

Oral evidence: APPG Inquiry into [‘The Use of Armed Drones: Working with Partners’](#)

Wednesday 8 March 2017

Witnesses: Namir Shabibi; Jennifer Gibson; Eric King

Inquiry Members present: Kirsten Oswald MP; Lord Hodgson of Astley Abbots; Baroness Stern; Clive Lewis MP

Other Members present: Julian Lewis MP; Lord West of Spithead; Lord Hannay of Chiswick; Mike Gapes MP; Lord Hamilton of Epsom

Chair: Professor Michael Clarke

Q1 Prof Clarke (Chair): Lords, members, ladies and gentlemen, and our witnesses, thank you for being here today. This is the second evidence session of the All Party Parliamentary Group on Drones inquiry into drones and drones technology, particularly alliance relationships and partnerships, and we're very grateful that our witnesses today could be with us. I'll ask our three witnesses just to introduce themselves, and say a word about themselves, and we will get straight on to the questions.

Eric King: My name's Eric King, I am here in my own capacity. I'm a visiting lecturer at Queen Mary University, where I teach on intelligence and surveillance law. For the last year, I was leading a number of NGOs in a coalition focused on improving the human rights safeguards in the Investigatory Powers Act. Prior to that, for a number of years, I was the deputy director at Privacy International, where I worked on human rights and signals intelligence in various forms. So, my expertise is really as an outsider, looking at intelligence collection, rather than any expertise particularly focussed on targeted killing and drones, but I hope my witness evidence will be of assistance.

Namir Shabibi: A fellow outsider, but for different reasons. I'm an investigative reporter. I write for Vice News, Foreign Policy, and The Bureau of Investigative Journalism. The most relevant series of work that I did was last year, last April. I published a series in Vice News about the collaboration between MI6, or SIS, and the CIA in its targeted killing programme in Yemen.

Jennifer Gibson: I'm a US lawyer at Reprieve, where I lead the organisation's work on behalf of civilians caught up in the drone strikes taking place in places like Pakistan and Yemen, outside traditional areas of active hostilities. We've been looking at the issues since 2010, investigating both on the ground, and litigating in the courts about it.

Prof Clarke: My name is Michael Clarke, the independent chair of the panel. As this is an All-Party Group, members of the Commons and Lords in addition to members of the inquiry panel may pitch in at my discretion. So, if I may, we'd like to begin with Eric, just looking at the material that you cover, we think that's a logical starting point. So, Robin, would you like to begin? Thank you.

Q2 Lord Hodgson: I wonder if you could start by setting the scene for US-UK intelligence sharing. It's a history I'd like to develop, with particular examples, recent examples of where information has been shared. In particular, from my point of view, is it a relationship amongst equals, or are there are reasons to believe that there is one side who is dominating the other?

Eric King: Very interesting. Yes, so it will be no surprise to the committee, Britain's largest and longest partner is, of course, the United States, in intelligence, this was formed in the aftermath of World War II primarily. It continues to this day, in the form of the UKUSA arrangement. The majority of the rules, or guidance, or governance that make up that arrangement were disclosed. I think it was in 2007. They were declassified by the NSA and GCHQ at roughly the same time. All that documentation is, of course, historical, I think it goes up to about 1956, perhaps. The rough summary of what the arrangement, kind of, covers, is such that all material collected, without prejudice, would be shared with the other party. That is material collected by GCHQ would be shared to NSA, saving for some circumstances where it wouldn't be in the national interest to do so. It also began to set up the rough constraints of the sharing of intercept systems themselves, so not just the sharing of material that they obtained, but also the development of technologies that would be jointly deployed. It also created joint intercept bases, so the creation, particularly in Australia, which is now run by the Australian Signals Directorate, the Australian intelligence agencies, and to this day, it continues in various forms. We do not have a copy of it, as it stands right now. I've requested it in various forms-

Prof Clarke: Is it the UKUSA agreement? UK-USA?

Eric King: Yes, this is the UKUSA arrangement, and it is not disclosed. The most recent update we probably have came in the course of litigation. It was disclosed by the agencies while they were defending themselves against allegations made by Edward Snowden. In the course of litigation, the agencies said that the UKUSA arrangement is very firmly still in place. It does still, by default, result in the fact that the majority of material collected by one agency is shared with the other, and we have a very rough idea about how that applies in statute. I won't say much on that, other than to say, under the Regulatory and Investigatory Powers Act, which has governed intelligence sharing to some degree, there are some safeguards. Likewise, under the new Investigatory Powers Act, aspects of those safeguards have improved, although I imagine

they do not meet the standards that committee members might expect, given the wide ranging sharing between the agencies.

Perhaps, to take a very specific example, as it relates to the topic here that we're talking about, Menwith Hill in Yorkshire is a particularly prominent intercept base, foreign satellite intercept base run by the NSA. It has GCHQ staff members there also. They, sort of, work in parallel on various issues, and they have two different codenamed programmes, which forms the majority of their work. One is the Foreign Satellite Interception, which is collecting material from the satellites down on the ground, and then a separate programme called Overhead, which deals with the interception of communications, but from satellites up in space. Where targeted killings take place, a good number of communications are not sent in the same way that you and I send communications. That is, at some point, they end up being sent over satellite. As a result, when they're sent over satellite, the Menwith Hill base is able to acquire those satellite communications, and analyse them, geolocate people making use of those systems, and then for it to be used as those sharing arrangements permit.

