
 From: London
 From File: s 22 1(a)(ii)
 References: ---
 Response: Routine, Information Only

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Summary

s 22 1(a)(ii)

Senator Ludlam called on the High Commissioner before and after the hearing. He said he was concerned by the risks to Mr Assange if he were extradited from Sweden to the US. We outlined our understanding of UK processes, but declined to comment on US or Swedish arrangements.

Appeal Hearing

s 22 1(a)(ii)

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s 22 1(a)(ii)

s 22 1(a)(ii)

s 22 1(a)(ii)

Meeting with Senator Ludlam

8. On 5 December, Senator Scott Ludlam called on the High Commissioner twice in relation to Mr Assange's case (before and after the Court hearing). Senator Ludlam was accompanied by Felicity Hill, Policy and Research Officer. Consul-Generals 47 and Second Secretary s 47 F(1) were also present for the two meetings.

9. Senator Ludlam said that his main concern in relation to Mr Assange was the risk of his (Assange) onward extradition from Sweden to the US. He said that he understood there was a warrant for Mr Assange's arrest that was waiting for him in the US and, if extradited there, Mr Assange would "disappear into the same hole Bradley Manning was in"; US politicians had also suggested Mr Assange should be "assassinated" if brought to the US and there was a "political imperative" for the US system to be tough on Mr Assange. Senator Ludlam said

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that Mr Assange's safety, and his right to due process, would be at risk if he were extradited to the US.

10. Senator Ludlam asked us whether we "had knowledge" of the issue of a warrant in the US for Mr Assange's arrest or whether Mr Assange was likely to be "rendered" to the US from Sweden. We said that these questions should be directed to the authorities in the US and Sweden through our missions there.

11. Senator Ludlam said that there was no evidence that the Australian Government was taking an interest in Mr Assange's case. There was the potential for this case to turn into a "David Hicks-like" situation; there was a "groundswell" of support for Mr Assange in Australia. He said that there appeared to be differences within the Government in Australia on Assange and invited us to comment. We declined to do so.

12. Senator Ludlam asked us whether, in the event Mr Assange was extradited from Sweden to the US, there would be a consular role for the High Commission in London given the requirement (under the UK *Extradition Act 2003*) for the UK to consent to any onward extradition to a third country. We said that we would take an interest in any UK proceedings which might occur as a result of a request to the UK for Mr Assange's further extradition.

13. We outlined the provisions of the UK *Extradition Act 2003* (section 58) which require the UK Secretary of State for the Home Department to consider whether, in light of a those matters listed in sections 79 to 96 of the Act, which include the risk of a breach of the person's human rights, the passage of time and the risk of imposition of the death penalty in the destination country, she should consent to an onward extradition request to a category 2 territory (note the US is a category 2 territory). Any decision by the Secretary of State would be subject to judicial review. Ms Hill asked whether the Australian Government would make submissions opposing Mr Assange's onward extradition to the US in these circumstances. We said that the Government would very likely make submissions, if there were an opportunity to do so, but that this would be a decision for the Foreign Minister.

14. Senator Ludlam said that he understood that the "temporary surrender" arrangement between Sweden and the US might mean that Mr Assange would not go through the formal process of being extradited to the US; this would mean the UK might not have an opportunity to consider whether to consent to Mr Assange's onward extradition to the US. We said that we were not familiar with Sweden's extradition arrangements and encouraged Senator Ludlam to raise these queries with the Swedish authorities during his forthcoming visit.

15. Senator Ludlam asked whether we considered there to be any irregularities in the way in which the UK was managing Mr Assange's extradition process which might suggest political interference. We said that there was no evidence of irregularities that gave rise to concerns. We said that if we became aware of evidence to suggest planning by UK authorities for Mr Assange's onward extradition from Sweden to the US, we would bring this to the Australian Government's attention immediately and seek instructions on how to respond.

16. Senator Ludlam said that the High Commission in London and Foreign Minister Rudd were "the only ones to have lifted a finger to assist Mr Assange". He said that, while the High Commission in London was limited to considering the process in the UK, he (Ludlam)

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s 22 1(a)(ii)

had been "forced" to consider what would happen to Mr Assange if he were extradited to Sweden. We said that this was not a question for us at this point, but that we were aware that our embassies in Sweden and the US were asking questions of the local authorities to ensure they were aware of the processes there.

s 22 1(a)(ii)

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s 22 1(a)(ii)

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s 22 1(a)(ii)

Title: CONSULAR: Cat 1: Arrest: ASSANGE, Julian Paul (RED)
 MRN: s 22 1(a)(ii)
 To: Canberra
 Cc: PP : London, Washington
 Ministers: Foreign Minister
 From: Stockholm
 From File: s 22 1(a)(ii)
 References:
 Response: Priority, Information Only

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Summary

A senior Swedish Justice Ministry official has affirmed that he has no doubt that Julian Assange's legal case in Sweden, including any possible extradition request from a third country, will proceed in accordance with due process under Swedish law.

On 5 December HOM spoke to s 33 (a)(iii), 47 F(1)
 s 33 (a)(iii), 47 F(1)

HOM outlined the Australian Government's expectation that due process would apply in any legal action relevant to Julian Assange in Sweden, including any possible extradition request from a third country.

s 33 (a)(iii), 47 said our point was taken and noted. He said he had no doubt that Assange's legal case in Sweden, including any possible extradition request from a third country, would proceed in accordance with due process under Swedish law. He said again that Sweden had no indication at this stage of an extradition request from the US for Mr Assange.

s 33 (a)(iii), 47 F(1) asked if the Australian side had any indication that the US would launch an extradition process for Mr Assange. HOM replied that we had no such indication. s 33 (a)(iii), 47 F(1) asked if we had any indication that Mr Assange's case would not proceed in accordance with due process. Again, HOM replied that we did not.

text ends
 s 22 1(a)(ii)

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s 22 1(a)(ii)

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s 22 1(a)(ii)

Title: CONSULAR: Cat 1: Arrest: ASSANGE, Julian Paul (RED)
MRN: s 22 1(a)(ii)
To: Stockholm; Washington
Cc: RR : London
From: Canberra (CHCH/DFAT/CPD/CNB)
From File: s 22 1(a)(ii)
References:

Response: Routine, Requires Action

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Summary

Grateful Posts seek further information on extradition processes from Sweden to the United States.

For Washington

Grateful Post seek advice from US Department of Justice (or relevant agencies) on the process that would be followed if the US were to request Mr Assange's extradition from Sweden or the UK. We are particularly interested in the circumstances under which his extradition may be sought, including the possible charges. In terms of process, we would be interested to understand the likely time frames involved in an extradition request, how the US would make the request and whether this would be an open and transparent process. Further, grateful information on what rights of appeal would be available to Mr Assange to contest any such extradition and what safeguards are in place to ensure due process is followed. Grateful in this discussion if Post could seek an indication as to whether the US is likely to seek Mr Assange's extradition.

For Stockholm

2. Thanks Post for information on extradition processes between Sweden and the US and advice that there had been no indication of an extradition request from the US for Mr Assange. Grateful advice on any updates that might be available.

text ends
 s 22 1(a)(ii)

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s 22 1(a)(ii)

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s 22 1(a)(ii)

Title: CONSULAR: Cat 1: Arrest: ASSANGE, Julian Paul (RED)
MRN: s 22 1(a)(ii)
To: Canberra
Cc: RR : Brussels, Stockholm, Washington
Ministers: Foreign Minister
From: London
From File: s 22 1(a)(ii)
References:

The cable has the following attachment/s -
Letter to High Commissioner 13 December 2010.pdf
wiki qon.docx
2hansard.pdf
1hansard.pdf

Response: Routine, Information Only

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Summary
s 22 1(a)(ii)

s 22 1(a)(ii)

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s 22 1(a)(ii)

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s 22 1(a)(ii)

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s 22 1(a)(ii)

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s 22 1(a)(ii)

s 22 1(a)(ii)

Senator Ludlam

9. On 23 November, Senator Scott Ludlam, requested a meeting with the High Commissioner in early December to discuss the case of Mr Julian Assange. Senator Ludlam emailed some Questions on Notice and two Hansard extracts which he said outlined his concerns in relation to Mr Assange's situation (copies attached).

s 22 1(a)(ii)

text ends

s 22 1(a)(ii)

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Tuesday, 22 November 2011

SENATE

11

If we look at the CRC for Polymers, companies have launched this on the basis of the credible strength of the research that is engaged. Two of the researchers—
(Time expired)

Senator URQUHART (Tasmania) (15:02): Mr President, I ask a second supplementary. Can the minister advise the Senate what this program does for our environment and workers in agricultural industries?

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (15:02): These are investments that are ultimately all about people—their jobs and their living standards. They are about building a better country. This is the beauty of the CRC program. This is a program that Labor established in 1990. It is about providing the wherewithal so that everyone in this country can enjoy the prosperity that they have a right to expect.

The Invasive Animals CRC and the CRC for National Plant Biosecurity have both stood in the front line for our agricultural industries. This is how we see them in terms of dealing with agricultural pests, from rabbits to cane toads to fruit flies. We are also seeing two new CRCs working directly with communities facing up to the realities of water scarcity and carbon pollution, and leading scientists are working together, seeking to develop real solutions with businesses.

I wish all senators opposite a very merry Christmas.
(Time expired)

Senator Chris Evans: I ask that further questions be placed on the *Notice Paper*.

ANSWERS TO QUESTIONS ON NOTICE

Question No. 1282

Senator LUDLAM (Western Australia) (15:03): Pursuant to standing order 74(5) I ask the minister representing the Minister for Foreign Affairs, Minister Conroy, for an explanation as to why answers have not yet been provided to question on notice 1282. It has been just over 30 days since I asked this question. I recognise that it is only a couple of days overdue, so I am not critical because I realise some of these things sometimes come in a few days late. I want to put very firmly on the record that this question pertains to matters that are urgently relevant and time sensitive and will not wait until 2012.

The consular and legal rights of an Australian citizen, the editor-in-chief of WikiLeaks, Mr Julian Assange, are the focus of my questions. It is the responsibility of this government to insist on fair and due process and the rule of law if he is extradited to Sweden to face charges there. But what is of very grave concern to me and what is of grave concern to many people around the world is the potential that he will then be rendered from Sweden to the United States, where he has broken no law.

The DEPUTY PRESIDENT: Senator Ludlam, you are entitled to ask a question, and it is a very detailed question. Would you like the minister to respond?

Senator LUDLAM: I would like to put a few comments on the record and then I will indeed seek a response from the minister.

The DEPUTY PRESIDENT: You can only ask a question of the minister and I have given you a fair bit of latitude. I will call the minister.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (15:05): I understand Senator Ludlam has been in contact with the office of the Minister for Foreign Affairs and that a response to his question will be forwarded tomorrow.

Senator LUDLAM (Western Australia) (15:05): I move:

That the Senate take note of the answer.

I do not intend to speak at great length, because I recognise that other senators are waiting their turn. Mr Assange was recognised as a journalist by the High Court of the UK. As a journalist and, through WikiLeaks, as a publisher, he has broken no law, just as the people who put his material on the front page of the *Age* and the *New York Times* have broken no law. My question, to which the answer is now just slightly overdue, seeks to clarify what our government has done and what our government is prepared to do to ensure that he is not subject to rendition to the United States, where, as we know, his life is under threat. There has been speculation that Mr Assange would be extradited to the United States from Sweden, but extradition requests, as we know, come with safeguards. We are much more concerned that, under a bilateral agreement between Sweden and the US, he could be transferred without any due process at all—a form of soft rendition known as temporary surrender. What happens once he gets there?

US Republicans Sarah Palin and Mike Huckabee have called for him to be executed. Palin has said he should be hunted down like al-Qaeda. Vice President Joe Biden has said that he is a high-tech terrorist and that, 'We should treat Mr Assange the same as other high-value terrorist targets.' 'Kill him,' writes conservative columnist Jeffrey T Kuhner in the *Washington Times*. William Kristol, former Chief of Staff to Vice President Dan Quayle, has asked:

Why can't we use our various assets to harass, snatch or neutralise Julian Assange and his collaborators, wherever they are?

'Why isn't Julian Assange dead?' writes prominent US pundit Jonah Goldberg. Last week, when the President addressed this place, he spoke beautifully of 'the rule of

SENATE

QUESTION ON NOTICE

Date: 19 October 2011

Senator: Ludlam

To ask the Minister representing the Foreign Minister

Given the responsibility of the Foreign Minister for the protection of consular and legal rights of all Australian citizens overseas, can the Minister confirm that:

1. The Australian government has maintained communication with Mr. Julian Assange and extended consular and legal support while he adheres to bail conditions that include the surrendering of his passport, house arrest, electronic tagging, observation of curfews and daily reporting to police;
2. If so, through what channels, when and what services have been received;
3. The Australian government has sought assurances from Sweden that if extradited Mr. Assange will be questioned or face the charges of which he is accused and will not be subject to the Temporary Surrender mechanism that could see him extradited to the USA;
4. The Australian government has investigated allegations in the Independent on 8 December 2010 that the United States and Sweden have already commenced discussions on Mr. Assange's extradition;
5. The Australian government has ascertained whether or not a reported sealed indictment of a US Grand Jury exists for crimes under the Espionage Act or other statutes;
6. The Australian government defines the work of Mr. Assange in his capacity as Editor in Chief of Wikileaks as 'having implications for Australia's foreign relations', thereby triggering the application of the Intelligence Services Amendment Act;
7. The Department of Foreign Affairs and Trade has provided advice to ASIO regarding investigations of Wikileaks;
8. The date the Australian government communicated to the United States the results of the Australian Federal Policy investigation that indicated that Mr. Assange had not committed a crime under Australian law in his capacity as Editor in Chief of Wikileaks;
9. That the Australian government has sought clarification from the United States government as to what crimes Mr. Assange is being investigated for by the Alexandria grand jury;
10. The Australian government would not extradite Mr. Assange to the United States should he return home;
11. The Australian government has failed to or refuses to supply an answer to the question taken on notice on 2 June 2011 regarding a public interest immunity ground for a blanket refusal to answer any question arising from information in US cables made public through Wikileaks;
12. The Australian government reactivated the Wikileaks task force upon the release of the unredacted cables.

Signature of senator:

13 December 2010

High Commissioner to the United Kingdom
Australia House
Strand,
London WC2B 4H A

Dear Mr Dauth,

We Australians, here in London and from further afield, ask you to convey our urgent and emphatic request to the Gillard Government to do its utmost to defend Julian Assange's human rights and the free and lawful operation of Wikileaks.

Australians around the world watch with grave concern as an Australian citizen is vilified by his own Prime Minister and Attorney-General, experienced lawyers whose words display a shocking disregard for the human right to the presumption of innocence, and risk prejudicing any legal proceedings Mr Assange may face.

We welcome the Government's subsequent assurance that Mr Assange's passport will not be cancelled and that your embassy will afford him "all appropriate consular assistance."

We learn from an Australian Government website that the High Commission has a duty to ensure Mr Assange "is treated no less favourably than local citizens detained for similar offences." UK citizens, of course, enjoy the protection of the *Human Rights Act 1998* and the *European Convention on Human Rights*, which guarantee their right to freedom of expression, presumption of innocence and fair trial. That is, UK citizens enjoy a significantly higher degree of legal protection than do Australians, and the Australian High Commission must ensure Mr Assange's treatment by UK authorities accords with those more stringent standards.

May we remind all consular staff and the Australian Government that Mr Assange "has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers" and to do so "without interference by public authority."

Further, Mr Assange has a human and legal right to be "presumed innocent until proved guilty according to law" and to be given a fair trial.

As you must know well, it is unlawful under s104 of the *Criminal Code Act 1995* for anyone intentionally or recklessly to cause death or serious harm to an Australian citizen outside Australia. And yet the Australian Government has voiced no objection to the death threats levelled against Mr Assange by high-profile US citizens and others.

In light of the above, we, the undersigned:

Ask that Ms Gillard publicly and unequivocally withdraw her statement alleging illegal conduct on Mr Assange's part, explain to the public why it was wrong for her to say that, and to apologise to Mr Assange.

Call on the Gillard Government to robustly defend Mr Assange both at home and abroad and to respect and defend his right to receive information and impart information freely, without interference by any public authority.

Ask the Attorney-General to initiate investigations into threats of violence against Mr Assange by persons in the United States and Canada, including Sarah Palin and Mike Huckabee, in violation of Australian law.

Urge the Gillard Government to oppose strenuously any application to have Mr Assange extradited to the United States, because it is unlikely he would receive a fair trial there.

We thank you for your attention to these matters of fundamental importance to a free and democratic society.

Sincerely, your compatriots,

Maree Albrecht

and Turlay

RIK (CARSTEN) *10/27/11*

R. Campbell
Shirley Turlay
Stuart

Consular services: Arrested, detained and jailed overseas (HYPERLINK "<http://www.smarttraveller.gov.au/faq.html>" "<http://www.smarttraveller.gov.au/faq.html>")

Article 19 of the *Universal Declaration of Human Rights* (emphasis added). The same is stated more fully in Article 19 of the *International Covenant on Civil and Political Rights*, to which Australia is a party, and Article 10 of the *European Convention on Human Rights* (ECHR), which also applies to Mr Assange.

ECHR, Art. 10(1)

ECHR, Art. 6 and elsewhere

Including "harm to a person's mental health (whether temporary or permanent) (including) psychological harm to the person

and conduct that endangers, or is likely to endanger, a person's life.

(s146)

See <http://www.abc.net.au/unleashed/44914.html>

Carol O'Neil
Stuart

DFAT – DECLASSIFIED
 FILE: 11/33016
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s 22 1(a)(ii)

Title: CONSULAR: Cat 1: Arrest: ASSANGE, Julian Paul (RED)
 MRN: s 22 1(a)(ii)
 To: Canberra
 Cc: RR : Brussels, London, Washington
 Ministers: Foreign Minister
 From: Stockholm
 From File:
 References: s 22 1(a)(ii)
 Response: Routine, Information Only

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Summary

s 22 1(a)(ii)

There has been no indication of an extradition request from the U.S. for Assange.

s 22 1(a)(ii)

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s 22 1(a)(ii)

s 33 (a)(iii), 47 F(1)

7. We mentioned media reports about the possibility that Assange could be subject to a 'temporary surrender' procedure allowing him to be extradited from Sweden to the US outside normal extradition arrangements. [redacted] said, under Sweden's Extradition Act, there was only one procedure for extradition from Sweden to another state. The process required a request from another state, a decision by Sweden's Supreme Court on whether extradition was possible, and finally a decision by government to go forward with the extradition. In the Swedish system of 'consensus decision-making', a decision by government entailed a decision by the Cabinet of Ministers. As advised previously, in cases where a European Arrest Warrant had been used, the consent of the surrendering state (in this case the UK) was also required.

s 33 (a)(iii), 47 F(1) said 'temporary surrender' referred to situations in which another state requested the surrender of a prisoner serving a sentence in Sweden in order to stand trial in that state. After such a trial, the subject would need to be returned to Sweden in accordance with the original Swedish sentence. Any temporary surrender decision could only occur after the full extradition procedure had been followed (as outlined in para 7). Should the requesting state subsequently seek the prisoner's transfer to serve a sentence there, a second, full extradition procedure was required.

s 33 (a)(iii), 47 F(1) said the Cabinet of Ministers typically had 10-20 extradition requests to consider each year (this excluded requests from EU and Nordic countries, of which there were many more. They were handled through other procedures and did not require a decision by the Cabinet of Ministers). [redacted] said there had been no indication of an extradition request from the US for Assange.

s 33 (a)(iii), 47 F(1)

text ends

s 22 1(a)(ii)

s 22 1(a)(ii)

REDACTED

s 22 1(a)(ii)

Title: CONSULAR: Cat I: Arrest: ASSANGE, Julian Paul (RED)
MRN: s 22 1(a)(ii)
To: Canberra
Cc: RR: Brussels, Stockholm, Washington
Ministers: Foreign Minister
From: London
From File: s 22 1(a)(ii)
References:

Response: Routine, Information Only

~~CONSULAR IN CONFIDENCE~~

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Summary

On 29 November, we met with Mr Assange's UK solicitor, Gareth Peirce, and Defence Fund Trustee, Mr John Pilger. s 22 1(a)(ii)

Pilger and Peirce said that, in their view, the Australian Government needs to act now, given the risks to Mr Assange if extradited to Sweden, including from onward extradition to the US, and the "international implications" for the Government.

s 22 1(a)(ii)

s 22 1(a)(ii)

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s 22 1(a)(ii)

s 22 1(a)(ii)

Australian Government Engagement

s 22 1(a)(ii)

13. Ms Peirce referred to her letter to Foreign Minister Rudd of 15 September 2011 in which she said that she had set out the "disturbing potential" that existed that Mr Assange could be extradited from Sweden to the US. Ms Peirce asked us what the Australian Government could do now to prevent this from happening to an Australian citizen. She also asked whether the Australian Government had made representations to Sweden against Mr Assange being extradited on from Sweden to the US (we did not respond to either question, nor did we undertake to do so). Mr Pilger reiterated the three questions which Ms Peirce had raised in her letter of 15 September. He referred to the letter in response, dated 25 October 2011 from Mr Greg French, A/g Senior Legal Adviser, and said that this had not provided a satisfactory response to Ms Peirce's questions. Mr Pilger said that Mr Assange's team was "not content with this response".

s 22 1(a)(ii)

s 22 1(a)(ii)

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s 22 1(a)(ii)

s 22 1(a)(ii)

Onward extradition to the US

16. Mr Pilger said that he had information to suggest that Mr Assange was at high risk of extradition from Sweden to the US under a temporary surrender arrangement between Sweden and the US (he provided no further information about the source of this). In addition, Mr Pilger said there were "public declarations" by Swedish authorities confirming that they had discussed onward extradition with the US; Swedish prosecutor Marianne Ny had discussed Mr Assange's onward extradition to the US on her website in 2010. Ms Peirce said that there had been past instances of Sweden extraditing people to the US under such arrangements. She described a case where two people were rendered from Sweden to Egypt pursuant to a US request where they were tortured.

