

UK Drone Killings: PM must Publish Intelligence Committee Report

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Soon after it had been re-constituted in the new parliament, the Intelligence and Security Committee (ISC) issued a [statement](#) in October 2015 saying that an investigation into the drone strikes in which British nationals were killed was an “immediate priority”.

Fifteen months later, in December 2016, the Intelligence and Security Committee (ISC) put a [short note](#) on its website saying that it had handed over its report, *UK Lethal Drone Strikes in Syria*, to the Prime Minister after completing its inquiry and expected a redacted version would be published in the New Year. Four months later we are still waiting.

While the Joint Human Rights Committee (JHRC) undertook a more general investigation into the policy and legal basis of British forces using armed drones for targeted killing (their [report was published in May 2016](#)), the ISC inquiry looked much more specifically at the UK drone strike targeting Reyaad Khan, as well as the involvement of the UK in further targeted drone strikes against British citizens including [Junaid Hussein](#) and [Mohammed Emwazi](#) in Syria.

However, at the Liaison Committee in January 2016, where the Chairs of the main select committees have an opportunity to directly question the Prime Minister, it [emerged](#) that the ISC would not necessarily have access to all the intelligence that led to the strikes in which UK drones were involved. It appeared that the Committee was barred from seeing military intelligence from “current operations” and the sticking point was whether the strikes on Khan and others were still part of “current operations”.

Andrew Tyrie, Chair of the Liaison Committee [stated](#) after the meeting:

“On the basis of today’s evidence, the intelligence and security committee will not be able to do a thorough job. The prime minister should reconsider his decision to prevent the ISC from looking at information on the military aspects of the drone strikes. Unless he permits this, the ISC will be incapable of providing reassurance to parliament and the public that the strikes were both necessary and proportionate.”



Dominic Grieve MP, Chair of the Intelligence and Security Committee

Soon after the meeting, the Chair of the ISC, Dominic Grieve [wrote](#) to the Harriet Harman stating that while

“it has taken rather longer than we had hoped to finalise the scope of our Inquiry and to reach agreement on the disclosure of material to the Committee.... I can now say that we have reached agreement and this had been confirmed in a letter from the Prime Minister...”

While the exact scope of the inquiry has yet to emerge, in the January 2016 letter to Harman, Grieve wrote:



INTELLIGENCE AND SECURITY COMMITTEE OF PARLIAMENT



“Where the ISC can bring a unique contribution to Parliament collective oversight of this policy is in its statutory power to access highly classified material and its ability to examine the intelligence which led to the decision to conduct the operation. How serious and imminent was the threat and what would have been the consequences of inaction? What intelligence was there regarding the viability or otherwise of actions, including possible arrest and other disruption options?”

A serious and imminent threat?

The imminence and seriousness of the threat from Khan, Hussein and others is at the heart of the issue. In February this year, the Sunday Times [reported](#) that some intelligence officials had opposed the drone strike on Khan as he did not pose an imminent threat. The paper reported:

An intelligence official opposed to the strike said that while Khan had gone on to become a poster boy for Isis and a prolific Twitter user who acted as a propagandist, there was no evidence that he posed an imminent threat.

“The imminence related to inspiring attacks around the world but there was not a specific attack to pin them down,” the source said.

“Many intelligence officials were opposed to the extrajudicial killing, not because we’re opposed to defeating Isis but because we weren’t convinced that drone strike reached the legal threshold.”

Another intelligence official familiar with the “discussion and debates” in the lead-up to the attack said several officials from MI5 and GCHQ had questioned the imminence of the threat posed by Khan.

The legal basis for the drone strike of self-defence is spelt out in article 51 of the UN charter. The “Caroline principles” state the threat must be “instant, overwhelming, leaving no choice of means and no moment of deliberation”.

As well as intelligence officials, it seems that RAF officers too expressed disquiet about the attack. In November 2015, The Telegraph reported that there had been a “[serious debate](#)” among serving RAF officers about the policy shift that had led to the strike on Khan.

While it seems from media reports that Khan and others sought to inspire attacks against UK citizens, it is far from clear whether this reached [the threshold to launch a pre-emptive strike under international law](#). This is perhaps why that the UK Attorney General, Jeremy Wright, argued in a [speech](#) at the International Institute for Strategic Studies in January 2017 that it was necessary to [re-define the understanding of ‘imminence’](#) in regard to self-defence, to enable the expansion of the ability to undertake pre-emptive armed attacks against potential threats.

It was also notable that the Attorney General [argued](#) that the UK has the right, as a last resort, to use lethal force against those who, as Wright put it “inspire, enable or direct attacks” from overseas. Those three activities are individually very different, and combining them in this way alongside the notion that evidence of an actual and specific attack is not necessary is extremely disturbing.

As we have argued for some time it seems that advent of armed drones is lowering the threshold for the use of armed force. The UK would not have sent piloted aircraft into Syria so soon after Parliament had [specifically restricted the use of force against ISIS to Iraq](#). Yet within six weeks, British drones were being [sent across the border into Syria](#) to support US strikes. Their presence in Syria - on operations beyond that authorised by Parliament - enabled a decision, clearly opposed by some, to carry out the targeted killing of British citizens on questionable legal grounds.

Although it is unlikely the ISC’s report will seriously challenge the Government’s position - and will no doubt be redacted - it *should* shine some much needed light on this important issue and spark a renewed debate on the legality and efficacy of drone targeted killing. It will be particularly helpful if the report indicates how the [UK National Security Council](#) handled the intelligence and made its decision to launch a lethal strike. It’s high time the report was published.

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