



Josephite Justice Office  
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## Appeal against extradition of Daniel Duggan to the United States

Hon Mark Dreyfus KC, MP  
PO Box 6022  
Parliament House  
Canberra ACT 2600  
9 August 2024

Dear Mr Dreyfus,

The Josephite Justice Network (JJN) is a ministry of the Congregations of the Sisters of St Joseph. We serve, educate, advocate and work for justice, for earth and for people, and especially for those pushed to the margins of our world.

A previous reply from your Department concerning Daniel Duggan dated 15 July 2024 states:

*“There are safeguards in the Extradition Act to protect the individual sought for extradition, including to ensure that they are sought for a serious criminal offence, the alleged conduct is criminalised in both the requesting country and in Australia (principle of dual criminality) and the person is not extradited for a political offence in relation to the foreign country.”*

It is difficult to see how these “safeguards” apply to Mr Duggan. The easily ascertained circumstances of his training of Chinese pilots show that he was engaged in the transparent exercise of a normal aviation business rather than committing “a serious criminal offence”. It is not apparent that Mr Duggan has broken any Australian law. If he has done so, what law is it, and why has he not been charged here with that offence? Further, it is clear that the threatened extradition is connected to political realities affecting Australia’s relationship with both the US and China.

The comments above are the subject of your next paragraph:

*It is important to note that the extradition process in Australia is an administrative one, and does not involve a determination of criminal responsibility. Therefore, extradition matters are progressed under a framework that is different to the frameworks which govern Australian criminal proceedings. Further, as a matter of general policy, Australian nationality is not a bar to extradition.*

It is deeply concerning to us that Mr Duggan has endured his current treatment because of an “administrative” process. As you say, any criminal responsibility has not been determined and it is the extradition framework that governs his situation despite his status as an Australian. We did not realise what a disadvantage our extradition laws pose to Australians and strongly support changing those laws so that in future Australians are not subject to such deficient legislation.

The next paragraph states:

*Procedural fairness obligations attach to decisions of this nature and Mr Duggan will be provided with a reasonable opportunity to make representations to the Attorney-General as to why he should not be surrendered, or about any other relevant factor the Attorney-General should consider in making his determination. The United States may also be consulted.*

How have “procedural fairness obligations” been met in regard to Daniel Duggan? This is not a hypothetical question, and we do require a reply please. The man has been classed as an “extreme high-risk restricted inmate”, jailed in maximum security prison for nearly two years with periods of solitary confinement, and able for most of that time to see his wife and six children only with difficulty – and initially not at all. That he has endured all this without having been charged with a crime under Australian law seems very far from “fair”. This is deeply offensive to any Australians for whom “fairness” holds immense power as an ideal.

The prospect of consultation with the United States does not fill us with confidence. Australia is, unfortunately, overly dependent on the United States and we are concerned that any American advice about Mr Duggan would not arise from a sense of justice towards him but from the current wider US concerns about its rivalry with China.

The following is a summary as we understand it of the events that have led to Mr Duggan’s situation that have been gleaned from news outlets listed below.

Daniel Duggan was born in 1969 in the United States and was a Marine Corps pilot with the rank of Major. He became an Australian citizen on 26 January 2012, intending to remain in Australia as an Australian citizen. In 2016 he sought and received a certificate from the US Embassy in Beijing which confirmed that he had relinquished his US citizenship in 2012.

## **Business**

Between 2005 and 2014, Mr Duggan worked in the business he founded, *Top Gun Tasmania*, offering joy flights on military jet trainers.

He moved to China in 2013 and shared an address with a Chinese businessman named Su Bin, who had paid for a trip for him from Australia to Beijing in May 2012. He subsequently asked Bin to help source Chinese aircraft parts for his business. Duggan’s family relocated to China in 2014.

While in China, Duggan engaged in temporary contracts at a flying school in South Africa called the *Test Flying Academy of South Africa* (TFASA). Some of the pilots he trained were Chinese. Duggan maintains they were civilians and that he used information widely available in online textbooks. There is no evidence supporting the accusation that the Chinese pilots he trained were military personnel.

In 2014 Su Bin was arrested in Canada by the US and in 2016 was jailed for four years for hacking activities concerning the theft of US military aircraft designs. US authorities found correspondence with Duggan on electronic devices seized from Su Bin. However, Duggan says he knew him only as an employment broker for a Chinese state aviation company and did not know that he was a hacker.

In 2014 after Bin’s arrest, Duggan was barred from leaving China. From 2017 he was general manager of the consultancy company AVIBIZ which focussed on the Chinese aviation industry but was dissolved in 2020. Duggan worked in China until September 2022 when he returned to Australia.

## **Arrest and Indictment**

Mr Duggan was arrested on 21 October 2022, in Orange, NSW at the request of the US government.

The US indictment alleges that he trained Chinese pilots through TSAFA between 2011 and 2012 without seeking proper authorisation, and that the US State Department had informed him by email in 2008 that he was required to seek approval to train foreign pilots.