17. Mr Pilger said he had been told (no further information) that the Australian Government had also been involved in discussions with the US and Swedish Governments concerning Mr Assange's possible extradition to the US. He said that if the Australian Government became involved in Mr Assange's onward extradition to Sweden, he and other prominent Australian and international figures would "make an international case of this". He said that Mr Assange was an Australian citizen who needed protection. He said that if Mr Assange was to be extradited to the US, the Australian Government had a "huge role to play".

18. We asked whether, in accordance with the 2003 Extradition Act, the UK would need to consent to any onward extradition of Mr Assange from Sweden to the US. Ms Peirce said that, in practice, the requirement for UK consent did not present "much of an obstacle" for a person to be extradited on from Sweden.

19. Mr Pilger said there was "a lot of activity in the US" and suggested this indicated the US was preparing for Mr Assange's possible extradition there. He said that on 16 December, Bradley Manning (who is accused of having passed restricted information to the website Wikileaks), will appear for a hearing into his alleged offences. Mr Pilger said that Mr Assange's team was "pretty sure" the US Grand Jury in Virginia had issued a sealed indictment concerning Mr Assange and which would be waiting for him in the US if extradited there. While Mr Assange was not yet aware of the charges, the US lawyers with whom Mr Assange was in contact suspected the indictment would accuse him of conspiracy offences.

s 22 1(a)(ii)

She said that, if Mr Assange were extradited to the US, there was "no doubt" he would be held in solitary confinement. Mr Assange should not be extradited to the US in these circumstances, and the Australian Government should oppose his extradition. Ms Peirce suggested Sweden might not have frozen extradition to the US in a similar way to the UK.

21. Ms Peirce said she would like to know what prisoner transfer agreements Australia had in place in relation to Sweden and the US (we did not respond). She said that if convicted in

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s 22 1(a)(ii)

s 22 1(a)(ii)

s 22 1(a)(ii)

Ms.

Peirce said that if Mr Assange were extradited to the US, his case would raise issues of free speech and prison conditions which were of "enormous international concern". s 22 1(a)(ii)
s 22 1(a)(ii)

s 22 1(a)(ii)

text ends
s 22 1(a)(ii)

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FILE: 11/33016
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s 22 1(a)(ii)

Title: Swedish Media: Coverage of Julian Assange appeal decision
MRN: s 22 1(a)(ii)
To: Canberra
Cc: RR : London, Washington
From: Stockholm
From File:
References:
Response: Routine, Information Only

UNCLASSIFIED

Summary
s 22 1(a)(ii)

3. Legal commentator Stefan Lisinski wrote in daily Dagens Nyheter s 22 1(a)(ii)
s 22 1(a)(ii)

Lisinski
assessed that there was a greater chance that Assange would have been extradited from the
UK to the US than from Sweden to the US.
s 22 1(a)(ii)

text ends
s 22 1(a)(ii)

s 22 1(a)(ii)

REDACTED

s 22 1(a)(ii)

Title: UK Media: Julian Assange - "lawyers call on Australia to step in"
MRN: s 22 1(a)(ii)
To: Canberra
Cc: RR : Stockholm, Washington
From: London
From File: s 22 1(a)(ii)
References: The cable has the following attachment/s -
Reporting of Assange decision 3 November.docx
Response: Routine, Information Only

UNCLASSIFIED

Summary

On 3 November, UK newspaper 'The Daily Telegraph' featured a story with the headline "Julian Assange's lawyers call on Australia to step in over extradition". The article repeated comments made by Mr Geoffrey Robertson QC on the ABC's 'Lateline' in which he called on the Australian Government to intervene if Mr Assange is extradited to Sweden. Mr Assange's mother was also quoted as seeking guarantees from the government that her son would not be "rendered on" to the US from Sweden. The article claimed that Mr Assange was "unlikely to receive support from the [Australian] government" as PM Gillard had "in the past criticised Wikileaks". A copy of the article is attached.

text ends
s 22 1(a)(ii)

s 22 1(a)(ii)

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Reporting of Assange decision 3 November

The Daily Telegraph

Julian Assange's lawyers call on Australia to step in over extradition

Julian Assange's mother and legal team have called on the Australian government to ensure the Wikileaks founder gets a fair trial in Sweden and guarantee that he won't eventually be extradited to the US.

By Bonnie Malkin and agencies

7:00AM GMT 03 Nov 2011

Mr Assange, who is an Australian citizen, lost a bitter legal battle in London on Wednesday to block his extradition from Britain to Sweden to face questioning over allegations of rape and sexual assault.

He now has 14 days to take the case to the British Supreme Court and his legal counsel Geoffrey Robertson called on the Australian government to intervene if the extradition goes through.

"I think Canberra may have to do something about it," he told the Australian Broadcasting Corporation.

"It's got a duty to help Australians in peril in foreign courts.

"As far as Julian Assange is concerned, Sweden doesn't have bail, doesn't have money bail for foreigners, so he's likely to be held in custody."

Mr Robertson said that his client was unlikely to be given a fair trial in Sweden.

"He's going to be tried in secret, and this is outrageous by our standards and by any standards," he said.

Mr Assange has strongly denied the rape allegations, claiming they are politically motivated and linked to the activities of WikiLeaks. He has expressed fears that his extradition to Sweden would lead to his transfer to the United States to face as yet unspecified charges of spying.

His mother told Australian media that he son would not resist extradition to Sweden if the Australian government could guarantee he will not be extradited to the US later on.

Christine Assange said Canberra must follow its own diplomatic and legal advice that her son was in "clear and present danger" and seek written guarantees he would not be rendered to the US.

"If that was to take place I believe Julian would go to Sweden and not resist it. His concern is that he'll be rendered on," she said.

Mrs Assange said her son was "dismayed" by the court's ruling.

But Mr Assange is unlikely to receive support from the government. Julia Gillard, the prime minister, has in the past criticised Wikileaks as "anarchic" and irresponsible and has so far ignored his pleas for help.

Asked about the matter as she arrived in the French resort town of Cannes for the G20 summit, Ms Gillard said a statement may be issued later.

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s 22 1(a)(ii)

Title: CONSULAR: Cat 1: Arrest: Assange, Julian Paul
MRN: s 22 1(a)(ii)
To: Canberra
Cc: RR : Stockholm, Washington
From: London
From File:
References: s 22 1(a)(ii)
 The cable has the following attachment/s -
 Signed statement of Jennifer Robinson 22 February 2011.PDF
 Exhibit JR-1.PDF
 Exhibit JR-2.PDF
 Exhibit JR-3.PDF
 Exhibit JR-4.PDF

Response: Routine, Information Only

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Summary
 s 22 1(a)(ii)

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s 22 1(a)(ii)

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s 22 1(a)(ii)

s 22 1(a)(ii)

Extradition to the US

15. Robertson said it was still an "open question" as to whether the US would seek to extradite Mr Assange from Sweden, commenting that "Sweden was famous for complying with US requests". He suggested that Mr Assange "should be allowed to return to Australia from Sweden so that any US extradition request could be fought in Australian Courts".

s 22 1(a)(ii)

text ends

s 22 1(a)(ii)

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s 22 1(a)(ii)

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s 22 1(a)(ii)

Title: CONSULAR: Cat 1: Arrest: Assange, Julian Paul
 MRN: s 22 1(a)(ii)
 To: Canberra
 Cc: RR : Stockholm, Washington
 From: London
 From File: s 22 1(a)(ii)
 References:

The cable has the following attachments -
 sweden-v-assange-judgment.pdf

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Summary

A UK District Judge today ordered that Mr Julian Assange be extradited to Sweden. Mr Assange will appeal the decision to the High Court. His bail was renewed unchanged pending the appeal.

We s. 47 F(1) attended the Woolwich Magistrate's Court at Belmarsh Prison on 24 February at which UK Senior District Judge, Howard Riddle, delivered his judgment in the Julian Assange extradition case.

s 22 1(a)(ii)

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s 22 1(a)(ii)

3. Riddle noted that no witness evidence had been presented that Mr Assange could be extradited to the USA and/or risked torture or execution. He found, in any event, that if Mr Assange were surrendered to Sweden and a request was made to Sweden for his extradition to the US, then the EAW Framework would require the consent of the UK Secretary of State before Sweden could order Mr Assange's extradition to a third state. Mr Assange could appeal against any onward extradition from Sweden to the US in both Swedish and UK courts (the UK Secretary of State's consent to onward extradition can be reviewed in a UK court).

s 22 1(a)(ii)

text ends
s 22 1(a)(ii)

City of Westminster Magistrates' Court
(Sitting at Belmarsh Magistrates' Court)

The judicial authority in Sweden

-v-

Julian Paul Assange

Findings of facts and reasons

Mr Assange has been arrested on an EAW issued by Ms Marianne Ny, a judicial authority in Sweden (represented by Miss Clare Montgomery QC and Miss Gemma Lindfield) for the surrender of Mr Julian Assange (represented by Mr Geoffrey Robertson QC and Mr John Jones). Sweden is a category 1 territory for the purposes of the 2003 Extradition Act and this hearing is considered under Part 1 of the Act. The extradition is opposed.

Procedural background

The initial hearing was before me on 7th December 2010. Preliminary issues including service of the warrant and identity were not in dispute. This extradition hearing was opened by me at the City of Westminster on 7th December 2010 and adjourned after one further hearing to 7th and 8th February 2011 for a full hearing. The hearing was transferred to Belmarsh where there are better facilities to accommodate the press interest in the case. Although the evidence concluded on 8th February, there was insufficient time for final submissions. A further half day was set aside for those submissions on Friday 11th February. On that occasion there was an application by the defence for more time to provide evidence about events in Sweden that had occurred since 8th February. For reasons I gave at the time, that application was refused and the hearing concluded. I adjourned to consider and to prepare these reasons.

The evidence

Most of the evidence was in written form in a large ring binder that eventually included over 20 tabs. This was supplemented by live evidence from four witnesses who all took the trouble to attend from Sweden. I was very grateful to them for coming. Unusually, and because we were at Belmarsh, it was possible to record and then transcribe their evidence. That transcript is available from WordWave International Ltd. In the circumstances I can summarise the evidence more briefly than might otherwise be the case.

I heard live evidence on 7th February 2011 from Brita Sundberg-Weitman. She is a Swedish lawyer, a former judge, and a distinguished jurist. At one time she served on the Svea Court of Appeal (a court that features in these proceedings). She gave evidence in commendably fluent English with the occasional assistance of the

interpreter. She adopted her Expert Report. She is of the opinion that proper procedures, according to Swedish law and stated policy, have not been followed in this case. She says that the use of the EAW under European law is disproportionate. She says the handling of the case has been improper in a number of respects. Those defects are set out in detail in her report, and I will not repeat them in full here. In short, the complaints in the report and in live evidence are:

- The first prosecutor confirmed details of the allegations to a tabloid newspaper, which breaches confidentiality but is not unlawful.
- Ms Ny allowed an appeal against the initial decision not to prosecute (which is permissible in Swedish law but unfair as Mr Assange was not allowed to make submissions).
- The complainant's lawyer, Mr Borgstorm, has been critical of Mr Assange in the press saying he is a coward for not returning to Sweden.
- The prosecutor Ms Ny is "biased against men and takes for granted that everyone prosecuted is guilty... She is so preoccupied with the situation of battered and raped women that she has lost her balance". Ms Ny is in favour of locking up innocent men.
- Ms Ny did not arrange for questioning to take place in a more appropriate way, for example by Mutual Legal Assistance: "It looks malicious."
- There is an improper motive behind the issue of the EAW. The real motive is that Mr Assange is outside Sweden and Ms Ny wants to arrest him immediately after he is interviewed, regardless of what he says. "That may be her approach. Let him suffer for a bit so he can be a bit softer." "Everything is peculiar. The case is not proceeding normally."
- Using the EAW is disproportionate.
- The EAW has not been issued for prosecution, but for the purposes of enforcing the order for detention referred to at box (b) of the EAW. The prosecutor has repeatedly stated that she has obtained the warrant to question Mr Assange. This is simply a Preliminary Investigation which is defined in the code and ends before a decision to prosecute is taken.
- Ms Ny is not the proper issuing judicial authority.
- There are political considerations behind this prosecution. The issue of sexual offences is very political in Sweden.
- The rape trial will take place behind closed doors. The trial will include lay members who have been politically selected.

In cross-examination the witness told me she is not an expert in Mutual Legal Assistance. She confirmed that she had no direct personal knowledge of what happened in this investigation before Mr Assange left Sweden. Her evidence is based upon the facts supplied to her by the defence lawyers. [In her proof she said Ms Ny had made no effort to interview him before he left with her permission and knowledge on 27th September.] She confirmed that if the defence lawyer had told the prosecutor that he was unable to contact the defendant for interview, then the position would be different. "It would be a different case. However it didn't happen like that". When what Ms Ny told the Svea Court of Appeal was put to the expert she said she did not know that. She agreed that before a Swedish court can issue a domestic warrant it must be satisfied that there is a "probable

cause" but she can't imagine how the court reached that view in this case. After some difficulty understanding the questions the witness accepted that the Svea court did not think issuing the warrant was disproportionate. She said that most Swedish lawyers believe the question as to whether something is disproportionate is simply a matter of intuition, which it is not. "It is obvious that they [the court] are wrong". "I can't believe they have examined the case on the principle of proportionality". She then accepted that the Court of Appeal would have heard from Ms Ny and Mr Hurtig, the lawyer for Mr Assange. Again there was some confusion as to the questions and answers and the witness at first appeared to say the defence were not represented but later she said, after being referred to the decision of the court, that this document says Mr Hurtig was present, but she doesn't think he was. Overall the witness appeared unclear as to whether Mr Hurtig and the Court of Appeal had access to the evidence in the case. She suggested that the prosecution might have been economic with information. She was asked direct questions as to whether the court would decide whether this defendant should be on bail, if returned to Sweden. At first she appeared to avoid the question but did say that this is a matter for the court, with a right to appeal if bail is refused. However she has little confidence in the Swedish system which "has decayed since the mid-1970s. The judges are totally different types now. If I was prosecuted I would not choose a chief judge." She suggested that judges have less independence now that their salary is decided by the chief judge. She then added that: "almost all Swedish lawyers think we have the best system in the world", but they are wrong. The decision as to whether the trial would take place in private would be made by the court. However she knows of no case where a rape trial has taken place in public. Article 6 has been incorporated into Swedish law. She agreed that after the case the judge decides whether evidence will be published, but suggested that only the court's conclusion must be published.

The witness was further cross-examined about the authority to issue the EAW. Again she had difficulty directly answering the question. However she did eventually say that if the decision to prosecute has been made then Ms Ny is entitled to issue the EAW. She then referred to the decision to prosecute, for which the Swedish is "Atalsbeslut". When pressed as to the decision to issue an arrest warrant and what it involves she said: "I may be wrong". When further matters about the EAW and the framework decision were put to her she said "I am clueless. I don't know. I have no firm opinion. [as to the points that must be reached before a prosecutor issues an EAW for the purpose of prosecution]."

She was then asked about her strong criticism of Ms Ny. She doesn't know her personally but it is the witness's view that the prosecutor is malicious. That is based on what she has said. She was then referred to the one example that she had exhibited to demonstrate that malice. This is from an article entitled "Securing evidence quickly is important for prosecutors" at page 13 behind tab 9. She was taken through the early paragraphs and accepted that there was nothing really wrong with what was said there. She was then taken to the main passage of which complaint was made, where it says: "Marianne Ny is of the opinion that such proceedings (criminal prosecutions) have a beneficial effect in protecting women, even in cases where perpetrators are prosecuted but not convicted". She appeared to understand this passage as saying that everyone who is prosecuted is guilty and had difficulty in accepting that another interpretation is simply that there are occasions when a man is prosecuted and, for whatever reason, acquitted even though he may have been guilty. She did not appear to accept that

there is a public interest in prosecuting, where the evidence justifies prosecution, even if the case results in an acquittal. It appears that the witness's main objection to the paragraph quoted was a reference to "perpetrators" on the basis that the word is objectionable and biased.

She was then asked what material she has to justify the conclusion that Ms Ny "is a well-known radical feminist". She did not produce any further evidence to substantiate that conclusion and thought it was well known. It was suggested to her that the nature of Ms Ny's job, child protection and prosecution of sex crimes against women, justified her taking a stand on crimes against women. It was not clear whether she accepted this proposition

She was then re-examined and confirmed, in effect, the evidence she had given in chief, for example about the appropriateness of arranging interviews abroad. She said she is not an expert on extradition. The prosecution in this case was entitled to apply for an arrest warrant under Swedish law. The defendant can ask for a public trial. The judge decides. However it is rarely, if ever, that such a trial takes place in public. She was asked about press cuttings relating to Ms Ny, which are in the bundle. She had read them.

There is no doubt in my mind that Brita Sundberg-Weitman has had a very distinguished career as a judge and as a jurist. In her time she was no doubt a highly respected expert on many aspects of Swedish criminal law. She had taken a particular interest in European law, and in civil rights. She clearly now finds herself out of sympathy with the Swedish judicial system. She believes it to be unfair. It is perhaps unfortunate that in her report she did not mention that her opinions are not universally accepted. Similarly, one might have expected a clearer statement in her report that some of her evidence was based on what she had been told by defence lawyers, as opposed to independent sources, although she readily revealed that in cross-examination. Nevertheless I was very grateful to her for attending court to give evidence.

Also on 7th February 2011 I heard live evidence from Mr Goran Rudling. Again he adopted his proof and confirmed it in live evidence. I need not repeat his evidence in detail here. He promotes law reform in relation to sexual offences. Swedish law does not offer sufficient protection for rape victims. He has followed this case and discovered that one of the complainants has deleted Tweets that are inconsistent with her allegations. He passed this on to the police but became increasingly concerned that nothing was being done about his reports. Later he was in direct contact with the complainant, who has now removed most of her post about revenge. The police interviews with the complainants do not follow good practice. The complainants and the interviewing officer are all active members of the Social Democrat Party. He also explained the difficulty in Sweden demonstrating the difference between consenting to something and wanting something. He told me that the police file in this case had been publicly available on the Internet. It was suggested to him that the material he saw on 31st January was a copy of the material sent to Mr Assange, but leaked after it reached the office of his London lawyer, and he appeared to agree.