Lord Hodgson: So, there are a range of these bases? Just how does it work on a, sort of global basis?

Eric King: It's remarkably stable, to the extent that there's a base in Cyprus, there's a base in Britain, there's a base in Japan, there's a base in Australia, and these are the same bases that the NSA and GCHQ have co-run, although with NSA really at the lead, sort of the last 50 years, in one form or another. I suppose the key thing to take away from this is that the level of integration between the two agencies is such that the overwhelming majority of capability that one agency has, is not just known by the other agency, but is developed also by the agency. The technologies are shared, they have shared staff prizes. If you speak to ex-intelligence officers, depending on your level of seniority, your key card at GCHQ can get you into certain intelligence community bases in the US. It's really very highly interlinked. The only problem, or the real area of concern is, is that, despite this high level of integration, we don't have much in terms of statutory guidance governing that relationship, and nothing in policy that's public. That makes, you know, giving a very clear answer to you quite difficult, I'm afraid.

Lord Hodgson: If information is being passed through Menwith Hill which might lead to an action that was not within the UK's understanding of the law, for example, would that be picked up and noted, or would it just be part of a mass of information that's flowing back and forth?

Eric King: I don't know, is the short answer. I suppose there are two ways to try and work out an answer. The first is that, if it was Menwith Hill intercepting those communications, there would have to be a specific policy in place

where British authorities have required the NSA operating at Menwith Hill to notify them when they obtain communications that might subsequently be used in drone strikes or similar. I haven't read anything about that, but that isn't to say it doesn't exist, but I just haven't seen it. The second aspect of that is, if it's not intercepted at Menwith Hill, but let's say it's intercepted by GCHQ in one of its many bases, both in the UK and overseas, that material, collected in its raw, large form, more likely than not, would be shared to NSA. Now, what limits NSA from being able to make use of that material as part of a range of different sources in order to develop its targeting package before conducting a strike? The answer to that is, based on what we can see publicly, not an awful lot. Again, that isn't to say that something doesn't exist, but there's certainly nothing in statute or in policy that prohibits it, and I've not seen the seen a statement from the agencies one way or the other that clears that up. There are some things to suggest that, including material quite recently, that there's definitely not something in place. I'll quote one thing if I may. This is from a report in the New York Times, Iain Lobban in 2014 I believe.

Prof Clarke: Iain Lobban?

Eric King: Yes.

Prof Clarke: Former director of GCHQ?

Eric King: Former director of GCHQ, was going to meet his counterpart in the United States, and the briefing notes for this meeting were made public, and were reported by the New York Times. In it, one of the talking points there, was Iain Lobban asking, 'What safeguards NSA may be putting in place to prevent UK data being provided to others, the Israelis for instance, who might use that intelligence to conduct lethal operations?' So this was in early 2014. Now, what I take away from this, in reading this, is that one, there isn't already something in place that prevents British-collected data from being shared to the NSA, and then shared onwards again for use in lethal operations. Two, there's no plans for anything to be put in place, this is in 2014, on the basis that he's asking what might we do.

Prof Clarke: Eric, you mentioned earlier on, in passing, the Investigatory Powers Act of 2016. Do you see anything in the Act which might apply in this case?

Eric King: In theory, yes. There are controls, as there were in RIPA, that essentially require the Secretary of State to satisfy herself that there are adequate arrangements in place in any agency, foreign agency, that's receiving information collected by the United Kingdom. The problem with it is that I don't know what standards the Secretary of State has set, there's never been a statement made. She might be satisfied simply by there being a policy in place, even if the policy itself is terrible, and falls far short of something that we might have here, it might not meet equivalence, and of course it's discretionary,

meaning it can change from one week, potentially to the next. The Investigatory Powers Act essentially continues that requirement, as it was in RIPA, as well as making one additional requirement, which says that the Secretary of State must expressly satisfy herself that the selection of material also meets this standard, which essentially is adding to the list of criteria, but it doesn't tackle head on the point that we're talking about.

Prof Clarke: Presumably you will agree that the Secretary of State, at least in principle, can be brought before Parliament, and have to explain the way he or she has interpreted that responsibility?

Eric King: I think it would be very helpful to have some sort of public statement on how this is applied in practice.

Lord West: Can I just clarify one thing that was said? That is that, whilst NSA and GCHQ completely share information, indeed there will be collection being done by GCHQ through the various asset and abilities it's got, which will then be analysed in the US also, there are certain areas that have been agreed that the Americans will collect and we analyse, and then that information is shared. You gave the indication that then things might be passed on to the Israelis. We have an agreement that no information is passed to any other party. That was part of the '47 agreement, and it's been kept up. So, if they're doing that, I would love to know it. Unless we've actually agreed it, they're not allowed to pass to another authority.

