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US offered to send detainees back to UK

Guantánamo men would have been tried by the army first

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The Guardian

The US government offered to send British detainees held as suspected terrorists in Guantánamo Bay back to the UK during secret talks with the government, the Guardian has learned.

The admission by the US, the first insight into months of negotiations between the allies, came after it was reported that London had rejected an offer that would have led to the four remaining Britons returning home.

The offer by the Bush administration is at odds with a statement by Tony Blair to parliament that the US was responsible for blocking the return of the Britons, the detainees lawyers and supporters said yesterday.

The four British citizens remain in Guantánamo and it is feared that they are suffering ill treatment. When five were released in March some alleged that they had been tortured: a claim Washington denies.

In an article which the paper said the Pentagon had cooperated with in parts, the New York Times says the US offered to try the Britons before military commissions and send them back to the UK to serve any sentence.

But an official told the paper that Washington expected that this would mean that the men would in effect go free, because no British court would rule that their continued detention was lawful.

The US official said: "We knew what that meant. They would be released as soon as they set foot back there."

Britain's public position is that the military commission is unacceptable. Human rights groups say the system is rigged, having handpicked US officers sitting in judgment on charges brought by their superiors.

It is alleged that the offer was made between July and November 2003, but rejected by Lord Goldsmith, Britain's attorney general, who was negotiating with the US about the detainees.

Last night the Pentagon said: "It is true that we offered to return convicted detainees to serve their sentences in the UK."

The statement said the US and UK agreed that any Britons returned would be held in a similar manner to the more than 50 former Guantánamo detainees who have been returned to other countries.

The Pentagon described as "speculation" the claim that the US had made the offer expecting that the Britons to be released on their return by courts in the UK.

In July 2003 Mr Bush designated two Britons, Feroz Abbasi, from Croydon, and Moazzam Begg, from Birmingham, to face military commissions.

That intensified pressure on Mr Blair, already under fire for his closeness to Mr Bush after supporting the invasion of Iraq.

Yesterday's allegation focuses attention on previous statements by Mr Blair and his government. On July 6 this year he told MPs on the Commons' liaison committee that the US was refusing to send the remaining four Britons home.

Questioned about Guantánamo, Mr Blair said: "I hope we can resolve it reasonably soon, but I do not think the United States is being unreasonable in saying 'We need to make sure that there is proper security in place for these people'."

That was also the position of his government in its defence to a legal action brought by solicitors for two detainees. That action, seeking a court order requiring the government to formally demand the detainees return, was dropped after it was revealed that Mr Blair had personally asked Mr Bush for their return.

In the government's submission to the court it said that Washington feared that the Britons would pose a danger if released. "The US government has expressed security concerns regarding the return of these prisoners," it said.

Louise Christian, Mr Abbasi's British solicitor, said: "The clear meaning of what Mr Blair told parliament is that it was the US government and not the UK government blocking their return, and the clear meaning of what the UK government told the court."

Gareth Pierce, Moazzam Begg's solicitor, said: "Did the attorney general know that by appearing to stand on principled position that military commissions were unacceptable, he was guaranteeing that they would remain in Guantánamo Bay in limbo for ever?"

A spokeswoman for the attorney general said: "The attorney general's view is that the detainees should be returned home."

The other two detainees are Martin Mubanga and Richard Belmar.