Sven-Eric Alhem gave evidence the next day, 8th February. He too adopted his expert report and his evidence has been transcribed and need not be repeated in detail here. Mr Alhem retired in July 2008 after a legal career

as a prosecutor, including serving as the Chief District Prosecutor in Stockholm and later as Director for the Regional Prosecution Authority in Stockholm. Since 2008 he has seen himself primarily as a social commentator on legal matters. He was concerned that the proper procedures had not been followed in Mr Assange's case in Sweden. The prosecution should not have confirmed to the media that Mr Assange was considered a likely suspect of rape. That disclosure was unlawful. He was surprised that this defendant had not been detained in custody pending the investigation into the rape allegation. In his view good prosecution practice requires a very early interview with the suspect. It is an imperative for the accused to have the opportunity to respond to the accusations at the earliest possible time when he still remembers the intimate details. Thus it was quite wrong, in his view, for the prosecutor Ms Ny to decline the opportunity to interview Mr Assange. He believed that to issue the European Arrest Warrant without having first tried to arrange an interrogation in England at the earliest possible time via a request for Mutual Assistance offended against the principle of proportionality. A prosecutor should not seek to arrest and extradite Mr Assange simply for the purposes of questioning as long as other means have not been tried, or have been tried and failed. The defendant is not accused: he is a suspect. He has not been indicted. He was taken to section 18 of the Swedish Appeal Code (page 58). The golden rule is that a party should be heard. Until then he should not be prosecuted. The last thing that happens in a preliminary investigation is that the suspect has the right to see all material and the opportunity to comment. He said that rape trials in Sweden are normally heard privately. He believes it is necessary to balance the integrity of the injured party against the principle of openness. Both parties might think it is a good thing that the whole trial is heard behind closed doors.

In cross-examination he said his understanding of the steps taken to interview Mr Assange comes from what he was told by Mr Hurtig, the Swedish defence lawyer, and what he has read. [In his proof Mr Alhem said that "according to the information given to me, Prosecutor Ny declined the opportunity to interview Mr Assange after she took over the case on 1st September, despite the fact he remained in Sweden until 27th September 2010 ... I understand that the prosecutor declined the offer to meet for an interview simply because the police officer at the time was sick ... it is catastrophic that so much time has passed without a very detailed interrogation having taken place."] He had not read the documentation put before the Stockholm District Court and the Court of Appeal. He had not seen the statements of Mr Hurtig or Ms Ny. The account given by Ms Ny as to the factual steps taken to interview Mr Assange were put to him. "I make no judgement between Mr Hurtig and Ms Ny." He added that he saw his role as giving a judgement on the ECHR, the legal issues and fairness. There is nothing wrong with the EAW issued for Mr Assange. If it was the case that it was not possible to hold the interrogation hearing with the suspect earlier than he too, when he was a prosecutor, would have issued the EAW. However he would have first tried to arrange the interrogation hearing in another way. He agreed that the evidential question as to the steps taken to interview Mr Assange is relevant and that he should have seen the relevant documentation before expressing his view. However even if Ms Ny's account, which he heard in court today for the first time, is correct then that does not change his view that an interrogation should have taken place in England. He made it clear that the statement of Ms Ny does not correspond with the information he had been given by Mr Hurtig. Ms Ny "is allowed to seek an EAW - there is no doubt about that". On the

account given by Ms Ny it would have been a reasonable reaction to apply for an EAW. "Certainly, I would have done the same myself".

It is a decision for the Swedish court whether a defendant is held in custody and if so whether it should be incommunicado. The failure to hold public hearings has not led to appeals to the court of appeal or to Strasbourg, as far as he can remember. Nevertheless it has caused debate.

He was then asked about extradition from Sweden to the United States. He is not an expert on what happens but had brought a Guide and had considered the specialty principle. His reading was that normally there could not be a further surrender to a country outside the European Union but there are exceptions. It would be "completely impossible to extradite Mr Assange to the USA without a media storm". It is quite right to say that he would not be extradited to the USA.

Overall I was left with the impression of a sincere witness doing his best to help the court. He relied on Mr Hurtig for his information as to the attempts made to interview Mr Assange. His strongest criticism was based on the information that no attempt had been made to interview the suspect while he was still in Sweden. However, even on Ms Ny's account he was critical of the decision not to arrange an interview in the UK.

Mr Bjorn Hurtig gave evidence from before lunch until the end of the day. Again I need not set out his evidence in full. He is an experienced Swedish criminal trial lawyer and the defence counsel for Mr Julian Assange in relation to the criminal investigation against him in Sweden.

His proof of evidence states that the manner in which Ms Ny has handled the case thus far is not in compliance with the concept of a fair trial. Any trial will be behind closed doors. The trial will be heard by a judge and three lay judges. The lay judges are appointed by political parties. There is significant prejudice because of trial by media.

His main complaint is levelled at the investigation conducted by Marianne Ny. "It is well known, and is in fact stated in the Prosecution Manual and the received wisdom of prosecutors, that rape cases must be investigated quickly, among other things because the defendant is almost always put into custody in this kind of case. Sensibly, a new statement was taken from the rape complainant at Ms Ny's direction on 2nd September. However, astonishingly she made no effort to interview him on the rape charge to get his side of the story". Mr Hurtig gives a detailed account in his proof about his involvement in the case and the attempts he made to persuade the prosecutor to question Mr Assange as soon as possible. The lawyer was left with the impression that the rape case may be closed "without even bothering to interview him. On 27th September 2010, Mr Assange left Sweden". While the defendant was abroad the defence offered him for interview in the week of 11th October, but the prosecutor vetoed the suggestion because "it was too far ahead". "I found it astonishing that Ms Ny, having allowed five weeks to elapse before she sought an interview with Mr Assange should now decide that it would be too late to hear his story if a further week elapsed". He then describes the fairly continuous

dialogue with the prosecutors' office voluntarily offering to undergo interrogation in a number of ways from London, all of which were refused.

The lawyer also complained that it is now difficult for his client to receive a fair trial as he had not been provided with all the evidence against him, including important exculpatory evidence. He gives as an example the witness Goran Rudling, from whom the court had heard the previous day. He only knows this evidence because Mr Rudling has contacted the defence. Such evidence as he has seen has not been translated into English. He also gave evidence that the European Arrest Warrant is for "lagforing" which means legal process and does not properly translate into English as "for the purposes of conducting a criminal prosecution". He says that the prosecutor has consistently and repeatedly said that she has not yet decided whether to prosecute. They only want to hear his side of the story. He went on to give evidence about the law in Sweden as it relates to sexual crimes. Under Swedish law a prosecutor may investigate the case and even bring it to trial, where there is no, or no sufficient, evidence of lack of consent.

The lawyer gave live evidence covering in some detail the attempts made to secure an interview with his client. On 15th September Ms Ny told him there were no "force measures" preventing Julian leaving the country, i.e. he was allowed to leave. He asked when his client would be interrogated but was told the officer she needed for the investigation was sick. He phoned his client to say he was free to leave the country to continue his work. His client was worried that he may be difficult to get hold of, so they agreed that when he had found a stable place he would contact his lawyer. On 22nd September he received a text message from Marianne Ny saying that she wanted to interrogate Julian Assange on 28th September. "I could not get hold of Julian, which I told Marianne on 27th September." He was able to speak to his client on 29th September and Mr Assange offered to return on Saturday 9th October for interrogation. Eventually this proposal was not accepted as the dates were too far away. He gives details about a proposal to hold an interrogation on 6th October, which he believes was because the police thought his client would be in Sweden then giving a lecture. That information was leaked to him. On 8th October Mr Hurtig suggested a telephone interrogation, but this was refused. He provided further detail about the evidence he had seen on 17th November and on 18th November before the detention hearing which was decided on 24th November. However there was nothing in English. He was allowed to read text messages but not allowed to make notes or copy them. The text messages were "not good for the claimants and spoke of revenge". They also spoke of gaining money from Julian Assange. The complainant's statement is confidential. Therefore Mr Hurtig sought the advice of the prosecutor and then the Bar Council before disclosing it. He was advised that he could. In the statement the alleged victim of the rape allegation said she was half-asleep at the time. That is very different from the allegation in the EAW.

In cross-examination the Swedish lawyer confirmed that paragraph 13 of his proof of evidence is wrong. The last five lines of paragraph 13 of his proof read: "in the following days [after 15th September] I telephoned [Ms Ny] a number of times to ask whether we could arrange a time for Mr Assange's interview but was never given an answer, leaving me with the impression that they may close the rape case without even bothering to interview him. On 27th September 2010, Mr Assange left Sweden." He agreed that this was wrong. Ms Ny did contact

him. A specific suggestion was put to him that on 22nd September he sent a text to the prosecutors saying "I have not talked to my client since I talked to you". He checked his mobile phone and at first said he did not have the message as he does not keep them that far back. He was encouraged to check his inbox, and there was an adjournment for that purpose. He then confirmed that on 22nd September 2010 at 16.46 he has a message from Ms Ny saying: "Hello - it is possible to have an interview Tuesday". Next there was a message saying: "Thanks for letting me know. We will pursue Tuesday 28th at 1700". He then accepted that there must have been a text from him. "You can interpret these text messages as saying that we had a phone call, but I can't say if it was on 21st or 22nd". He conceded that it is possible that Ms Ny told him on the 21st that she wanted to interview his client. She requested a date as soon as possible. He agrees that the following day, 22nd, she contacted him at least twice.

Then he was then cross-examined about his attempts to contact his client. To have the full flavour it may be necessary to consider the transcript in full. In summary the lawyer was unable to tell me what attempts he made to contact his client, and whether he definitely left a message. It was put that he had a professional duty to tell his client of the risk of detention. He did not appear to accept that the risk was substantial or the need to contact his client was urgent. He said "I don't think I left a message warning him" (about the possibility of arrest): He referred to receiving a text from Ms Ny at 09.11 on 27th September, the day his client left Sweden. He had earlier said he had seen a baggage ticket that Mr Assange had taken a plane that day, but was unable to help me with the time of the flight.

Mr Hurtig was asked why he told Brita Sundberg-Wietman that Ms Ny had made no effort to interview his client. He denied saying that and said he has never met her. He agrees that he gave information to Mr Alhem. He agrees that where he had said in his statement (paragraph 51) that "I found it astonishing that Ms Ny, having allowed five weeks to elapse before she sought out interview", then that is wrong. He had forgotten the messages referred to above. They must have slipped his mind. There were then questions about DNA. It was suggested to him that a reason for the interrogation taking place in Sweden was that a DNA sample may be required. He seemed to me to at first agree and then prevaricate. He then accepted that in his submissions to the Swedish court he had said that the absence of DNA is a weakness in the prosecution case. He added "I can't say if I told Ms Ny that Julian Assange had no intention of coming back to Sweden". He agrees that at least at first he was giving the impression that Mr Assange was willing to come back. He was asked if Julian Assange went back to Sweden and replied: "Not as far as I am aware".

In re-examination he confirmed that he did not know Mr Assange was leaving Sweden on 27th September and first learned he was abroad on 29th. He agreed that the mistakes he had made in his proof were embarrassing and that shouldn't have happened. He also agreed that it is important that what he says is right and important for his client that his evidence is credible.

The witness had to leave to catch a flight. Miss Montgomery said that there were further challenges she could make to his evidence, but thought it unnecessary in the circumstances. That was accepted by the court after no point was taken by Mr Robertson. The witness was clearly uncomfortable and anxious to leave.

Summary of facts found

I make the following findings of fact from the evidence I have heard:

1. The proceedings in Sweden are at the preliminary investigation stage. The preliminary investigation does not come to an end until evidence is served on Mr Assange or his lawyer and there is an interrogation of Mr Assange with the opportunity for further enquiries. Thereafter there is a decision as to charge. If charged the trial is likely to take place shortly thereafter.
2. In Sweden, a person interrogated for rape is normally detained and held incommunicado during the process. These decisions are taken by a court.
3. The original decision by a prosecutor not to proceed with sexual assault allegations against Mr Assange was overruled by a more senior prosecutor, Ms Ny. This process is provided for in the Swedish system, but is thought by some to be unfair, especially as Mr Assange would not be entitled to make representations before the review decision was made.
4. Mr Assange had been interviewed about the sexual assault allegations before Ms Ny took over the case. The fact that he was being treated as a suspect was leaked to the press, probably by the first prosecutor (not Ms Ny) and the police (see Mr Hurtig's evidence, p.68). This is a breach of confidentiality, but apparently not actionable in Sweden. There may be a remedy for breach of privacy in the European Court (see Mr Hurtig's transcript p.69).
5. After taking over the case Ms Ny "sensibly" [Mr Hurtig] decided to interview the complainant (on 2nd September). Mr Hurtig was instructed by Mr Assange on 8th September and entered into communication with Ms Ny shortly thereafter. On 14th September he asked the prosecutor for documents with a view to an interrogation, but they were not forthcoming.
6. The complainants were interviewed several times (submissions to Svea Court of Appeal).
7. The Swedish system emphasises the importance of early interrogation (Mr Alhem). Ms Ny contacted Mr Hurtig and asked to interrogate his client. Mr Hurtig cannot say for certain whether that was on 21st (as Ms Ny says in her written information) or 22nd September. The 28th September was suggested as a date for interrogation.
8. No interrogation has taken place.
9. Mr Hurtig says he was unable to make direct contact with his client between Ms Ny asking for a interview on 21st or 22nd September and 29th September. By this time he says he client was no longer in Sweden. An interview was offered by the defence on 10th October onwards, but that was said by Ms Ny to be too far away
10. Mr Hurtig is an unreliable witness as to what efforts he made to contact his client between 21st, 22nd and 29th September (see transcript pages 122-132). He has no record of those attempts. They were by mobile phone, but he has no record. He cannot recall whether he sent texts or simply left answer-phone messages.
11. There is no direct evidence as to when Mr Assange left Sweden. Mr Hurtig says he was told it was on 27th September, and he has seen a baggage ticket bearing that date. He cannot say whether it was a morning or an afternoon flight.

12. On 27th September, the day Mr Assange is said to have left Sweden, Mr Hurtig heard from Ms Ny at 0911 that she would get back to him about how the prosecution intended to proceed as he had been unable to contact his client. He does not agree that he was informed that she had made a decision to arrest Mr Assange, and believes he was not told until 30th September. I cannot be sure when he was informed of the arrest in absentia.
13. I have not heard from Mr Assange and do not know whether he had been told, by any source, that he was wanted for interrogation before he left Sweden. I do not know whether he was uncontactable from 21st - 29th September and if that was the case I do not know why. It would have been a reasonable assumption from the facts (albeit not necessarily an accurate one) that Mr Assange was deliberately avoiding interrogation in the period before he left Sweden. Some witnesses suggest that there were other reasons why he was out of contact. I have heard no evidence that he was readily contactable.
14. I am sure that constant attempts were made by the prosecuting authorities to arrange interrogation in the period 21st - 30th September, but those attempts failed. It appears likely (transcript p.107) that enquiries were made by the authorities independent of his lawyer. The authorities believed Mr Assange would be in Sweden to give a lecture in early October. They asked Mr Hurtig to be available on the evening of 6th October. It appears that either the rumours were false, or Mr Assange changed his mind. In any event he was not apprehended or interrogated then.
15. Mr Hurtig said in his statement that it was astonishing that Ms Ny made no effort to interview his client. In fact this is untrue. He says he realised the mistake the night before giving evidence. He did correct the statement in his evidence in chief (transcript p.83 and p.97). However, this was very low key and not done in a way that I, at least, immediately grasped as significant. It was only in cross-examination that the extent of the mistake became clear. Mr Hurtig must have realised the significance of paragraph 13 of his proof when he submitted it. I do not accept that this was a genuine mistake. It cannot have slipped his mind. For over a week he was attempting (he says without success) to contact a very important client about a very important matter. The statement was a deliberate attempt to mislead the court. It did in fact mislead Ms Brita Sundberg-Weitman and Mr Alhem. Had they been given the true facts then that would have changed their opinion on a key fact in a material way.
16. Nevertheless, even on the true facts some important conclusions of Brita Sundberg-Weitman and Mr Alhem (for example that Mutual Legal Assistance was a more proportionate response than issuing an EAW) remain.
17. Through Mr Hurtig, Mr Assange offered to be interviewed in Sweden after 9th/10th October (p.86), rejected as "too far away", and later in a variety of ways from outside Sweden. All those offers were rejected by Ms Ny, who made it clear that the interview should take place in Sweden. A number of reasons have been speculated as to why she took that view. I am not in a position to say what the reason was.
18. On 24th November the Court of Appeal ruled on detention and the degree of rape, after hearing written submissions from Ms Ny and Mr Hurtig. Ms Ny's submissions outlined the steps she said she had taken to interrogate Mr Assange.
19. Sweden is a signatory to the European Convention on Human Rights. Any trial in this case would be heard by four judges, one professional and three lay. The lay judges are chosen by political parties. The decision as to whether the evidence at any trial would be taken in public or private is taken by the court. However, the evidence will almost certainly be heard privately. There has been considerable adverse publicity in Sweden for Mr Assange, in the popular press, the television and in parliament (by the Swedish Prime Minister).

The other material

There were two lever arch files of authorities. Some passages of those authorities were highlighted for me in the course of submissions. Otherwise they were not physically highlighted, as far as I can tell. I have not thought it necessary to consider in full all the judgments provided.

There was also, as I have said, a lever arch file filled to overflowing with other documents. Some of those were statements. Others were exhibits to statements. Some appeared to have been taken from the Internet. Some were news reports. Some were in Swedish. Some were letters. Generally the material was hearsay. I have reminded myself of the dangers of hearsay. The maker of the statement has not been cross-examined. Some comments may have been misunderstood, misreported or mistranslated. In some cases the maker of the document may not even have intended to state the literal truth. Often it is not possible to assess the reliability or even the identity of the maker of the statement.

The evidential value of the documents provided was directly raised in connection with the statement of Professor Ashworth and the document provided by Marianne Ny dated 4th February 2011. The opinion of Professor Ashworth is contained at tab 8 in the bundle. There can be no greater academic expert on the English criminal law than the Vinerian Professor of English Law in the University of Oxford. However it was agreed that this court cannot receive expert opinion on English law. Instead Mr Robertson adopted the professor's opinions as his own submissions.

The admissibility of the document provided by Marianne Ny was directly disputed by the defence. They specifically objected that their experts had travelled from Sweden to London for the hearing, and had been cross-examined, whereas Ms Ny had not made herself available for cross-examination. The document was described as a "self-serving statement". The argument against reception of, or placing any reliance upon, Ms Ny's statement is set out by counsel in a document dated 7th February 2011, and the argument can be summarised briefly here.

- As the statement is clearly directed at disputed evidence, she should make herself available for cross-examination. It is essential to the fairness of the proceedings that she do so. Equality of arms demands it.
- Section 202 of the Extradition Act 2003 deals only with "receivability", not "admissibility". The two concepts are separate and distinct.
- The decided cases referred to by the requesting authority are not on point. In addition they appear to show only that the judicial authority is permitted to provide additional information.
- The information she provides is undermined by other information and evidence.
- In other cases representatives of judicial authorities or the requesting state have attended to give evidence, and on at least two such occasions the evidence was not accepted by the court.

It is far from unusual for the requesting authority to provide further information, sometimes at the request of the court itself. In this case it was surprising that the information was not supplied earlier. By section 202(1) a part 1 warrant may be received in evidence in proceedings under the Extradition Act 2003. Section 202(2) provides that any other document issued in a category 1 territory may be received in evidence in proceedings under the Act if it is duly authenticated. It is not disputed that Ms Ny's statement is duly authenticated.

Miss Montgomery has argued that Parliament's intention was that any further information submitted by a requesting Judicial Authority should be received by the court as admissible evidence if duly authenticated. She asked me to compare the provisions relating to Part 1 cases with section 84 of the Extradition Act 2003 which allows the judge to treat documentary statements which would be admissible if given in oral evidence admissible evidence of fact if the statement has been made to a police officer or investigator.

As Miss Montgomery points out, section 84 of the Act governs part 2 warrants, and it cannot be the case that it is easier to admit material for part 2 warrants under section 84 than for a part 1 warrant. I am satisfied that the information is receivable under section 202 and admissible. It is admissible under the Extradition Act, as potentially is all information. I bear in mind that it is hearsay. I bear in mind that the defence has not had the opportunity to cross-examine the witness. All these are matters that go to weight.

The validity of the warrant

The defence says that the warrant does not comply with section 2 of the Extradition Act 2003. Unless I am sure the warrant is valid I must discharge.

The attack is threefold. Firstly Ms Ny is not eligible to issue the EAW. Secondly she is not "a judicial authority". Thirdly the warrant is not "issued ... for the purpose of being prosecuted for the offence" as required by subsections 2 and 3. The argument is set out in the skeleton argument prepared by counsel for the defendant on 4th February 2011, and is further developed in the skeleton dated 7th February 2011.