It also alleges that Duggan worked with unnamed co-conspirators in the TFASA, including two South African citizens, a Chinese citizen, a UK citizen and a US citizen. None of these have been arrested. TSAFA insists that all of Duggan’s teaching was legal, public, met all international standards and was totally unclassified. Duggan has not denied training Chinese pilots but denies the other charges.

The US warrant for his arrest alleges four charges: conspiracy to defraud the United States by conspiring to unlawfully train Chinese pilots, conspiracy to launder money, and two counts of violating arms regulations.

However, there are flaws in the indictment:

- the aircraft carrier he is accused of using to train military pilots was thousands of miles away and had not been released from a shipyard;
- the alleged remuneration figure is incorrect;
- his advertised “Fighter Pilot training” is a presentation module using fighter pilot metaphors to coach success in business team-building – as was displayed on his website ‘Corporate Top Guns’ (since deleted). It has nothing to do with actually training fighter pilots;
- The above activity was approved by the Australian Civil Aviation Safety Authority;
- Duggan was an active member of the Australian Chamber of Commerce in Beijing when the China/Australia Free Trade Agreement was being negotiated in 2015 which included flight training.

## **Incarceration**

Classed as an extremely high risk prisoner, Mr Duggan was held in maximum security a two-by-four-metre cell at Lithgow Gaol for 19 months, although he has recently been transferred to Wellington. Separation from his wife Saffrine and six children has contributed markedly to his psychological distress. He was subjected to lengthy solitary confinement and for the first year he was shackled, to the amazement of Lithgow prison staff. Saffrine Duggan has approached the United Nations human rights committee claiming that her husband’s imprisonment is severe and unjustified.

As Mr Duggan is accused of money laundering, the United States, astoundingly, has prevented his wife from selling her home in order to fund his defence, despite her undertaking to have the amount that is the subject of alleged laundering held in trust.

As mentioned before, if the extradition laws of Australia can countenance this sort of treatment of a person, it is clear that the laws should be changed.

## **Intelligence Services**

Serious concerns have been raised about the involvement of the Australian Security Intelligence Organisation (ASIO) throughout the events summarised above.

Mr Duggan maintains that an ASIO officer approached him in late 2012 after he returned to Australia from South Africa, ostensibly about the renewal of his Aviation Security ID Card.

At a consequent meeting, which was attended by a US official from the Naval Criminal Investigative Service as well as two officers from ASIO, it was suggested that while carrying on his legitimate business operations in China Duggan could gather sensitive information and make senior contacts that could be useful to ASIO. Duggan feared that such requests could put his family at risk. It is not known whether Duggan actually provided any information to ASIO.

Duggan says he did not contact the ASIO officer while he was in China but communicated with a former Consular official for safety and security instead.

After Su Bin was arrested in Canada in June 2014 on unrelated charges, the Chinese barred Duggan from leaving China for seven years, intimating that he had been involved with the arrest. Duggan says he knew that ASIO would have been aware of the risk he faced as they knew that Su Bin was also his agent. Duggan returned to his family in Australia as soon as the travel ban by China was lifted, securing beforehand an ASIO assessment as he had done every two years previously.

In September 2022 another ASIO agent met with him and said a longer meeting for debriefing would be organised involving several agents. Then, after repeated attempts to contact ASIO, Duggan received an email informing him that his new ID had been cancelled due to an adverse security

assessment. He received a formal letter to that effect signed by ASIO Chief Mike Burgess. It is unclear why he had been given clearance by ASIO so soon before an adverse ID finding.

Minimal contact was made with ASIO early in October 2022. However, he was arrested on 21 October that year and placed in Lithgow maximum security prison.

Duggan complained to the Australian Inspector General of Intelligence and Security (IGIS) about the conduct of ASIO before he was provided with the US indictment. IGIS found some impropriety in ASIO's behaviour, although the full IGIS report is classified so the nature of the irregularity is unknown. IGIS also began a formal inquiry after Duggan's legal team argued that an ASIO clearance for the Australian aviation security ID card was used illegally to entice him to return to Australia, where he was arrested.

ASIO has said that a secret inquiry by the IGIS into its dealings with Duggan found that all of his complaints and allegations were unfounded.

In May 2024, a magistrate ruled that Duggan could be extradited to the US. As Federal Attorney-General, Mr Dreyfus, you must now decide whether the extradition should proceed.

## **Conclusion**

This matter goes to the heart of Australian democratic rights and the responsibilities of those with political power.

We believe that political influence is affecting this situation. We believe the continual compliance of Australia with US desires and the challenges to both the US and Australia posed by China are immense forces that are dictating the victimisation of Daniel Duggan. The case against him is weak, depends on a series of unfortunate circumstances, and is peppered with unproven assertions, lack of evidence, errors of fact and the questionable involvement of ASIO.

The Josephite Justice Network is deeply concerned at the possibility that he could be incarcerated for decades on such flimsy grounds, and so we ask you to refuse to hand Daniel Duggan over to the United States.

Yours sincerely,



Sister Susan Connelly RSJ



Sister Jan Barnett RSJ



Sister Josephine Mitchell RSJ

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