Ms Ny does not have authority to issue the warrant and is not "a judicial authority".

The main points made about Ms Ny's lack of authority to issue the EAW are:

- Ms Ny is not "the Director of Public Prosecutions" as referred to by the prosecution.
- Whether she has authority to issue the warrant is a fundamental question going to the heart of the court's jurisdiction in this case.
- There is lack of clarity as to who is the judicial authority in this case.

The authority to issue an EAW is indeed a fundamental question. That question has already been determined by the Serious Organised Crime Agency. The certificate issued by SOCA on 6th December 2010 says "On behalf of

the Serious Organised Crime Agency I hereby certify that the part 1 warrant issued by Director of Public Prosecution Marianne Ny, Swedish Prosecution Authority, Sweden, on 2nd December 2010 ... was issued by a judicial authority of a category one territory which has the function of issuing warrants". There is an important reason why the EAW must be certified in this way in each case. It is an important protection for the citizen. Unless the authority is checked by SOCA a person is at risk of being arrested and detained improperly. Further, SOCA is better placed than the court to consider who is the appropriate judicial authority for any particular country. If this task were not undertaken by SOCA then the court would be required to undertake a technical enquiry in each case. Many defendants are unrepresented and unlikely to be able to take the point. The court has a special responsibility to unrepresented defendants. In such cases the court checks the key elements of the warrant to satisfy itself that it is valid on the face of it. Neither the court nor the individual has the capacity easily to verify the authenticity of the person or organisation who issued the warrant. SOCA does.

Having said that, the court cannot and should not close its eyes to the possibility of a mistake. If there is clear reason to doubt the authority to issue the EAW then the court is on enquiry and should check that there has not been a mistake. Here there is simply no reason to believe there has been a mistake. I heard live evidence from a recently retired Swedish prosecutor. Mr Alhem told me there is nothing wrong with the EAW in this case. Similarly Brita Sundberg-Weitman said that Ms Ny is entitled to issue an EAW, although not on the facts as she understood them to be. Mr Hurtig is a Swedish lawyer. He may not be an expert on extradition but nevertheless he must have been well placed to discover whether Ms Ny had the appropriate authority, and he has not suggested otherwise. Ms Ny herself has made a statement saying she has the appropriate authority. Counsel for the defence took me to various documents to suggest that there is no such office as Director of Public Prosecutions in Sweden. I was also taken to original documents, including the Swedish Code of Statutes. Section 3 says, with reference to the EAW: "A Swedish arrest warrant for the purpose of criminal prosecution is issued by a prosecutor. The Prosecutor-General decides which prosecutors are competent to issue a Swedish arrest warrant". Whether or not Ms Ny can properly be described as the Director of Public Prosecutions is surely a matter for Swedish law and custom. There can be no sensible suggestion she is not a prosecutor. Here, as throughout the preparation of this case the defence has been meticulous and has left no stone unturned. Nevertheless I am unpersuaded that any of those documents raise a doubt about Ms Ny's authority to issue an EAW. Nor do I think there is anything in the point that there is lack of clarity as to whether Ms Ny or the Swedish Prosecution Authority issued the warrant. Ms Ny's details are provided and she signed the warrant. Even without the SOCA certification I have no doubt that Marianne Ny issued the warrant and is a "judicial authority which has the function of issuing arrest warrants". Of course the position may be different if the warrant is issued for a purpose other than criminal prosecution.

The warrant has not been issued "for the purpose of being prosecuted ... for an offence"

It is a central contention of the defence that the warrant was issued for questioning rather than prosecution. This is a foundation for the abuse of process argument as well as for the argument that the EAW is not valid.

The argument will be found in the skeleton argument on behalf of Mr Assange dated 4th February 2011 and the further argument dated 7th February 2011. It was also dealt with in the opening and closing address.

Under section 2(2) and (3) Extradition Act 2003 an arrest warrant must contain a statement that the Part 1 warrant is issued with a view to his arrest and extradition to the category 1 territory for the purpose of being prosecuted for the offence. (Alternatively under subsection 5 the statement should be one that the warrant is issued with a view to his arrest and extradition to the category 1 territory for the purpose of being sentenced for the offence or of serving a sentence of imprisonment ... it is common ground that subsection 5 does not apply here.)

What is required by section 2 of the Act is an arrest warrant which contains a statement that the warrant is issued for the purpose of being prosecuted. The question has been considered in a number of earlier cases, including *Trenk, Vej, Mighall, Patel* and *Azstalos*. The defence argue that the EAW nowhere states unequivocally and without ambiguity that Mr Assange is sought for prosecution. The EAW was translated from Swedish into English by a translator appointed by the Swedish National Police Board. It begins "This warrant has been issued by a competent authority. I request that the person mentioned below be arrested and surrendered for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order".

The English word "prosecution" is a translation from the Swedish "lagforing". This is, says the defence, a fatal ambiguity. A qualified and experienced linguist and translator, Christopher Brunski said this in a statement: "The translation of the word "lagforing" as criminal prosecution in the EAW of 2nd December 2010 is too narrow. It is a general term which relates to the entire legal process and can be used in either civil or criminal context. It is something of an umbrella term that encompasses other stages and legal procedures that are more strictly defined in and of themselves. There are more precise terms for prosecution in Swedish, namely atala or aklaga, both meaning to prosecute or indict".

So, says the defence, the warrant has not been issued specifically for prosecution. It has simply been issued for the purposes of legal proceedings. Nowhere in the warrant is the requested person referred to as an "accused". Similarly there is no reference to him ever having been charged or indicted. Because the warrant is equivocal, the court is entitled to examine extrinsic evidence. Moreover this is an exceptional case because the prosecutor herself had made clear unequivocal public statements that no decision has been taken yet as to whether to prosecute Mr Assange and that the EAW has been issued for the purpose. Merely for questioning him further. However the defence did not accept that it is necessary to find that this is an exceptional case in order for the court to consider the evidence bearing on the subject.

I am satisfied that there is no equivocal statement or ambiguity in the warrant. The English version of the warrant states that it is for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order. The warrant refers to offences, indicates the relevant provisions of Swedish criminal law; and identifies specific conduct against Mr Assange. There is simply nothing equivocal about the English version

of the warrant. As for the Swedish language version, "lagföring" is the term used in the official Swedish language version of the Framework Decision. Mr Robertson says this is not to the point: it simply indicates that all Swedish EAWs that use this formula are ambiguous. I cannot accept that. When the Framework Decision was agreed the Swedish authorities would undoubtedly have considered it and understood its meaning. A request for the purposes of "lagföring" is a lawful request for the purpose of the Framework Decision and the Extradition Act 2003.

In these circumstances I am required to look to the warrant alone, and not to extrinsic evidence. It follows that the evidence I have heard and read on this question is not relevant to the decision I must make as to the validity of the warrant. I am sure the warrant is valid on the face of it.

However, the fact remains that much of the material I have read and the evidence I have heard deal with this question. It was a central plank of the defence case. Moreover it is raised not merely in the context of section 2, but also as relevant to the abuse of process argument. For those reasons it would be unhelpful if I were not to make a finding of fact on whether Mr Assange is wanted for prosecution.

The defence says that in the hearings on 7th and 8th February 2011, clear evidence emerged that Mr Assange was not wanted for prosecution in Sweden.

1. The Svea Court of Appeal document contains an assertion by Ms Ny that: "at this time (8th October 2010) (Ms Ny's deputy) also informed attorney Hurtig that Julian Assange was not being searched for (not wanted) and that he thus scarcely risked being taken into custody if he landed at Arlanda (airport). It was possible for him to come in to an interrogation more discreetly". Mr Hurtig gave unchallenged evidence about this conversation. The prosecution has not pointed to anything which has changed since that discussion.
2. Moreover, in a submission to the Svea Court of Appeal, Ms Ny refers to: "Requesting the arrest of Assange is in order to enable implementation of the preliminary investigation and possible prosecution". Possible prosecution is not the same as prosecution. It is not enough to take the case beyond the *Ismail* threshold of being an accused person.
3. The use by Ms Ny of the word "accused" three times in her communication of 4th February 2011 is inaccurate. Mr Assange has not been charged or indicted in Sweden. The Svea court of Appeal only refers to him as being "suspected" of the offences which now appear in the EAW.
4. Mr Alhem's evidence was that "accused" is the wrong word for Ms Ny to use in her statement. His evidence is that it is not possible for a decision to prosecute to have been taken at this, preliminary investigation, stage of the proceedings. Chapter 23, section 20 of the Swedish Code of Criminal Procedure reads: "Upon the conclusion of the preliminary investigation, a decision on whether to institute a prosecution shall be issued". As the preliminary investigation in this case has not yet concluded, no decision to prosecute has yet been taken.
5. Ms Ny confirmed to the Australian ambassador in December 2010, after the EAW had been issued, that if a decision is made to charge Mr Assange, he and his lawyers will be granted access to all documents related to the case (no such decision has been made at this stage).
6. Ms Ny cannot take a decision on prosecution, as a matter of Swedish law, because she has not yet asked Mr Assange to nominate witnesses, as she is required to do under section 18 chapter 23 before closing her investigation.

7. Ms Ny has not decided to prosecute Mr Assange because she has not yet disclosed the file to him.
8. The defence says the importance of the test as set out in *Ismail* cannot be over-emphasised. The test, as set out by Lord Steyn in that case, is: "For my part I am satisfied that the Divisional Court in this case posed the right test by addressing the broad question whether the competent authorities in the foreign jurisdiction had taken a step which can fairly be described as the commencement of the prosecution". Here the prosecution cannot point to anything that can fairly be described as the commencement of a prosecution. On the contrary such a step has not been taken because preliminary investigation is "ring-fenced against a prosecution decision by virtue of section 20 of chapter 23 of the Criminal Procedure Code".
9. In any event the issuance of the EAW was disproportionate.

In the defence skeleton argument, and opening, their position was that their client was sought simply in order to facilitate his questioning and without having yet reached a decision as to whether or not to prosecute him. They said that Ms Ny's claim that all the "normal procedures for getting an interrogation" had been "exhausted" is highly inaccurate. It was said that Mr Hürtig had repeatedly sought to make Mr Assange available to Ms Ny for questioning, but all these efforts were rebuffed. They quoted from Mr Hürtig: "I can confirm on behalf of Mr Assange I have been trying for many weeks to arrange for him to be questioned by Ms Ny, including by Mr Assange returning to Sweden for questioning. All these attempts have been rebuffed by her". A number of media clippings were relied on to show that Ms Ny's repeated position is that she is seeking extradition merely to conduct an interview with Mr Assange with no decision having been taken on whether to charge or prosecute him. Reference is also made to Brita Sundberg-Weitman and her opinion, based on her experience and on the facts set out in the warrant and facts described by Mr Hürtig. These are that the application for an EAW was manifestly disproportionate and her opinion is that the application was an attempt to bring Mr Assange to Sweden for questioning rather than prosecution.

Against that, Ms Ny explains her position in her information dated 4th February 2011. She says:

B. The aim of the EAW

5. Julian Assange's surrender is sought in order that he may be subject to criminal proceedings.
6. A domestic warrant for the respondent's arrest was upheld on 24th November 2010 by the Court of Appeal, Sweden. An arrest warrant was issued on the basis that Julian Assange is accused with probable cause of the offences outlined on the EAW.
7. According to Swedish law, a formal decision to indict may not be taken at the stage that the criminal process is currently at. Julian Assange's case is currently at the stage of "preliminary investigation". It will only be concluded when Julian Assange is surrendered to Sweden and has been interrogated.
8. The purpose of a preliminary investigation is to investigate the crime, provide underlying material on which to base a decision concerning prosecution and prepare the case so that all evidence can be presented at trial. Once the decision to indict has been made, an indictment is filed with the court. In the case of a person in pre-trial detention, the trial must commence within two weeks. Once started, the trial may not be adjourned. It can therefore be seen that the formal decision to indict is made at an advanced stage of the criminal proceedings. There

is no easy analogy to be drawn with the English criminal procedure. I issued the EAW because I was satisfied that there was substantial and probable cause to accuse Julian Assange of the offences.

9. It is submitted on Julian Assange's behalf that it would be possible for me to interview him by way of Mutual Legal Assistance. This is not an appropriate course in Assange's case. The preliminary investigation is at an advanced stage and I consider that it is necessary to interrogate Assange, in person, regarding the evidence in respect of the serious allegations made against him.
10. Once the interrogation is complete it may be that further questions need to be put to witnesses or the forensic scientists. Subject to any matters said by him, which undermine my present view that he should be indicted, an indictment will be launched with the court thereafter. It can therefore be seen that Assange is sought for the purpose of conducting criminal proceedings and that he is not sought merely to assist with our enquiries.
11. It is not correct to assert that Assange has made repeated offers to be interviewed. In September and October 2010 I was in constant contact with counsel Bjorn Hurtig. It was not possible to arrange an interview because Assange did not come back to Sweden, despite my request that he did. Frequently, Hurtig was not able to contact Assange to arrange the details for him to attend for interview. An offer of an interview by telephone was made by Hurtig. I declined this offer for the reasons outlined above. It was because his failure to attend Sweden for interview and so that criminal proceedings could continue, that it was necessary for me to request from the court an order for his arrest.

The person who knows whether she wants the defendant for the purpose of being prosecuted is the Swedish prosecutor Ms Ny. The defence says it is unfair that she has not been called to give live evidence, so that her account can be properly explored and if appropriate challenged. They point to other cases where this has happened, and where the domestic court has not ordered extradition. I have already determined that Ms Ny's statement is admissible. It is hearsay. It has not been exposed to cross-examination. On the other hand we know the source of the information. The defence have had the opportunity to attack the credibility of the witness, and have taken that opportunity. In fact the attack on credibility amounts to very little. The main criticism comes from the Swedish judge, Brita Sundberg-Weitman. She does not know Ms Ny. She bases her opinion on what she has been told by this defendant's lawyers and articles she had read in the press. In fact she produced comparatively little evidence to support her strong criticism of Ms Ny. I refer briefly to that part of her evidence at page 3 above. Moreover she confirmed that she had no direct personal knowledge of what had happened in the investigation. Her evidence is based upon facts supplied to her by the defence lawyers. Mr Hurtig denied telling her that Ms Ny had made no effort to interview his client. He has never met her. There is therefore no clear evidence as to the source of the information on which Brita Sundberg-Weitman formed her opinion. One probable explanation is that Mr Assange's London lawyers provided her with material they had in turn received from Mr Hurtig. However there are other explanations and the evidence is simply unclear on this point. Mr Alhem expressly made no judgement on Ms Ny. Mr Hurtig clearly does know the prosecutor personally. He has not directly accused her of lying, or of malicious intent, but has strongly criticised her judgement. However, insofar as there were significant differences between his evidence and her evidence on facts known to them both, he conceded in cross-examination that her evidence is substantially correct.

Against such criticism as remains of the Swedish prosecutor there is the mutual respect and confidence that this court has in the appropriate authorities of our European counterparts. This mutual respect underpins the whole framework of the European Arrest Warrant. Where there are ambiguities, and where there is a need for further information, this court almost always looks first to the judicial authority of the requesting state for clarification. That clarification is, in my experience, always accepted by the parties and the court. I recognise that others may have had different experiences, but that is undoubtedly rare. The starting point is that this court can rely on information supplied by the judicial authority, particularly in a European Union country. So I start with a strong presumption that Ms Ny is the best person to know why extradition is requested, and that she will provide the best and most reliable explanation. However, it seems to me that potentially such an explanation can be rebutted by other evidence. What is the other evidence here?

Ms Ny is conducting a Preliminary Investigation which must end before a decision to prosecute is taken. Brita Sundberg-Weitman says that the EAW has not been issued for prosecution, but for the purposes of enforcing the order for detention. However her evidence is based on facts that are wrong. She confirmed that if the defence lawyer had told the prosecutor that he was unable to contact the defendant for interview, then the position would be different. When she gave her evidence she did not concede that it had happened like that. However we subsequently learned that she had been misled, or at the very least mistaken, about the factual position. This witness also said that in her view the real motive is that Ms Ny wants to arrest Mr Assange immediately after he is interviewed in Sweden, regardless of what he says. That sounds as if the motive is for prosecution, even in the form is irregular. She confirmed that she is not an expert on extradition.

Sven-Eric Alhem emphasised the imperative for an early interview with the suspect of a rape allegation. He said that if it was not possible to hold an early interrogation hearing than he too would have issued an EAW. Again his expert opinion is based on facts that in the event were wrongly stated. He had not been told of the efforts made by Ms Ny to arrange an interview in September. He told me that on the account given by Ms Ny it would have been a reasonable reaction to apply for EAW. He too is not an expert on extradition, but it appears he has direct experience of the role of a prosecutor in Sweden.

I am not helped by comments Ms Ny may have made before the warrant was issued. Her position may have changed over time, for example after Mr Assange did not present himself in Sweden for interview.

It is clear that Ms Ny confirmed to the Australian ambassador in December 2010, after the EAW had been issued, that if a decision is made to charge Mr Assange, he and his lawyers will be granted access to all documents related to the case (no such decision has been made at this stage.) The decision to charge is not necessarily the same as a decision to prosecute. It is common ground that mere suspicion that an individual has committed offences is insufficient to place him in the category of an "accused" person. There is no statutory definition of accused person, nor for this purpose is there any statutory definition of "prosecution". Given the diverging systems of law involved, that is not surprising. It is a question of fact in each case whether the person passes the threshold of being an "accused" person who is wanted for prosecution. It is accepted by all parties in

this case that it is wrong to approach this question solely from the perspective of English criminal procedure. In our jurisdiction prosecution will normally be started by the laying of an information, or a decision to charge. In many, perhaps most, other European countries the position is different. It is necessary to adopt a cosmopolitan approach to the question of whether as a matter of substance rather than form Mr Assange is wanted for prosecution. The fact that Sweden requires a person to be interrogated, before a formal decision to charge is made, is not determinative. Each country has its own procedures for prosecuting offences. The fact that the defendant would be interviewed upon his return is no clear indication that this is a criminal investigation rather than a criminal prosecution. This point was made recently in *Asztuslov v Szekszard City Court, Hungary* [2011] 1 WLR at para 46.

Two Swedish witnesses have given evidence that in their opinion Mr Assange is not wanted for prosecution. However their opinion is fatally undermined by having been based on an incorrect assumption as to the facts. They had been told that Ms Ny made no effort to interview Mr Assange before he left Sweden with her permission and knowledge on 27th September 2010. In fact it is overwhelmingly clear that Ms Ny had contacted Mr Hurtig to arrange an interview significantly before 27th September. Having left Sweden Mr Assange has not returned. She did not know he was planning to leave Sweden on 27th September – even his own lawyer apparently only discovered that later. The most that had happened was that she had confirmed at an earlier stage that there was no legal constraint, at that time, on Mr Assange leaving the country. It is not necessary for me to determine for current purposes whether Mr Assange deliberately fled the country to avoid further proceedings. That has not been specifically alleged. What is clear however is that he has not made himself available for interview in Sweden. It is said that an interview could have occurred in another way, for example by telephone or by way of Mutual Legal Assistance. Perhaps another prosecution lawyer would have taken that step. I don't know. Similarly I heard no submissions that English law would allow Mutual Legal Assistance in these circumstances. On the information I have, it does not seem unreasonable for a prosecutor in a serious matter such as this to expect and indeed require the presence of Mr Assange in Sweden for questioning, and if necessary to take a DNA sample. Such unanswered questions that remain are unanswered because this defendant has not complied with the request made to be interrogated in Sweden. There is then the fact that these proceedings are at the preliminary investigation stage. The decision to charge can be taken only after this stage is complete. It is not complete until interrogation has taken place and other important procedures, such as providing the evidence to the defence or nominating witnesses, have occurred. Upon the conclusion of the preliminary investigation a decision on whether to charge will be taken. There are obviously differences across Europe in systems and terms such as prosecution. This is well recognised. The court must take a purposeful approach. Someone who, say, commits a murder in Stockholm, immediately flees the country, and then avoids detection and interrogation, may well be wanted for prosecution (defined in a purposeful sense) in Sweden. It cannot be said, sensibly, that because he has not been interviewed then he is not wanted for prosecution and therefore no EAW can be issue. That is not the factual situation here, of course. It simply illustrates that the fact that no interrogation has taken place and therefore the preliminary investigation has not concluded is not determinative of whether a person is wanted for prosecution.

Here it is necessary to focus clearly on the facts of the case. Clear and specific serious allegations have been made against Mr Assange in Sweden. Attempts have been made by the Swedish prosecutor as long ago as September to interview him. He has not been interviewed. The Swedish system anticipates detention and early questioning in allegations of this type, but this has not taken place. Mr Assange is not known to have returned to Sweden since September. I have no doubt that this defendant is wanted for prosecution in Sweden. On the information before me I cannot say when or what step was taken that can fairly be described as the commencement of a prosecution. What I can say is that the boundary between suspicion and preliminary enquiries on the one hand, and prosecution on the other, has been crossed. It may be that after interrogation and further enquiries the matter will not be pursued. As Ms Ny says, a formal decision to charge is taken at a later stage in Sweden than it is here. In this jurisdiction a person can be charged with rape or sexual assault by a custody sergeant and may then wait many months before the case is discontinued. In Sweden the decision to formally charge is followed very shortly by the trial itself, if the defendant is in custody.

It is said that the issuance of an EAW was disproportionate. This is not a free-standing bar to extradition. The witnesses' evidence on the availability of other methods for interview, such as mutual assistance, was to some extent based on an assumption that other methods had not been tried while Mr Assange was still in Sweden. To the extent that the witnesses disagreed with the prosecutor on the facts as they turned out to be, this is a matter of legitimate differences of approach.

In summary:

1. There is an unequivocal statement that the purpose of the warrant is for prosecution.
2. I am satisfied, looking at the warrant as a whole, that the requested person is an "accused" within section 2(3)(a) of the Extradition Act and is wanted for prosecution under Section 2(3)(b) of the Act.
3. The court must construe the words in the Act in a cosmopolitan sense and not just in terms of the stages of English criminal procedure.
4. As this warrant uses the phrases that are used in the English language version (and indeed the Swedish language version) of the EAW annexed to the Framework Decision, there is no (or very little) scope for argument on the purpose of the warrant.
5. In those circumstances the introduction of extrinsic factual and expert evidence should be discouraged.
6. However, having looked at the extrinsic evidence (perhaps wrongly) the fact that some further pre-trial evidential investigation could result in no trial taking place does not mean this defendant is suspected as opposed to accused.
7. The information provided by Ms Ny proves strong, if not irrefutable, evidence that the purpose of the warrant is for prosecution.
8. The evidence provided by the defence does not in any way undermine Ms Ny.
9. As a matter of fact, looking at all the circumstances in the round, this person passes the threshold of being an "accused" person and is wanted for prosecution.

Extradition Offences

The defence argues that the offences in the EAW are not extradition offences and the court should therefore order the person's discharge under section 10 Extradition Act. Argument is set out in the skeleton dated 4th February 2010, issues 6 and 7; and further argument in the closing submissions. The defence adopts the opinion of Professor Ashworth, although it appears that Professor Ashworth was not specifically asked to comment on extradition cases on this point, such as *Zak, Ulatowski and Norris*, nor does he refer to section 75 SOA 2003, see below.

There are four allegations as set out in box (c) of the warrant:

1. On 13th – 14th August 2010, in the home of the injured party [name given] in Stockholm, Assange, by using violence, forced the injured party to endure his restricting her freedom of movement. The violence consisted in a firm hold of the injured party's arms and a forceful spreading of her legs whilst lying on top of her and with his body weight preventing her from moving or shifting.
2. On 13th – 14th August 2010, in the home of the injured party [name given] in Stockholm, Assange deliberately molested the injured party by acting in a manner designed to violate her sexual integrity. Assange, who was aware that it was the expressed wish of the injured party and a prerequisite of sexual intercourse that a condom be used, consummated unprotected sexual intercourse with her without her knowledge.
3. On 18th August 2010 or on any of the days before or after that date, in the home of the injured party [name given] in Stockholm, Assange deliberately molested the injured party by acting in a manner designed to violate her sexual integrity i.e. lying next to her and pressing his naked, erect penis to her body.
4. On 17th August 2010, in the home of the injured party [name given] in Enkoping, Assange deliberately consummated sexual intercourse with her by improperly exploiting that she, due to sleep, was in a helpless state.

It is an aggravating circumstance that Assange, who was aware that it was the expressed wish of the injured party and a prerequisite of sexual intercourse that a condom be used, still consummated unprotected sexual intercourse with her. The sexual act was designed to violate the injured party's sexual integrity.

The framework list is ticked for "Rape". This is a reference to an allegation 4. The other three allegations are described in box (c) II using the same wording as set out above.

As far as offences, 1,2, and 3 are concerned it is argued that these do not constitute extradition offences because the conduct alleged would not amount to an offence against English law. The court must apply the "conduct test" of double criminality. That means the court must consider whether the conduct alleged would amount to an offence under English law as if it had occurred in this jurisdiction. The applicant must establish this proposition to the criminal standard of proof. What must be proved is that the conduct, if it were established, would constitute the extradition offence relied on here. Although detailed separate argument has been made about each of the three offences, it amounts in essence to this: the description provided does not permit an inference that there was a lack of consent by the complainant, nor that the respondent did not reasonably believe the complainant to be consenting.

Mr Hurtig tells me that in Sweden the prosecution does not have to prove consent for these offences to be made out. Mr Rudling explained to me the difficulties of expressing the notion of consent in Swedish. However, this is not the issue for me. As was said by Auld LJ in *Norris*: "It is immaterial whether dishonesty was a necessary constituent of the offence in the United States constituted by the conduct there, if the conduct alleged included acts or omissions capable of amounting to dishonesty here". In cases where a dual criminality must be shown, there is no requirement to identify or specify in terms the relevant mens rea. It is sufficient if it can be inferred by the court from the conduct that is spelt out in the warrant, and further information where appropriate.

For each of the three offences to be made out in this jurisdiction the Crown must prove that the complainant did not consent to the touching and the defendant did not reasonably believe that the complainant consented. These essential elements of the offence are not stated explicitly in terms in the warrant

Section 75 of the Sexual Offences Act 2003 lists the circumstances in which the complainant is taken not to have consented to the relevant act unless sufficient evidence is adduced to raise an issue as to whether the complainant consented. Also the accused is taken not to have reasonably believed that the complainant consented unless sufficient evidence is adduced to raise an issue as to whether he reasonably believed it. Where a section 75 evidential presumption arises there is no question of the issue being removed from the jury. The circumstances in which evidential presumptions about concerned apply include:

2(a) any person was, at the time of the relevant act or immediately before it began, using violence against the complainant or causing the complainant to fear that immediate violence would be used against him;

(d) the complainant was asleep or otherwise unconscious at the time of the relevant act.

(There are other circumstances that are not relevant in this case.)

Offence 1, set out in full above, specifically alleges that Mr Assange "by using violence, forced the injured party to endure his restricting her freedom of movement. The violence consisted in a firm hold of the injured party's arms and a forceful spreading of her legs whilst lying on top of her and with his body weight prevented her from moving or shifting". This brings into play section 75(2)(a) above. These are circumstances in which the complainant is taken not to have consented and the accused is taken not to have reasonably believed that the complainant consented. This is an extradition offence pursuant to section 64(3) in that:

(a) the conduct occurred in Sweden

(b) If the conduct had occurred in England and Wales it would amount to sexual assault

(c) The maximum penalty that may be imposed in Sweden for the offence is 2 years imprisonment

Offence 2, set out in full above, says that M a "deliberately molested the injured party by acting in a manner designed to violate her sexual integrity. Mr Assange, who was aware that it was the expressed wish of the injured party and a pre-requisite of sexual intercourse that a condom be used, consummated unprotected sexual

intercourse with her without her knowledge". The obvious and straightforward way of reading that allegation is that the complainant had made it clear that she would not consent to unprotected sex, and yet it occurred without her knowledge and therefore without her consent. Mr Assange was aware of this. Unprotected sex is wholly different from protected sex in that its potential repercussions are not confined to disease and include pregnancy. Again this meets the criteria for section 64(3) set out above. In addition the terms "molested" and "violated" are inconsistent with consent (see below).

Offence 3, also set out in full above, alleges that Mr Assange "deliberately molested the injured party by acting in a manner designed to violate her sexual integrity, by lying next to her and pressing his naked, erect penis to her body". Deliberately molesting someone so as to violate their sexual integrity is not language that is consistent with consent or belief in consent. Molest means to cause trouble to; to vex, annoy, to inconvenience. A secondary meaning is to meddle with (a person) injuriously or with hostile intent. (Shorter Oxford English Dictionary: Third Edition.) Among the various meanings attributed to "violate" in the OED is to ravish or outrage a woman; to do violence to; to treat irreverently; to desecrate, dishonour, profane or defile. A secondary meaning is to destroy a person's chastity by force. There are other definitions, many of which have at their core the use of violence. If this conduct is attributed its ordinary meaning, then if proved it would amount to sexual assault in this country. Again section 64(3) applies.

The position with *offence 4* is different. This is an allegation of rape. The framework list is ticked for rape. The defence accepts that normally the ticking of a framework list offence box on an EAW would require very little analysis by the court. However they then developed a sophisticated argument that the conduct alleged here would not amount to rape in most European countries. However, what is alleged here is that Mr Assange "deliberately consummated sexual intercourse with her by improperly exploiting that she, due to sleep, was in a helpless state". In this country that would amount to rape.

I have not thought it necessary or desirable to consider extraneous material. I have looked only at the language used in the warrant. The parties have taken me to some further information in the bundle. This appears to consist of an interview with the complainants. I am not sure if this information provides the full extent of the allegation. Even if it does, however, it is unnecessary to consider this material in this context. Section 64(2) applies.

As I am satisfied that the specified offences are extradition offences I must go on to consider whether any of the bars to extradition specified in section 11 are applicable. No bars are raised and none is found.

It is convenient here to consider the abuse of process allegation.

Abuse of Process

An allegation of abuse of process is made by the defendant. The conduct alleged to constitute the abuse was identified initially as Ms Ny seeking extradition in circumstances where:

- 1 She has not yet decided whether to prosecute;
- 2 She is seeking extradition for the purposes of questioning in order to further her investigation;
- 3 Arrest for the purpose of questioning would have been, and remains, unnecessary given that repeated offers have been made on the defendant's behalf to be questioned by her, which she has rebuffed;
- 4 The proper, proportionate and legal means of requesting a person's questioning in the UK in these circumstances is through Mutual Legal Assistance.

In the closing submissions an abuse of process was identified as the EAW being issued for a collateral purpose, namely for questioning, without any decision having been taken to prosecute Mr Assange. It was restated as:

- (1) has there been an abuse, namely in issuing the warrant for a collateral purpose?
- (2) have there been abuses in Sweden which cannot be remedied in Sweden?

I must consider whether this conduct, if established, is capable of amounting to an abuse of process. If it is, I must next consider whether there are reasonable grounds for believing that such conduct may have occurred. If there are, then I should not accede to the request for extradition unless I am satisfied that such abuse has not occurred. If the conduct alleged is established, it is in some circumstances capable of amounting to an abuse of process.

I have already determined the key question. Ms Ny has decided to prosecute and so the warrant has not been issued for a collateral purpose. The facts relied on by the defence to establish their original argument have not materialised.

The abuses in Sweden which cannot be remedied are identified as follows in the closing submissions:

- 1 There was an unlawful prosecution disclosure to the media on 20th August 2010 that Mr Assange was the suspect in a rape investigation.
- 2 The defendant was excluded from the appeal process whereby Ms Ny overruled the decision of the Swedish prosecutor to drop the case.
- 3 The failure to offer to interrogate Mr Assange on the rape charge until 28th September 2010 (more than five weeks after the alleged rape).
- 4 The prosecutor supplied documents to the media before they were supplied to Mr Hurtig.
- 5 Crucial exculpatory evidence in the form of SMS messages between the complainants was not disclosed to the defence by the prosecution.

6 The wholly improper intervention by the Swedish Prime Minister whipping up further vilification of Mr Assange as an enemy of the Swedish State.

Points 1, 4 and 6 relate essentially to the same issue – disclosure of information inappropriately and publicly in an unfair way. It has also been suggested that the complainant's lawyer in Sweden has made inappropriate remarks. Miss Montgomery suggested that any comments from the Swedish Prime Minister may have been a response to comments made publicly on the steps of this court by the defence team here. I have heard no evidence that the defence team has publicly commented to the media, and so cannot say that that has happened. Certainly the conventional wisdom is that prosecutors, lawyers and politicians are best advised not to comment on a case until it is over. Sometimes public comment damages the cause more than it helps. However the reality is that such comments do occur. In this country police officers do comment on an investigation. Confidential information is sometimes leaked. Politicians may speak inappropriately. Defence lawyers do sometimes brief the press. It is not possible for me to measure the impact of any such disclosures in this case. However I think it highly unlikely that any comment has been made with a view to interfere with the course of public justice. It is more likely that comments have been made with the intention of protecting reputations, including the reputation of the Swedish justice system. Moreover, I am absolutely satisfied that no such comments will have any impact on the decisions of the courts, either here or in Sweden. I know that there will be three lay judges in any trial in Sweden. Despite the suggestion that they are selected because of their political allegiances, there is simply no reason to believe that they will not deal with the case on the evidence before them. Any earlier impression of the merits of the case, whether favourable or unfavourable to this defendant, will play no part. In this jurisdiction we have ample experience of defendants who have been vilified and yet acquitted. The jury system (and if I may say so the summary system) is robust. The defence has referred me to one case (*McCann, Cullen and Shanahan*) where a politician made comments that were later considered by the Court of Appeal to have had such a potentially prejudicial effect that the verdict of guilty recorded in the trial had to be overturned. However that was in relation to a comment about the right to silence made during final speeches of a trial where the defendants elected not to give evidence at the trial itself. I am not in a position to say whether any comments made by the police and a prosecutor are unlawful in Sweden. One of the witnesses said they were unfair but not illegal. They would not necessarily be illegal here. The position may be different once a prosecution has actually commenced, as opposed to during the investigation.

As for point 2, there is nothing in that. As I understand it, there is a similar process in this country whereby aggrieved complainants can ask the CPS to reconsider a decision not to prosecute. Such a process does not demand the participation of a suspect. Complainants can also instigate a private prosecution. In Sweden it is clear that a suspect also has an opportunity to give an explanation in interrogation before a charge is preferred.

As for point 3, the evidence is that Ms Ny contacted the defence on 21st September requesting an early interview. The date suggested for interview was 28th September. It is a matter of some surprise that the defendant was not contactable during the relevant time by his lawyer. However the prosecution cannot be blamed for that. In any event Swedish procedure is far from universal. Our own process does not envisage that any such questioning will take place within a matter of weeks. Perhaps the Swedish system is superior to ours in that way, but failing

to comply falls far short of amounting to an abuse of process. The same applies to point 5. The Swedish system is to be commended for providing information to the defence before prosecution commences. However our own system certainly would not require disclosure at that stage. It is interesting to note that Mr Hurtig has clearly had access to some material casting doubt on the prosecution case provided, albeit not in written form, by the prosecuting authorities. In any event, the preliminary investigation has not concluded because Mr Assange has not returned to Sweden.

If there have been any irregularities within the Swedish system, then the right place for these to be examined and remedied is the Swedish trial process. Sweden is a member of the European Union and has undertaken to abide by ECHR obligations. None of these points raised by the defence establishes an abuse of process.

Some other points were referred to in argument or evidence but not pursued in final submissions (for example that the allegations set out in the warrant do not accurately reflect the complainants' interviews, which demonstrates bad faith by the prosecutor). For the sake of completeness, I add that none of the accusations made against the conduct of Ms Ny comes close to establishing impropriety on her behalf.

Extraneous considerations

A person's extradition to a Category 1 territory is barred by reason of extraneous considerations if (and only if) it appears that:

- (a) the Part 1 warrant issued in respect of him (though purporting to be issued on account of the extradition offence) is in fact issued for the purpose of prosecuting or punishing him on account of his race, religion, nationality, gender, sexual orientation or political opinions, or
- (b) if extradited he might be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality, gender, sexual orientation or political opinions.

This has been hinted at, but no evidence has been provided and the bar is neither argued nor found.

Section 21 Human Rights

As the issues arising above have been decided adversely to the defendant, I must decide whether extradition would be compatible with the defendant's Convention rights within the meaning of the Human Rights Act 1998. If it would not be so compatible, the defendant must be discharged.

The defence closing submissions refer to an alleged denigration of the defendant by the Swedish Prime Minister which is "plainly calculated to encourage the Swedish media and legal officials to pursue Mr Assange's guilt and to regard him as a public enemy". For this and other reasons it is said that Mr Assange will not receive a fair trial. I have referred to this earlier. I do not accept this was the purpose of the comment, or the effect.

Perhaps the most significant of the human rights points is the submission that rape trials in Sweden are held behind closed doors. This court is being asked, it is said, to surrender a man for a secret trial, contrary to article 47 of the Charter, article 6 of the ECHR and to the UK's fundamental constitutional principles.

Article 6 ECHR reads, in part:

(1) In the determination of ... any criminal charge against him, everyone is entitled to a fair and public hearing by an independent and impartial tribunal established by law. Judgement shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

Evidence was heard on this point. It does indeed appear to be the case that in almost all rape trials the evidence at least is heard privately. The judgment is pronounced publicly. Any final decision as to public or private trial is taken by the court. It may very well be that in most cases all parties are content with this process. However there have been some cases where the defendant asked for a public trial and this was refused. The notion of a trial that is not heard in public is certainly alien as far as our system is concerned, at the least for adults. In the youth court, trials (including trials on allegations of rape) are heard without access for the general public. The press is permitted to attend but with significant restrictions on what can be published. Less significantly, it is not unknown in our trial process for there to be reporting restrictions at least until the trial concludes.

Mr Robertson says that: "Any sense of fair play – that justice must be seen to be done – revolts at this Swedish practice". The question for me is whether it offends against article 6 and other fundamental rights. I have been referred to *Fedje v Sweden*. However I have not been referred to any significant body of European Court cases that show that the Swedish practice in rape cases offends against article 6. Article 6 specifically envisages circumstances where the press and public may be excluded from all or part of the hearing. Apparently the practice in Sweden is long-standing. One assumes that rape allegations are not that uncommon. If the Swedish practice was in fundamental and flagrant breach of human rights I would expect there to be a body of cases against Sweden confirming that. In fact I think the position is more subtle and less stark than Mr Robertson suggests. His own witness, Mr Alhem, who is clearly a thoughtful man and much attached to the principle of fairness, was in two minds about the issue.

It is fair to say that there has been an argument in other jurisdictions, including our own, that some cases should not be publicised or evidence reported. There can be no doubt that Sweden incorporates article 6 principles into its judicial system. Because that country has reached a different conclusion on the appropriate balance between privacy and open justice does not mean that their practice offends against article 6. I am satisfied that the appropriate test is applied in Sweden and that if a decision is taken to hold a trial in private then that will be after the necessary balancing has been undertaken, and will not breach article 6 or any other fundamental human right.

There was at one stage a suggestion that Mr Assange could be extradited to the USA (possibly to Guantanamo Bay or to execution as a traitor). The only live evidence on the point came from the defence witness Mr Alhem

who said it couldn't happen. In the absence of any evidence that Mr Assange risks torture or execution Mr Robertson was right not to pursue this point in closing. It may be worth adding that I do not know if Sweden has an extradition treaty with the United States of America. There has been no evidence regarding this. I would expect that there is such a treaty. If Mr Assange is surrendered to Sweden and a request is made to Sweden for his extradition to the United States of America, then article 28 of the framework decision applies. In such an event the consent of the Secretary of State in this country will be required, in accordance with section 58 of the Extradition Act 2003, before Sweden can order Mr Assange's extradition to a third State. The Secretary of State is required to give notice to Mr Assange unless it is impracticable to do so. Mr Assange would have the protection of the courts in Sweden and, as the Secretary of State's decision can be reviewed, he would have the protection of the English courts also. But none of this was argued.

I have specifically considered whether the physical or mental condition of the defendant is such that it would be unjust or oppressive to extradite him.

In fact as I am satisfied that extradition is compatible with the defendant's Convention rights, I must order that Mr Assange be extradited to Sweden.

Howard Riddle
Senior District Judge (Chief Magistrate)
Appropriate Judge

24th February 2011

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 FILE: 11/33016
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s 22 1(a)(ii)

Title: CONSULAR: Cat 1: Arrest: Assange, Julian Paul
 MRN: s 22 1(a)(ii)
 To: Canberra
 Cc: RR : Stockholm, Washington
 From: London
 From File: s 22 1(a)(ii)
 References:

Response: Routine, Information Only

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Summary

Cable details the process of extradition from the UK to the US. The UK could not order a person's extradition to the US where that person could be, will be or has been sentenced to death for the offence concerned, unless the UK received an adequate written assurance from the US that the death penalty would not be imposed, or would not be carried out if imposed. The UK would also have to refuse an extradition request where there was a real risk of torture or inhuman or degrading treatment or punishment - this could include extreme detention conditions or lengthy sentences with no prospect of release.

Further to s 22 1(a)(ii) we have spoken to the UK Home Offices 33 (a)(iii), 47 47 F(1) and obtained responses to the remaining questions contained in s 22 1(a)(ii) concerning the process of extradition from the UK to the US.

2. The process of extradition between the UK and the US is governed by:
 - the Extradition Treaty signed between the US and the UK in 2003; and
 - (for the process in the UK) the UK *Extradition Act 2003* and the *Human Rights Act 1998*.
3. Importantly, the Treaty provides that an offence is an "extraditable offence" only if it carries a term of imprisonment of 12 months or more in both the UK and the US.
4. The UK *Extradition Act 2003* divides states into two main categories for the purposes of extradition requests made to the UK. "Category one" consists of EU member states who have implemented the European Arrest Warrant framework - Sweden's extradition request falls under this category. Every other country with which the UK has extradition relations, including the US, has been designated a "category two territory" under the Act.
5. The process for extradition requests from category two territories is as follows:

Stage 1 - Extradition Request

An extradition request from a category 2 territory to the UK must be made to the UK Secretary of State for the Home Department. If the request is 'valid', the Secretary of State will issue a certificate and send the request to the court, for a warrant to be issued

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for the person whose extradition is requested. The request is valid if it states that (a) it is a request for a person accused or convicted of an offence; and (b) it is made by an appropriate authority of the requesting territory such as a diplomatic or consular representative.

The court will issue a warrant for the arrest of the person if the offence in respect of which extradition is requested is an extradition offence, and the information provided would justify the issue of a warrant.

After the person has been arrested, they will be brought before a court as soon as practicable. The judge will consider whether the person should be granted bail, and will set a date for the extradition hearing. The hearing must be held within 2 months from this first court appearance, unless either party applies for a later date and the judge agrees it is in the interests of justice to fix a later date.

Stage 2 - Extradition Hearing

At the extradition hearing, the judge must satisfy themselves that the request meets the requirements of the *Extradition Act*. The judge must decide whether all necessary documents have been sent by the Secretary of State and provided to the defendant; the defendant is the person whose extradition is requested; and the offence is an extraditable offence. The judge must also decide whether there are any bars to extradition. These include:

- (a) the rule against double jeopardy (a person cannot be tried for the same crime twice);
- (b) extraneous considerations (the request for his extradition (though purporting to be made on account of the extradition offence) is in fact made for the purpose of prosecuting or punishing a person on account of race, religion, nationality, gender, sexual orientation or political opinions, or if extradited, the person might be prejudiced at trial or punished, detained or restricted in liberty by reason of race, religion, nationality, gender, sexual orientation or political opinions);
- (c) the passage of time (such that it would be oppressive or unjust to extradite the person);
- (d) hostage-taking considerations (relevant to hostage taking offences only [ie not relevant to the Assange case])

Finally, the judge is required to decide whether the person's extradition would be compatible with the convention rights within the meaning of the UK *Human Rights Act* 1998.

If the judge decides all of these questions in the affirmative, s/he must send the case to the UK Secretary of State for Home Department for a decision as to whether the person is to be extradited. Otherwise, the judge must discharge the person.

Stage 3 - Decision by Secretary of State

Where a case is sent to the Secretary of State, she must consider whether surrender is prohibited because:

- (a) the person could be, will be or has been sentenced to death for the offence in the category two country: this is an absolute prohibition unless the Secretary of State

receives an adequate written assurance from the category two country that the death penalty will not be imposed, or will not be carried out, if imposed;

(b) there are no "speciality" arrangements with the category two country: the condition of "speciality" requires that the person must be dealt with in the requesting state only for the offences in respect of which the person is extradited (except in certain limited circumstances);

(c) the person was earlier extradited to the UK: this might require the Secretary of State to obtain the consent of the earlier extraditing country, before the person can be extradited on to the requesting state.

The person may make representations to the Secretary of State against extradition. With effect from 15 January 2007, the Secretary of State is not required to consider any representations received after the end of the permitted period (four weeks, starting with the day on which the case was sent). The Secretary of State's decision has to be made within two months starting with the day the case is sent to her, otherwise the person may apply to be discharged. However, if the representations are complex and require enquiries being made of the requesting state, the Secretary of State may apply to the High Court for an extension of the decision date, of any length – it is a matter for the court as to whether and for how long this is granted (although we understand that the court it has not, to date, refused any such application). More than one extension may be sought in any one case.

If the Secretary of State decides that surrender is prohibited, she must order the discharge of the person. If none of the three prohibitions apply, the Secretary of State must order the person to be extradited.

Stage 4 - Appeals

High Court

The defendant may appeal within 14 days to the High Court if:

- (a) the district judge sends the case to the Secretary of State; and
- (b) the Secretary of State orders his extradition.

The appeal may be against the district judge, or the Secretary of State, or both.

A requesting state (in this case, the US) may appeal within 14 days to the High Court against a decision to discharge the defendant made by:

- (a) the judge at the extradition hearing; or
- (b) the Secretary of State (after the case has been sent to her by the district judge).

Supreme Court

There is a further right of appeal to the Supreme Court. An appeal to the Supreme Court can only be made where the High Court certifies a point of law of general public importance and where leave to appeal to the Supreme Court is granted (either by the High Court or, if that is refused, by the Supreme Court itself).

Stage 5 - Extradition

Unless there is an appeal, the person whose extradition has been ordered should be extradited within 28 days of the Secretary of State making her decision. Where there is an

appeal, the 28 days will begin once all the legal remedies have been exhausted. There is no provision in the Act to extend this time limit. If the time limit is exceeded and the person applies to the district judge for discharge, reasonable cause must be shown for any delay.

What is the UK position if the extradition request involves a possible application of the death penalty?

6. As set out above, the UK Secretary of State cannot order a person's extradition where that person could be, will be or has been sentenced to death for the offence concerned in the category 2 territory, unless the Secretary of State receives an adequate written assurance from the category two country that the death penalty will not be imposed, or will not be carried out, if imposed.

7. This reflects the protection afforded under the UK's *Human Rights Act 1998* for all rights contained in the European Convention on Human Rights. Article 2 of the Convention provides that "no one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law". The death penalty is prohibited in UK law in all circumstances - the UK cannot, therefore, put the person concerned in a position where s/he may be deprived of his/her life for that crime at the hands of another State.

8. This limitation is also reflected in the UK/US Extradition Treaty (Article 7), which provides:

"When the offence for which extradition is sought is punishable by death under the laws in the Requesting State and is not punishable by death under the laws in the Requested State, the executive authority in the Requested State may refuse extradition unless the Requesting State provides an assurance that the death penalty will not be imposed or, if imposed, will not be carried out."

US detention conditions or life imprisonment could breach UK Human Rights Act

9. According to the ECHR decision in *Soering v the UK* (Application no 14038/88), the UK would not be allowed to extradite a person where there was a real risk of the extradited person being subjected to torture or to inhuman or degrading treatment or punishment in the requesting country as this would breach Article 3 of the European Convention ("No one shall be subjected to torture or to inhuman or degrading treatment or punishment"). In the past, the ECHR has held that conditions of detention or a sentence of life imprisonment without any prospect of early release could constitute a breach of an applicant's Article 3 rights.

10. The ECHR is currently considering six extradition cases where the applicants have challenged their extradition from the UK to the US on the grounds that the length of sentence they face in the US (for terrorist offences) and US "Supermax" prison conditions to which they could be subject would breach their human rights. The ECHR has declared the applications admissible and will now consider them on the merits (ie a full consideration of the cases). There is no deadline by which the Court must make its decision - which could be relevant to any US request for extradition involving Mr Assange.

text ends

s 22 1(a)(ii)

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 FILE: 11/33016
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s 22 1(a)(ii)

Title: CONSULAR: Cat 1: Arrest: Assange, Julian Paul
MRN: s 22 1(a)(ii)
To: Canberra
Cc: RR : Stockholm, Washington
From: London
From File: s 22 1(a)(ii)
References:
Response: Routine, Information Only

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Summary

Cable contains further responses to tasking on the UK extradition process. In the UK, a person can apply to the ECHR for extradition to be stayed pending a final decision on the admissibility or merits of a case.

s 22 1(a)(ii)
 s 22 1(a)(ii)
 process to the US will follow.
 s 22 1(a)(ii)

A further cable on the extradition

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s 22 1(a)(ii)

s 22 1(a)(ii)

'Onward' Extradition to the US - the need for consent

9. We note that argument during Mr Assange's hearing on 7 and 8 February addressed the question of possible onward extradition from Sweden to the US. There has been witness testimony and argument by the UK prosecutor to the effect that Sweden would have to seek the UK's consent if the US requested Mr Assange's extradition from Sweden to the US.

10. Section 58 of the UK *Extradition Act* provides that the Secretary of State for the Home Department would have to determine any such request from Sweden, and sets out the factors the Secretary of State must consider in making her decision.

text ends

s 22 1(a)(ii)

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s 22 1(a)(ii)

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MRN: s 22 1(a)(ii)
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Cc: RR : Stockholm
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Summary
s 22 1(a)(ii)

s 22 1(a)(ii)

If the US makes an extradition request to UK authorities, does the Swedish extradition have precedence? On what basis is this decided?

9. The UK *Extradition Act 2003* sets out how competing requests for extradition are to be managed. Where there is an extradition request from a non-EU country and a European Arrest Warrant (ie an extradition request from a European country), section 179 provides that the UK Secretary of State for the Home Department may determine which request should take precedence. The Secretary must base her decision on:

- (a) the relative seriousness of the offences concerned;
- (b) the place where each offence was committed (or was alleged to have been committed);
- (c) the date when the warrant was issued and the date when the request was received;
- (d) whether, in the case of each offence, the person is accused of its commission (but not alleged to have been convicted) or is alleged to be unlawfully at large after conviction.

text ends

s 22 1(a)(ii)

s 22 1(a)(ii)

Title: CONSULAR: Cat 1: Arrest: Assange, Julian Paul
MRN: s 22 1(a)(ii)
To: London
Cc: RR : Stockholm
From: Canberra (CHCH/DFAT/CPD/CNB)
From File: s 22 1(a)(ii)
References:
Response: Routine, Requires Action by 09/02/2011

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Summary

Thanks your advice (refel) on UK processes relevant to Mr Assange's case. We would be grateful for further information on UK extradition processes as detailed in cable.

Thanks your advice (refel) on UK processes relevant to Mr Assange's case. We would be grateful for further information on UK extradition processes. In particular, we would be grateful for advice on the following:

s 22 1(a)(ii)

- What is the situation if the US makes an extradition request to UK authorities? Does the Swedish extradition process have precedence? On what basis is this decided?
- If the US makes an extradition request to the UK (and the Swedish request is no barrier), what is involved in a UK to US extradition process? What is the UK position if the extradition request involves a possible application of the death penalty?

s 22 1(a)(ii)

text ends
s 22 1(a)(ii)

s 22 1(a)(ii)

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s 22 1(a)(ii)

Title: CONSULAR: Cat 1 : Arrest: ASSANGE, Julian Paul
MRN: s 22 1(a)(ii)
To: Canberra
Cc: RR : London, Washington
From: Stockholm
From File:
References: s 22 1(a)(ii)
 The cable has the following attachment/s -
 FSI Lawyers Letter.PDF
Response: Routine, Information Only

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Summary

Further to reftel, post has received the attached letter from Julian Assange's lawyers asking the Australian Government to seek an assurance from the Swedish Government that, in the event he is extradited to Sweden, Mr Assange will not be 'rendered, expelled, arrested or otherwise handed over to the USA, or to the USA via a third state.' Grateful advice if you would like us to raise this with the Swedish Government.

text ends
 s 22 1(a)(ii)

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s 47 F(1)

31 January 2011

s 47 F(1)

Ambassador Paul Stephens
Klarabergsviadukten 63, 8th Floor,
Stockholm
Sweden

By fax: +46 (0)8 613 2982

Dear Ambassador Stephens

Re: Julian Assange

s 22 1(a)(ii)

In such event, it can be predicted that Australians will be outraged and that considerable damage will eventuate in respect of relations between the two countries. This will obviously be exacerbated if, as has been widely predicted, Sweden hands over Mr. Assange to the US for prosecution under the Espionage Act (whether before or after the rape trial and after an acquittal). The possibility of this happening can be inferred from cases where international bodies have recently found Sweden liable for handing asylum seekers over to the CIA for torture (see *Mohammed Alzery v. Sweden* (Communication No. 1416/2005, UN Human Rights Committee) and *Agiza v. Sweden* (Communication No. 233/2003, UN Committee Against Torture, Decision of 24 May 2005 (CAT/C/34/D/233/2003))).

In these circumstances, and on behalf of Mr. Assange, we respectfully request the Australian government to act so as to protect him from the prospect of unlawful or improper action by the Swedish government. On the basis of the facts referred to in the last paragraph, we would be grateful if the Australian government would seek an assurance from the Swedish government that in the event that Mr. Assange is extradited to Sweden, he will not, at the end of the proceedings in Sweden, be rendered, expelled, arrested or otherwise handed over to the USA, or to the USA via a third state, and that on being set at liberty in Sweden in due course, that he should be free to return directly to Australia, the country of his nationality.

Yours sincerely,

s 47 F(1)

Cc: Australian High Commission, London

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FILE: 11/33016
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s 22 1(a)(ii)

Title: United States: WikiLeaks: NPR story on support in Australia for Julian Assange
MRN: s 22 1(a)(ii)
To: Canberra
Cc: RR : London, Stockholm
From: Washington
From File:
References: The cable has the following attachment/s -
110121 NPR WikiLeaks.docx
Response: Routine, Information Only

UNCLASSIFIED

Summary

On 21 January, National Public Radio (NPR) ran a story on its Morning Edition program which reported that Australian media have 'editorialised that Prime Minister Julia Gillard misjudged the degree of public support for Assange last month when she accused him of breaking U.S. and possibly Australian laws.' The story also quotes Assange's lawyer, Robert Stry, as saying they are concerned about a possible extradition of Assange to the US and by calls for him to be assassinated by various commentators and politicians. By inciting violence, Stry said, they have broken Australian law and can be held accountable. Story attached.

text ends
s 22 1(a)(ii)

s 22 1(a)(ii)

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On NPR's Morning Edition today:

(<http://www.npr.org/2011/01/21/133102953/wikileaks-assange-finds-support-in-native-australia?sc=emaf>)

WikiLeaks' Assange Finds Support In Native Australia

by Anthony Kuhn

January 21, 2011

It's been several years since WikiLeaks founder Julian Assange left his native home in Australia. But he remains at the center of an intense national debate about his release of classified U.S. government documents. Assange, however, apparently enjoys more support in his home country than in the U.S.

"Hands off WikiLeaks," protesters shouted at a rally last month in Brisbane, the capital of Assange's home state of Queensland. Over the past couple of months, WikiLeaks supporters have protested in cities across Australia.

Local media have editorialized that Prime Minister Julia Gillard misjudged the degree of public support for Assange last month when she accused him of breaking U.S. and possibly Australian laws.

"Let's not put any glosses on this," Gillard said. "It would not happen, information would not be on WikiLeaks, if there had not been an illegal act undertaken."

Gillard backed down a bit when an Australian Federal Police investigation concluded that no Australian law had been broken.

But she insisted that Assange was in the wrong. "The release of all of this documentation has been grossly irresponsible, and I stand by the remarks I've made about this previously," Gillard said.

Gillard's words cost her some support among members of her ruling Labor Party. Some members felt that Gillard had unfairly prejudged Assange, and that whatever Assange had done, his legal rights as an Australian citizen should be upheld.

Lawmaker Sharon Grierson, who sits on the Parliamentary Joint Committee on Law Enforcement, sees the Assange case as a litmus test for freedom of speech and information.

"We're a government that's improved freedom of information, so it seems to me slightly hypocritical that we would make that judgment very quickly about information being released," Grierson said.

Robert Stary, Assange's Melbourne-based lawyer, thinks his client's defense should be pretty straightforward, because he considers Assange to be a journalist, protected by U.S. First Amendment guarantees of free speech.

But Stary is worried about some possibilities: "Our main concern is really the possible extradition to the U.S. We've been troubled by the sort of rhetoric that has come out of various commentators and principally Republican politicians — Sarah Palin and the like — saying Mr. Assange should be executed, assassinated."

On her Facebook page, Palin suggests that Assange should be "pursued with the same urgency as al-Qaida and Taliban leaders."

Anyone who incites others to commit violence against his client, even outside Australia, Stary says, is violating Australian law, and can be held accountable for it.

"Certainly if Sarah Palin or any of those other politicians come to Australia, for whatever purpose, then we can initiate a private prosecution, and that's what we intend to do," Stary said.

There is debate in the U.S. and elsewhere about whether Assange is indeed a journalist, as WikiLeaks lacks the clear editorial structure of more traditional media. But many Australian journalists consider Assange one of them.

"Julian Assange has been a member of our union, the Media, Entertainment and Arts Alliance, for the past three or four years," said Louise Connor, secretary of the Victoria Branch of the union, the main body representing Australian journalists.

She said her union thinks WikiLeaks has acted in line with the union's code of journalistic ethics. Assange is certainly no more at fault than other traditional media who have also published the classified documents, she added.

"The material is clearly in the public interest," Connor said. "Other media organizations have also judged it to be in the public interest when they have published. He's not the only person that's publishing the information, but it seems to us that the rhetoric around him isn't being extended to other journalists."

U.S. diplomatic cables released by WikiLeaks show that Australian officials, including Foreign Minister Kevin Rudd, are far more demoralized by the state of affairs in Afghanistan than they let on in public.

Australia's 1,500 troops form the largest non-NATO foreign contingent in Afghanistan.

Assange's lawyer said most Australians actually support the alliance with the U.S.

"We see ourselves, albeit a junior partner, but an equal partner to the U.S.," Stary added. "We don't like the fact that we've been misled or that our politicians have a sycophantic or subservient attitude."

Stary said the alliance has become something of a sacred cow in Australia, and Assange is paying the price for shedding an unflattering light on it.

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s 22 1(a)(ii)

Title: CONSULAR: Cat 1 : Arrest: ASSANGE, Julian Paul
 MRN: s 22 1(a)(ii)
 To: Canberra
 Cc: RR : London, Washington
 From: Stockholm
 From File:
 References: s 22 1(a)(ii)
 Response: Routine, Information Only

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Summary

Julian Assange's lawyers have asked that the Government seek an undertaking from Swedish authorities not to extradite or render him to the United States; s 22 1(a)(ii)

s 22 1(a)(ii)

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s 22 1(a)(ii)

s 22 1(a)(ii)

7. Assange's lawyers made two key requests:

- for the Government to ask Swedish authorities to give an undertaking not to extradite or render Assange to the United States in the event that Assange is required to return to Sweden. s 47 F(1)

s 47 F(1)

They also raised the risk of extradition or rendition from a third country, such as Singapore or Thailand, if Assange were to transit those places en route to Australia. Furthermore, in view of the likelihood that the case will continue for some time, they highlighted the potential impact of a future Republican administration in the US on the US's approach). HOM noted our understanding that Sweden would not approve extradition to any country if the subject faced the death penalty and that, in Assange's case, procedures under the European Arrest Warrant meant that extradition to the US would require the prior approval of the UK.

s 22 1(a)(ii)

text ends

s 22 1(a)(ii)

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s 22 1(a)(ii)

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Cc: RR : London, Washington
From: Stockholm
From File:
References:
Response: Routine, Information Only

UNCLASSIFIED

Summary

An online Swedish news source has reported comments by Assange's UK lawyer Mark Stephens claiming that Swedish officials were cooperating with US authorities to extradite Assange as soon as the US had built a case against him. Stephens said the Swedes were prepared to drop the rape charges once the US demanded his extradition. A spokesperson for Swedish Justice Minister Ask called these claims a 'lie' and stated that 'there are no negotiations (with the US) in that field.' The spokesperson reiterated that a Swedish prosecutor wanted to question Assange over sex offence allegations and if she found grounds for a trial, those offences 'would be the only thing that would be tried.'

text ends
s 22 1(a)(ii)

DFAT – DECLASSIFIED
 FILE: 11/33016
 COPY ISSUED UNDER FOI Act 1982

s 22 1(a)(ii)

Title: Consular: Cat 1: Julian Assange: extradition issues
MRN: s 22 1(a)(ii)
To: Canberra
Cc: RR : London, The Hague, Washington
Ministers: Foreign Minister
From: Stockholm
From File:
References:
Response: Routine, Information Only

CONSULAR-IN-CONFIDENCE

+++ Personal information about individuals contained in this cable should not be disclosed unless authorised under the Privacy Act 1988 (Cth). Any unauthorised disclosure of personal information may constitute a breach of the Privacy Act 1988 (Cth) +++

Summary

Swedish Foreign Minister Bildt has refuted media reports suggesting contact between Swedish and US authorities concerning the possible extradition of Julian Assange from Sweden to the US. A notice posted on the website of the Swedish Prosecution Authority indicates that, in Assange's case, extradition from Sweden to the US would require the consent of the UK.

Swedish Foreign Minister Bildt has denied media reports claiming contact between Swedish and US authorities to discuss the possible extradition of Julian Assange from Sweden to the US. Responding to a media question, Bildt said there had been no contact between Washington and Stockholm on the question of handing over Assange to the US should he come to Sweden to face charges.

2. On claims of political influence in Assange's case, Bildt said 'We have an independent judiciary, quite independently acting in accordance to the law and which does not have any contacts with Swedish political authorities or with any other authorities.'

3. Separately, the Swedish Prosecution Authority has posted the message below on its web site (<http://www.aklagare.se/In-English/>). Our reading of the notice is that Assange's extradition from Sweden to the US could only occur with the consent of the UK.

Starts

Facts about extradition of a person who has been surrendered

Different rules apply within the EU (surrender) and outside the EU (extradition).

Due to general agreements in the European Arrest Warrant Act, Sweden cannot extradite a person who has been surrendered to Sweden from another country without certain considerations.

Concerning surrender to another country within the European Union, the Act states that the executing country under certain circumstances must approve a further surrender.

DFAT – DECLASSIFIED
 FILE: 11/33016
 COPY ISSUED UNDER FOI Act 1982

s 22 1(a)(ii)

On the other hand, if the extradition concerns a country outside the European Union the authorities in the executing country (the country that surrendered the person) must consent (to) such extradition. Sweden cannot without such consent extradite a person, for example to the USA.

Ends

text ends
s 22 1(a)(ii)

DFAT – DECLASSIFIED
 FILE: 11/33016
 COPY ISSUED UNDER FOI Act 1982

s 22 1(a)(ii)

Title: United States: WikiLeaks: US media coverage of the arrest of Julian Assange
MRN: s 22 1(a)(ii)
To: Canberra
Cc: RR : Chicago, Honolulu, Los Angeles, New York CG, UN New York, Washington
From: Washington
From File:
References: s 22 1(a)(ii)

The cable has the following attachment/s -
 7 Dec 10 - WikiLeaks.docx

Response: Routine, Information Only

UNCLASSIFIED

Summary

The arrest of Julian Assange in London on Tuesday 7 December has received coverage in the US media which has been particularly extensive on the cable TV news networks. We have not yet seen any mention of the Australian government in the context of this reporting. Key articles and transcripts attached.

US media are reporting on the arrest of Julian Assange. We have not yet seen any references to the Australian government in this reporting.

Media is reporting comments from Attorney General Holder who said on 6 December that there is 'a very serious active ongoing investigation,' and that he 'authorised just last week a number of things to be done so that we can hopefully get to the bottom of this and hold people accountable.'

Politico quoted Assange's lawyer, Jennifer Robinson, who said on ABC: "I think he will get a fair hearing here in Britain but I think...his prospects if he were ever to be returned to the US, which is a real threat, of a fair trial, is, in my view, nigh on impossible."

The cable TV networks (including CNN, MSNBC, Fox News), are regularly reporting on the arrest and crossing live to correspondents in London who are describing the 'chaotic' scenes out side the court where large numbers of media and supporters of Assange have congregated. TV networks are reporting that Assange had been denied bail after refusing to provide a London street address when asked for his place of residence.

Associated Press is also reporting that Visa has suspended all payments to WikiLeaks.

Articles of 7 December from major US newspapers are also reporting condemnation by US Administration figures (including Secretary Clinton, Secretary Napolitano, Attorney General Holder, and State Department Spokesman Crowley) on the release of a State cable listing key sites of importance to US national security.

text ends

s 22 1(a)(ii)

REDACTED

s 22 1(a)(ii)

REDACTED

DFAT – DECLASSIFIED
 FILE: 11/33016
 COPY ISSUED UNDER FOI Act 1982

PRESS CONFERENCE WITH ATTORNEY GENERAL ERIC HOLDER;
 ROBERT KHUZAMI, DIRECTOR OF ENFORCEMENT, SECURITIES AND
 EXCHANGE COMMISSION (SEC); GUY COTTRELL, CHIEF POSTAL
 INSPECTOR, U.S. POSTAL INSPECTION SERVICE; RICK RAVEN, CRIMINAL
 INVESTIGATION DEPUTY CHIEF, INTERNAL REVENUE SERVICE (IRS);
 VINCENT MCGONAGLE, ACTING DIRECTOR OF ENFORCEMENT,
 COMMODITY FUTURES TRADING COMMISSION (CFTC); AND SHAWN
 HENRY, EXECUTIVE ASSISTANT DIRECTOR, FEDERAL BUREAU OF
 INVESTIGATION (FBI)
 SUBJECT: RESULTS OF AN INVESTMENT-FRAUD OPERATION

DEPARTMENT OF JUSTICE, WASHINGTON, D.C.
 10:36 A.M. EST, MONDAY, DECEMBER 6, 2010

Q: Attorney General, WikiLeaks, (the daily question ?). WikiLeaks apparently today released what's described as a "treasure trove" of infrastructure targets around the world which, of course, could be damaging not only to those countries but to U.S. interests.

Why hasn't the government just gone ahead and shut down the site or shut down the dissemination of his information? Why can't you do that?

ATTY GEN. HOLDER: Well, let me condemn in the strongest terms the leaks of information that have come as a result of the actions that you've just referenced. National security of the United States has been put at risk; the lives of people who work for the American people has been put at risk; the American people themselves have been put at risk by these actions that are, I believe, arrogant, misguided and ultimately not helpful in any way.

We are doing everything that we can. We have a very serious, active, ongoing investigation that is criminal in nature. I authorized just last week a number of things to be done so that we can hopefully get to the bottom of this and hold people accountable, as they -- as they should be.

Q: What are your things that can be done, and have you -- has the government explored the ability to be able to seize the sites? Last week you were before us saying, look at all the websites we seized and shut down, but you can't do that in this case at all. What are the parameters that are limiting that, and what are some of the actions that you did authorize to go forward?

ATTY GEN. HOLDER: Well, it's an ongoing investigation. I don't want to get into exactly what I authorized, but I can say that I personally authorized a number of things last week, and I think that's an indication of the seriousness with which we take this matter and the highest-level involvement in the United States Department of Justice.

With regard to all the tactics that we can do or can use to ameliorate the consequences of these actions, I don't want to get into those as well, but we will do everything that we can, both to hold people accountable and to minimize the harm that will befall the American people.

Remarks with Japanese Foreign Minister Seiji Maehara and South Korean Foreign
Minister Kim Sung-hwan
Remarks

Hillary Rodham Clinton
Remarks following trilateral meeting

December 6, 2010

QUESTION:And a question for the Secretary, if I may: Today, Wikileaks published a cable in which it published a list of sensitive national security sites around the world. What are the ramifications for that release? And what involvement does the United States have in shutting down Wikileaks's financing? Thank you very much.

SECRETARY CLINTON: As I have said on numerous occasions, the illegal publication of classified information poses real concerns and even potential damage to our friends and partners around the world. I won't comment on any specific alleged cable, but I will underscore that this theft of U.S. Government information and its publication without regard to the consequences is deeply distressing. And we continue to address all of the challenges it presents and call on countries around the world and businesses to assist us in preventing any of the consequences that could either endanger individuals or other interests internationally.



**MEDIA CONFERENCE CALL WITH HOMELAND SECURITY
SECRETARY JANET NAPOLITANO
SUBJECT: "IF YOU SEE SOMETHING, SAY SOMETHING"
ANNOUNCEMENT
MODERATOR: AMY KUDWA, DEPARTMENT OF HOMELAND SECURITY**

12:35 P.M. EST, MONDAY, DECEMBER 6, 2010

Q: Thank you. Thank you, Secretary. Just had a quick question, given the leak of information today, specifically about potential targets around the world that the U.S. is concerned about, and what DHS -- whether part of your campaign of "see something, say something" or otherwise is doing about sites within the United States to potentially beef up security or address the release of that information.

SEC. NAPOLITANO: Well, let me just say that as a matter of policy, I don't comment on documents that purport to contain classified information. I do, however, condemn, in the strongest terms I can, the deliberate and unauthorized disclosure of information -- particularly information of this type that could put individuals and organizations at risk and that could jeopardize our national security.

So I'm not going to speak to the alleged authenticity of anything that was put out today by WikiLeaks, but I cannot tell you how strongly I condemn this action.

The Washington Post

December 7, 2010 Tuesday
Suburban Edition

Assange in talks to come out of hiding

BYLINE: Anthony Faiola

SECTION: A-SECTION; Pg. A11

LENGTH: 568 words

LONDON - Julian Assange, founder of the WikiLeaks Web site, was in negotiations with British authorities late Monday to come out of hiding for what is set to be a high-profile extradition hearing to face criminal allegations in Sweden.

Assange - whose Web site's release of thousands of classified U.S. diplomatic cables is generating outrage and embarrassment in official circles - was reportedly close to agreeing to appear in a British courtroom as early as Tuesday. Scotland Yard declined to comment on the negotiations.

On Monday, Scotland Yard received a fresh warrant for **Assange's arrest** from Swedish authorities. He is being sought for questioning related to allegations of sexual assault on two women.

Assange and his supporters have denied the accusations, calling them part of an elaborate plot to silence WikiLeaks. Since publication of the latest round of documents began last week, the pressure has mounted on Assange, who was being sought internationally on an Interpol warrant, and on WikiLeaks itself, which is in a global battle to keep its financial and distribution system intact.

U.S. officials expressed outrage Monday after WikiLeaks released a State Department cable that listed sites worldwide whose "loss" could "critically impact" the health, communications, economy or security of the United States. In addition to listing dams, bridges and mines, the cable identified specific factories that are key producers of vaccines and weapons parts.

The release of the list "is really irresponsible. It is tantamount to giving a group like al-Qaeda a targeting list," said State Department spokesman P.J. Crowley.

Assange, a 39-year-old Australian national, has been in hiding for weeks and is thought to be in southern Britain, not far from London. In a video statement to the BBC, Assange's attorney, Mark Stephens, said Scotland Yard notified him late Monday about the extradition request and asked for a meeting to interview his client. "We are in the process of making arrangements to meet with the police by consent," Stephens said.

Stephens declined to say when that meeting could take place. But according to the Guardian newspaper, which has partnered with WikiLeaks in reviewing and publishing select cables, Assange may be preparing to appear in a British courtroom as early as Tuesday to try to negotiate bail, which could run from \$160,000 to \$320,000.

In a warning to Sweden and to U.S. authorities - who are investigating whether Assange can be brought up on charges related to the release of classified documents - Stephens said this weekend that his client was prepared to retaliate if charged. He said Assange may release the secret code - with a 256-bit encryption key - of a massive file quietly distributed this summer that contains thousands of un-redacted documents.

The allegations against Assange in Sweden stem from a trip he took there in August, during which he had brief relationships with two women, engaging in what he has since described as consensual sex.

Both women, according to Swedish authorities, have conceded that sex with Assange started as consensual but allege that it later became non-consensual. If convicted on the most serious of the charges against him, Assange faces up to four years in prison.

faiolaa@washpost.com

Staff writer Mary Beth Sheridan in Washington and special correspondent Rebecca Omonira-Oyekanmi in London contributed to this report.

The New York Times

December 7, 2010 Tuesday
Late Edition - Final

Founder of WikiLeaks Warns That He Could Release More Secret Dispatches

BYLINE: By SCOTT SHANE; Charlie Savage and Brian Knowlton contributed reporting from Washington, and Ravi Somaiya from London.

SECTION: Section A; Column 0; Foreign Desk; Pg. 13

LENGTH: 1087 words

WASHINGTON -- Julian **Assange**, the beleaguered founder of the anti-secrecy group WikiLeaks, has threatened to release many more confidential diplomatic cables if legal action is taken against him or his organization. Mr. **Assange's** threat poses a problem for the Obama administration as it explores ways to prosecute Mr. **Assange** or the group.

On Monday, as Mr. **Assange's** lawyers said he would meet with the British police about criminal charges involving sexual encounters in Sweden, Attorney General Eric H. Holder Jr. said the Justice Department had "a very serious, active, ongoing investigation that is criminal in nature" into the WikiLeaks matter.

"I authorized just last week a number of things to be done so that we can hopefully get to the bottom of this and hold people accountable," he said at a news conference, declining to elaborate.

Mr. Holder's statement followed Mr. **Assange's** assertion that "over 100,000 people" had been given the entire archive of 251,287 cables "in encrypted form."

"If something happens to us, the key parts will be released automatically," Mr. **Assange** said Friday in a question-and-answer session on the Web site of the British newspaper The Guardian.

His threat is not idle, because as of Monday night the group had released fewer than 1,000 of the quarter-million State Department cables it had obtained, reportedly from a low-ranking Army intelligence analyst.

So far, the group has moved cautiously. The whole archive was made available to five news organizations, including The New York Times. But WikiLeaks has posted only a few dozen cables on its own in addition to matching those made public by the news publications. According to the State Department's count, 1,325 cables, or fewer than 1 percent of the total, have been made public by all parties to date.

There appears to be no way for American authorities to retrieve all copies of the cables archive. And legal experts say there are serious obstacles to any prosecution of Mr. **Assange** or his group.

But the disclosure of the confidential communications between the State Department and 270 American embassies and consulates has infuriated administration officials and prompted calls from Congress to pursue charges. Mr. Holder repeated assertions by several Obama administration officials about the damage done by the cable disclosures, which began late last month.

"The national security of the United States has been put at risk; the lives of people who work for the American people have been put at risk; the American people themselves have been put at risk by these actions that are, I believe, arrogant, misguided and ultimately not helpful in any way," Mr. Holder said.

Justice Department prosecutors have been struggling to find a way to indict Mr. **Assange** since July, when WikiLeaks made public documents on the war in Afghanistan. But while it is clearly illegal for a government official with a security clearance to give a classified document to WikiLeaks, it is far from clear that it is illegal for the organization to make it public.

The Justice Department has considered trying to indict Mr. **Assange** under the Espionage Act, which has never been successfully used to prosecute a third-party recipient of a leak. Some lawmakers have suggested accusing WikiLeaks of receiving stolen government property, but experts said Monday that would also pose difficulties.

Perhaps in a warning shot of sorts, WikiLeaks on Monday released a cable from early last year listing sites around the world -- from hydroelectric dams in Canada to vaccine factories in Denmark -- that are considered crucial to American national security.

Nearly all the facilities listed in the document, including undersea cables, oil pipelines and power plants, could be identified by Internet searches. But the disclosure prompted headlines in Europe and a new denunciation from the State Department, which said in a statement that "releasing such information amounts to giving a targeting list to groups like Al Qaeda."

Asked later about the cable, Secretary of State Hillary Rodham Clinton said the continuing disclosures posed "real concerns, and even potential damage to our friends and partners around the world."

"I won't comment on any specific alleged cable, but I will underscore that this theft of U.S. government information and its publication without regard to the consequences is deeply distressing," she said.

WikiLeaks' operations have been hampered in recent days as computer server companies, Amazon.com and PayPal.com, have cut off commercial cooperation.

On Monday, a Swiss bank froze an account held by Mr. **Assange** that had been used to collect donations for WikiLeaks. Marc Andrey, a spokesman for the bank, PostFinance, an arm of the Swiss postal service, said the account was closed because Mr. **Assange** "gave us false information when he opened the account," asserting inaccurately that he lived in Switzerland.

Mr. **Assange's** lawyers also said Monday that he would meet British police officers for questioning on the Swedish sex charges.

Mark Stephens, Mr. **Assange's** British lawyer, confirmed in a video statement to the BBC that the authorities in London had "received an extradition request from

Sweden" late Monday, and he said that he and Mr. **Assange** were "in the process of making arrangements to meet with the police by consent."

The charges involve sexual encounters that the women say began as consensual but became nonconsensual after Mr. **Assange** was no longer using a condom. Mr. **Assange** has denied any wrongdoing and suggested that the charges were trumped up in retaliation for his WikiLeaks work, though there is no public evidence to suggest a connection.

In recent months, WikiLeaks gave the entire collection of cables to four European publications -- Der Spiegel in Germany, El Pais in Spain, Le Monde in France and The Guardian. The Guardian shared the cable collection with The New York Times.

Since Nov. 28, each publication has been publishing a series of articles about revelations in the cables, accompanied online by the texts of some of the documents. The publications have removed the names of some confidential sources of American diplomats, and WikiLeaks has generally posted the cables with the same redactions.

But with the initial series of articles and cable postings nearing an end, the fate of the roughly 250,000 cables that have not been placed online is uncertain. The five publications have announced no plans to make public all the documents. WikiLeaks's intentions remain unclear.

St. Louis Post-Dispatch (Missouri)

December 7, 2010 Tuesday
FIRST EDITION

WikiLeaks founder is set to meet with British police Sweden makes extradition request over sexual allegations.

BYLINE: From news services

SECTION: NEWS; Pg. A15

LENGTH: 407 words

DATELINE: 0

The legal noose tightened on the WikiLeaks founder Julian **Assange** on Monday, as his lawyers said he would meet with British police for questioning over arrest warrants alleging sexual offenses in Sweden.

Mark Stephens, **Assange's** lawyer in Britain, confirmed that the authorities in Britain had "received an extradition request from Sweden" late Monday, and said that he and **Assange** were "in the process of making arrangements to meet with the police by consent."

According to accounts the women gave to the police and friends, they each had consensual sexual encounters with **Assange** that became nonconsensual. In both cases, the women said in their statements, they told him to stop and he did not.

Assange has denied any wrongdoing.

Investigation in Australia - In Australia, where WikiLeaks founder Julian **Assange** holds citizenship, Foreign Minister Kevin Rudd told reporters that that country's federal police were investigating "whether or not **Assange** has breached any element of the Australian criminal law."

Swiss shut **Assange** account - Swiss authorities closed WikiLeaks founder Julian **Assange's** bank account, depriving him of a key fundraising tool.

The Swiss postal system's financial arm, Postfinance, shut down a bank account set up by **Assange** to receive donations after the agency determined that he provided false information regarding his place of residence in opening the account. **Assange** had listed his lawyer's address in Geneva.

The group is left with only a few options for raising money now - through a Swiss-Icelandic credit card processing center and accounts in Iceland and Germany.

Online attacks continue - WikiLeaks struggled to stay online Monday despite more hacker attacks. WikiLeaks' Swedish servers were crippled after coming under suspected attack again Monday, the latest in a series of such assaults.

It was not clear who was organizing the attacks, but WikiLeaks has blamed previous ones on intelligence forces in the U.S. and elsewhere.

WikiLeaks' huge online following of tech-savvy young people has pitched in, setting up more than 500 mirrors.

Warning issued - WikiLeaks warned that it has distributed a heavily encrypted version of some of its most important documents and that the information could be instantly made public if the staff were arrested.

No new cables - Monday marked the first day that WikiLeaks did not publish any new cables. It was unclear whether that had anything to do with the computer attacks.

Politico

WikiLeaks' Julian Assange arrested in England

By JENNIFER EPSTEIN | 12/7/10 8:32 AM EST Updated: 12/7/10 8:55 AM EST

WikiLeaks founder Julian Assange was arrested Tuesday in London on sexual assault charges, and is due to appear in a British court before the end of the day.

Scotland Yard confirmed in a statement that its said its extradition unit had "arrested Julian Assange on behalf of the Swedish authorities on suspicion of rape."

Defense Secretary Robert Gates, in Afghanistan visiting U.S. forces, said the arrest was "good news to me."

The U.S. government is pursuing a criminal investigation of WikiLeaks and Attorney General Eric Holder said Monday that the Obama administration "will do everything that we can both to hold people accountable and to minimize the harm that will befall the American people."

One of Assange's lawyers said his team will fight extradition to Sweden, in part to avoid eventually ending up in the hands of U.S. authorities. "I think he will get a fair hearing here in Britain but I think our, his, prospects if he were ever to be returned to the US, which is a real threat, of a fair trial, is, in my view, nigh on impossible," London lawyer Jennifer Robinson told the Australian Broadcasting Corporation.

Kristinn Hrafnsson, a spokesman for WikiLeaks, told the Associated Press that Assange's arrest "will not change our operation."

Though the group has plans in place to release an emergency "insurance" file that includes some of the most important documents it has, Hrafnsson said WikiLeaks would only release those if someone on group's staff were to face "grave matters."

Gordon Lubold contributed to this report.

Read more:

<http://www.politico.com/news/stories/1210/46065.html#ixzz17RLbSq8g>

Associated Press Online

December 7, 2010 Tuesday 2:06 PM GMT

Visa suspends all payments to WikiLeaks

SECTION: INTERNATIONAL NEWS

LENGTH: 859 words

DATELINE: LONDON

Visa says it has suspended all payments to WikiLeaks pending an investigation of the organization's business.

Visa's decision is a powerful blow to the loosely knit organization, which relies on online donations to fund its operations.

Popular online payment company PayPal, Inc. has already severed its links with WikiLeaks. Visa's decision to pull the plug on WikiLeaks leaves the website with one fewer source of revenue.

Swiss authorities closed Assange's new Swiss bank account Monday.

THIS IS A BREAKING NEWS UPDATE. Check back soon for further information. AP's earlier story is below.

LONDON (AP) WikiLeaks founder Julian Assange surrendered to London police Tuesday to face a Swedish arrest warrant, the latest blow to an organization that faces legal, financial and technological challenges after releasing hundreds of secret U.S. diplomatic cables.

Assange was at Westminster Magistrate's Court on Tuesday afternoon, waiting to attend a hearing. His Swedish lawyer told The Associated Press his client would challenge any extradition from Britain to Sweden.

If that is the case, Assange will likely be remanded into U.K. custody or released on bail until another judge rules on whether to extradite him, a spokeswoman for the extradition department said on customary condition of anonymity.

Assange, a 39-year-old Australian, has been accused by two women in Sweden. He faces rape and sexual molestation allegations in one case and sexual molestation and unlawful coercion in the other. Assange denies the allegations.

His British attorney Mark Stephens says the allegations stem from a "dispute over consensual but unprotected sex" last summer.

Swedish prosecutor Marianne Ny has rejected claims by Stephens and Assange that the prosecution has political overtones. She planned to comment on the arrest later Tuesday.

Assange's Swedish lawyer Bjorn Hurtig said his client would contest any extradition.

"He will absolutely do that," he told the AP in a telephone interview.

Hurtig said it was difficult to say how long the extradition process in Britain would take anywhere from a week to two months. He said if Assange was extradited to Sweden, he wouldn't be kept in detention after he's been questioned, "because it's been for the sake of the questioning that he's been detained."

U.S. Defense Secretary Robert Gates, visiting with Afghan President Hamid Karzai and U.S. troops in Afghanistan, was pleased by the arrest.

"That sounds like good news to me," he said.

Beginning in July, WikiLeaks angered the U.S. government by releasing tens of thousands of secret U.S. military documents on the wars in Afghanistan and Iraq. That was followed last week by the ongoing release of what WikiLeaks says will eventually be a quarter-million cables from U.S. diplomatic posts around the world. The group provided those documents to five major newspapers, which have been working with WikiLeaks to edit the cables for publication.

In the past week, WikiLeaks has seen its bank accounts canceled and its web sites attacked. The U.S. government has launched a criminal investigation, saying the group has jeopardized U.S. national security and diplomatic efforts around the world.

WikiLeaks has also seen an online army of supporters come to its aid, sending donations, fighting off computer attacks and setting up over 500 mirror sites around the world to make sure that the secret documents are published regardless of what happens to Assange.

A spokesman for WikiLeaks called **Assange's arrest** an attack on media freedom and said it won't prevent the organization from releasing more secret documents.

"This will not change our operation," Kristinn Hrafnsson told The Associated Press.

But Hrafnsson also said the group had no plans at the moment to release the key to a heavily encrypted version of some of its most important documents an "insurance" file that has been distributed to supporters in case of an emergency. Hrafnsson said that will only come into play if "grave matters" involving WikiLeaks staff occur but did not elaborate on what those would be.

The campaign against WikiLeaks began with an effort to jam the website as the cables were being released. U.S. Internet companies Amazon.com, Inc., EveryDNS and PayPal, Inc. then severed their links with WikiLeaks in quick succession, forcing it to jump to new servers and adopt a new primary Web address wikileaks.ch in Switzerland.

Swiss authorities closed Assange's new Swiss bank account Monday, and MasterCard has pulled the plug on payments to WikiLeaks, according to technology news website CNET.

The attacks appeared to have been at least partially successful in stanching the flow of secrets: WikiLeaks has not published any new cables in more than 24 hours, although stories about them have continued to appear in The New York Times and Britain's The Guardian, two of the newspapers given advance access to the cables.

WikiLeaks' Twitter feed, generally packed with updates, appeals and pithy comments, has been silent since Monday night, when the group warned that **Assange's arrest** was imminent.

Louise Nordstrom in Stockholm and Greg Katz and Cassandra Vinograd in London contributed to this story.

Associated Press Online

December 7, 2010 Tuesday 1:32 PM GMT

WikiLeaks founder Julian Assange arrested in UK

BYLINE: By RAPHAEL G. SATTER, Associated Press

SECTION: INTERNATIONAL NEWS

LENGTH: 759 words

DATELINE: LONDON

WikiLeaks founder Julian Assange surrendered to London police Tuesday to face a Swedish arrest warrant, the latest blow to an organization that faces legal, financial and technological challenges after releasing hundreds of secret U.S. diplomatic cables.

Assange was at Westminster Magistrate's Court on Tuesday afternoon, waiting to attend a hearing. His Swedish lawyer told The Associated Press his client would challenge any extradition from Britain to Sweden.

If that is the case, Assange will likely be remanded into U.K. custody or released on bail until another judge rules on whether to extradite him, a spokeswoman for the extradition department said on customary condition of anonymity.

Assange, a 39-year-old Australian, has been accused by two women in Sweden. He faces rape and sexual molestation allegations in one case and sexual molestation and unlawful coercion in the other. Assange denies the allegations.

His British attorney Mark Stephens says the allegations stem from a "dispute over consensual but unprotected sex" last summer.

Swedish prosecutor Marianne Ny has rejected claims by Stephens and Assange that the prosecution has political overtones. She planned to comment on the arrest later Tuesday.

Assange's Swedish lawyer Bjorn Hurtig said his client would contest any extradition.

"He will absolutely do that," he told the AP in a telephone interview.

Hurtig said it was difficult to say how long the extradition process in Britain would take anywhere from a week to two months. He said if Assange was extradited to Sweden, he wouldn't be kept in detention after he's been questioned, "because it's been for the sake of the questioning that he's been detained."

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"This will not change our operation," Kristinn Hrafnsson told The Associated Press.

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Swiss authorities closed Assange's new Swiss bank account Monday, and MasterCard has pulled the plug on payments to WikiLeaks, according to technology news website CNET.

The attacks appeared to have been at least partially successful in stanching the flow of secrets: WikiLeaks has not published any new cables in more than 24 hours, although stories about them have continued to appear in The New York Times and Britain's The Guardian, two of the newspapers given advance access to the cables.

WikiLeaks' Twitter feed, generally packed with updates, appeals and pithy comments, has been silent since Monday night, when the group warned that **Assange's arrest** was imminent.

Louise Nordstrom in Stockholm and Greg Katz and Cassandra Vinograd in London contributed to this story.

Assange Arrested on Sex Charges: WikiLeaks Founder Will Fight Extradition from UK

WikiLeaks founder Julian Assange (AP Photo, file)

LONDON (CBS/AP) British police said Tuesday that WikiLeaks founder Julian Assange had been arrested on a Swedish warrant seeking his detention for questioning in a sex-crimes investigation of the man who has angered Washington by spilling thousands of government secrets on the Internet.

Assange was arrested early Tuesday and is currently appearing at Westminster Magistrate's Court.

Assange told a judge that he will fight extradition, reports the Associated Press.

CBS News correspondent Elizabeth Palmer reports that Tuesday's court hearing is the first step in what will likely be a lengthy process for British law officials to decide whether Assange should be extradited to Sweden to face the allegations.

A spokesman for WikiLeaks called Assange's arrest an attack on media freedom and said it won't prevent the organization from releasing more secret documents.

"This will not change our operation," Kristinn Hrafnsson told The Associated Press.

Assange's lawyer said Monday he was arranging to deliver the WikiLeaks founder to British police for questioning. He surrendered Tuesday under an agreement reached with the police.

Assange had been staying at an undisclosed location in Britain.

The 39-year-old Australian is wanted on suspicion of rape, sexual molestation and unlawful coercion in Sweden, and the case could lead to his extradition. Interpol placed Assange on its most-wanted list on Nov. 30 after Sweden issued an arrest warrant. Last week, Sweden's highest court upheld the detention order.

The WikiLeaks website, which has been bumped off two U.S. companies' servers, remained online Tuesday via a Swiss domain name provider. No new U.S. diplomatic cables appeared on the site Tuesday, but it wasn't clear whether that was related to Assange's arrest.

Lowell Sun (Massachusetts)

December 7, 2010 Tuesday

WikiLeaks founder arrested

BYLINE: The Lowell Sun

SECTION: BREAKING

LENGTH: 126 words

LONDON (AP) -- The spokesman for WikiLeaks says founder Julian **Assange's** arrest is an attack on media freedom and that it won't prevent the organization from spilling secrets on the web.

Kristinn Hrafnsson declined Tuesday to comment on Assange's state of mind prior to the arrest but confirmed he has been in touch with the 39-year-old Australian over the past 24 hours. He says the arrest will not derail the release of more secret documents.

Hrafnsson tells the AP that "this will not change our operation."

Assange was arrested at 9:30 a.m. (0930 GMT) Tuesday and was due to appear at Westminster Magistrate's Court later in the day.

He had been hiding out at an undisclosed location in Britain since WikiLeaks began publishing U.S. diplomatic cables last week.

USA TODAY

December 7, 2010 Tuesday
FINAL EDITION

Officials, analysts flay WikiLeaks release of key U.S. security sites

BYLINE: Kevin Johnson and Mimi Hall

SECTION: NEWS; Pg. 6A

LENGTH: 634 words

WASHINGTON -- WikiLeaks' disclosure of key sites that the U.S. has deemed critical to national security marks an increasingly dangerous step by the online organization, whose actions are at the center of a broad criminal investigation, U.S. officials and some security analysts said Monday.

The list of power suppliers, dams, chemical manufacturers, transportation systems and communication grids spans the globe from Africa to Mexico and is part of a cache of classified State Department documents released by WikiLeaks.

"It is a map for terrorists, plain and simple," said Tom Kean, a co-chairman of the 9/11 Commission.

Although many of the sensitive sites -- which include key suppliers of vaccines and other medicines -- are well-known, Kean said the fact that they are listed as important to the U.S. gives enemies valuable intelligence. "It's one thing for a group to sit around and make a list of things that might be important to the U.S.," he said. "It's another thing to have the list that was developed by the U.S. government."

Randall Larsen, former executive director of the congressional Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism, said the list's publication would make WikiLeaks founder Julian **Assange** an enemy of the world: "Every nation in the world is soon going to realize what an enemy this guy is. He just published the target list."

Assange, wanted by Swedish authorities in connection with a rape investigation, was negotiating with British authorities Monday about the Swedish arrest warrant, the Associated Press reported.

Among sites in the State Department document: the "world's largest integrated chemical complex" in Germany and a Canadian power supplier that is an "irreplaceable source of power to portions of the northeast U.S."

The list of sensitive foreign sites was compiled as part of the U.S. government's National Infrastructure Protection Plan, the State Department cable says. The plan also required the Department of Homeland Security (DHS) to develop a list of U.S. sites, though those are not among the documents released.

The foreign list represents sites and installations that, "if destroyed, disrupted or exploited, would likely have an immediate and deleterious effect on the United States," according to the State Department document.

Stewart Baker, a former DHS policy chief in the George W. Bush administration, said terrorists would do some damage if they hit most sites on the list, but the U.S. likely would recover quickly. "So they blow up a gas pipeline and the price of gas goes up a little and other mechanisms for getting gas to market are brought to bear," he said. "A profound effect on the United States strikes me as remote." Attacks on the sites listed would produce "very little in the way of horror or death, so I'm not convinced this is somehow revealing the crown jewels or somehow making the United States less safe," Baker said.

U.S. officials denounced the disclosures and did not dispute authenticity of the document.

"The national security of the United States has been put at risk," Attorney General Eric Holder said. "The American people, themselves, have been put at risk by these actions that I believe are arrogant, misguided and ultimately not helpful in any way."

Holder said the criminal investigation into the breach of classified information has intensified. The attorney general said he intervened in the inquiry last week by authorizing "a number" of actions to advance the investigation. He declined to elaborate other than to indicate that the inquiry ranged more broadly than a narrow espionage investigation.

Homeland Secretary Janet Napolitano said the disclosure could jeopardize individuals and organizations. "I cannot tell you how strongly I condemn this action," she said.

The New York Times

December 7, 2010 Tuesday
Late Edition - Final

Founder of WikiLeaks Warns That He Could Release More Secret Dispatches

BYLINE: By SCOTT SHANE; Charlie Savage and Brian Knowlton contributed reporting from Washington, and Ravi Somaiya from London.

SECTION: Section A; Column 0; Foreign Desk; Pg. 13

LENGTH: 1087 words

WASHINGTON -- Julian **Assange**, the beleaguered founder of the anti-secrecy group WikiLeaks, has threatened to release many more confidential diplomatic cables if legal action is taken against him or his organization. Mr. **Assange's** threat poses a problem for the Obama administration as it explores ways to prosecute Mr. **Assange** or the group.

On Monday, as Mr. **Assange's** lawyers said he would meet with the British police about criminal charges involving sexual encounters in Sweden, Attorney General Eric H. Holder Jr. said the Justice Department had "a very serious, active, ongoing investigation that is criminal in nature" into the WikiLeaks matter.

"I authorized just last week a number of things to be done so that we can hopefully get to the bottom of this and hold people accountable," he said at a news conference, declining to elaborate.

Mr. Holder's statement followed Mr. **Assange's** assertion that "over 100,000 people" had been given the entire archive of 251,287 cables "in encrypted form."

"If something happens to us, the key parts will be released automatically," Mr. **Assange** said Friday in a question-and-answer session on the Web site of the British newspaper The Guardian.

His threat is not idle, because as of Monday night the group had released fewer than 1,000 of the quarter-million State Department cables it had obtained, reportedly from a low-ranking Army intelligence analyst.

So far, the group has moved cautiously. The whole archive was made available to five news organizations, including The New York Times. But WikiLeaks has posted only a few dozen cables on its own in addition to matching those made public by the news publications. According to the State Department's count, 1,325 cables, or fewer than 1 percent of the total, have been made public by all parties to date.

There appears to be no way for American authorities to retrieve all copies of the cables archive. And legal experts say there are serious obstacles to any prosecution of Mr. **Assange** or his group.

But the disclosure of the confidential communications between the State Department and 270 American embassies and consulates has infuriated administration officials and prompted calls from Congress to pursue charges. Mr. Holder repeated assertions by several Obama administration officials about the damage done by the cable disclosures, which began late last month.

"The national security of the United States has been put at risk; the lives of people who work for the American people have been put at risk; the American people themselves have been put at risk by these actions that are, I believe, arrogant, misguided and ultimately not helpful in any way," Mr. Holder said.

Justice Department prosecutors have been struggling to find a way to indict Mr. **Assange** since July, when WikiLeaks made public documents on the war in Afghanistan. But while it is clearly illegal for a government official with a security clearance to give a classified document to WikiLeaks, it is far from clear that it is illegal for the organization to make it public.

The Justice Department has considered trying to indict Mr. **Assange** under the Espionage Act, which has never been successfully used to prosecute a third-party recipient of a leak. Some lawmakers have suggested accusing WikiLeaks of receiving stolen government property, but experts said Monday that would also pose difficulties.

Perhaps in a warning shot of sorts, WikiLeaks on Monday released a cable from early last year listing sites around the world -- from hydroelectric dams in Canada to vaccine factories in Denmark -- that are considered crucial to American national security.

Nearly all the facilities listed in the document, including undersea cables, oil pipelines and power plants, could be identified by Internet searches. But the disclosure prompted headlines in Europe and a new denunciation from the State Department, which said in a statement that "releasing such information amounts to giving a targeting list to groups like Al Qaeda."

Asked later about the cable, Secretary of State Hillary Rodham Clinton said the continuing disclosures posed "real concerns, and even potential damage to our friends and partners around the world."

"I won't comment on any specific alleged cable, but I will underscore that this theft of U.S. government information and its publication without regard to the consequences is deeply distressing," she said.

WikiLeaks' operations have been hampered in recent days as computer server companies, Amazon.com and PayPal.com, have cut off commercial cooperation.

On Monday, a Swiss bank froze an account held by Mr. **Assange** that had been used to collect donations for WikiLeaks. Marc Andrey, a spokesman for the bank, PostFinance, an arm of the Swiss postal service, said the account was closed because Mr. **Assange** "gave us false information when he opened the account," asserting inaccurately that he lived in Switzerland.

Mr. **Assange's** lawyers also said Monday that he would meet British police officers for questioning on the Swedish sex charges.

Mark Stephens, Mr. **Assange's** British lawyer, confirmed in a video statement to the BBC that the authorities in London had "received an extradition request from

Sweden" late Monday, and he said that he and Mr. **Assange** were "in the process of making arrangements to meet with the police by consent."

The charges involve sexual encounters that the women say began as consensual but became nonconsensual after Mr. **Assange** was no longer using a condom. Mr. **Assange** has denied any wrongdoing and suggested that the charges were trumped up in retaliation for his WikiLeaks work, though there is no public evidence to suggest a connection.

In recent months, WikiLeaks gave the entire collection of cables to four European publications -- Der Spiegel in Germany, El Pais in Spain, Le Monde in France and The Guardian. The Guardian shared the cable collection with The New York Times.

Since Nov. 28, each publication has been publishing a series of articles about revelations in the cables, accompanied online by the texts of some of the documents. The publications have removed the names of some confidential sources of American diplomats, and WikiLeaks has generally posted the cables with the same redactions.

But with the initial series of articles and cable postings nearing an end, the fate of the roughly 250,000 cables that have not been placed online is uncertain. The five publications have announced no plans to make public all the documents. WikiLeaks's intentions remain unclear.

s 22 1(a)(ii)

Title: Sweden: Consular: Cat 1: Julian Assange
MRN: s 22 1(a)(ii)
To: Canberra
Cc: RR : London, The Hague, Washington
From: Stockholm
From File:
References: s 22 1(a)(ii)
Response: Routine, Information Only

CONSULAR-IN-CONFIDENCE

+++ Personal information about individuals contained in this cable should not be disclosed unless authorised under the Privacy Act 1988 (Cth). Any unauthorised disclosure of personal information may constitute a breach of the Privacy Act 1988 (Cth) +++

Summary

The Swedish Prosecutor in the case against Julian Assange has hit back against claims by Assange's lawyers that the management of his case has been atypical and that the charges he faces are linked to the current Cablegate saga. In media comments Prosecutor Marianne Ny said 'this investigation has proceeded perfectly normally without any political pressure of any kind.' She added that the investigation is 'completely independent' of any political motivations. Ny also rejected claims by Assange's UK lawyer that Assange would be handed over to the US if he is extradited to Sweden.

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s 22 1(a)(ii)

s 22 1(a)(ii)

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