Prof Clarke: Would you like to comment on that, Eric?

Eric King: No, I think that's broadly right.

Lord West: That's exactly right, exactly right.

Eric King: Forgive me. I have seen some examples where material collected by GCHQ doesn't enter into a pool shared with NSA, but is instead shared into a broader pool, so pools of information collected by Five Eyes-

Lord West: My point was that they won't pass stuff to another party, because we have an agreement that that will not be done. So our intelligence will not be passed onto another without our agreement. Similarly, that's what we've agreed that we wouldn't do to American intelligence.

Prof Clarke: Okay, thank you. We're going to move on, in the sense that all three witnesses are very welcome to pitch in on any of these issues, but I'd like to move-, well, I'm going to move onto another area now, actually. Do you want to comment on some of that, Namir?

Namir Shabibi: May I? Yes, a conversation I had last year with a former senior CIA official, spoke about this conversation in the context of Yemen, and if I could just quote a couple of paragraphs from the official. The official says, about Yemen and in the context of sharing between the CIA and SIS, 'There's a constant process of sharing that goes on. It's a process for sharing that goes on that occasionally results in something that is ultimately actionable, and occasionally it's publicly known, that there were one or two very high profile cases where there was very clear co-ordination and co-operation. Otherwise, I would generally characterise it as general sharing of intelligence that very occasionally might result in something that's actionable. When you look at the frequency of actions, there is not that much. If you look at what the capabilities are each side has, that starts to tell you something about precisely where the actionable intelligence comes from.' I'll elaborate on the last point in a moment, but what the former official goes on to say is that generally, 'Generally the stovepipes are less in the field, and the sharing was very, very extensive with the coalition,' that's the Five Eyes coalition, 'Largely within the Five Eyes community, but particularly with the Brits.'

Q3 Kirsten Oswald: You began to talk about this briefly, but I wonder if you can tell us more about your investigation into the involvement of UK agencies with the US drone programme in Yemen, giving us a bit more background detail?

Namir Shabibi: Well, our contribution, as the UK, really spikes after Christmas of 2009, when there was the failed underwear bombing, or failed underwear bombing over Detroit. As a result of that failed bombing, Gordon Brown told us that Yemen had become one of the priorities for counter terrorism. At the same time, GCHQ, along with its partners the NSA and Australian Signals Intelligence, prioritised Yemen as part of its Overhead programme, so its satellite signals intelligence surveillance programme. Our contribution was twofold. We had a team of surveillance operatives from SIS, who were mentoring the Yemeni intelligence service on a part of the drone programme that is crucial to finding and tracking targets. So in the targeting cycle, you have the three Fs, the Find, Fix and Finish, and of course the E afterwards, which is the Exploit. The Yemeni National Security Bureau, which we were mentoring through SIS, were responsible for identifying and tracking those targets, and we were there, with them, every step of the way. We typically had a team of four. Two of those were, typically, SIS regular agents from the surveillance team. The other two were sometimes from the Special Reconnaissance Regiment, an agency of the UK Special Forces.

In parallel with that, we had also, at the senior diplomatic level, in the words of former US Ambassador to Yemen Stephen Seche, 'We had a joint targeting list, so the UK and US would sit together, and collate actionable intelligence into what's called a target package, for the CIA then to act on.' Also in the

field we have, as we do elsewhere in the world, what's called a Joint Counter Terrorism Training and Advisory Team. That Joint Counter Terrorism training, or JCTTAT, if you like, was mentoring a paramilitary unit called the Central Security Forces, in Yemen. That Central Security Force, we helped set up for it an intelligence fusion centre, in which it would bring in intelligence from the field, and the CIA would collect that intelligence on a weekly basis. So all of that would feed into the targeting cycle. Again, I stress, where we were absolutely essential, was in the Find and Fix element, so in other words, identifying targets, and tracking them through our surveillance operatives working with Yemeni National Intelligence. The CIA would do the execution of the work, which is, in the words of various drone pilots, 'The easiest part of that cycle.'

Kirsten Oswald: Following on from that, then, are you telling us that the UK Government would be advised when a US drone strike had been carried out against a target that been located by the UK? Is that your understanding, or is that not quite where you're going?

Namir Shabibi: I'll take one particular case. In March of 2012, there was a CIA drone strike on a mid-level Al-Qaeda operative. That strike killed the militant and his associate, in a place called Azan in Yemen. Six children were injured, and one civilian bystander was killed. The Find and the Fix for that particular target was done by an agent recruited by SIS, of Saudi origin. They went in under SIS mentoring, infiltrated AQAP, ended up with a list of about nine targets, and there were-, I say nine only because I know that there were nine strikes that followed that agent's intelligence. That agent, who was undercover with Al-Qaeda, was able to place some kind of electronic tagging device on the vehicle of the Al-Qaeda operative. The overhead surveillance programme, of which GCHQ is a part, tracked that vehicle, and then passed that intelligence on the vehicle's location to the CIA to take the strike. Does, therefore, SIS and the UK Embassy in Yemen know that this is where their intelligence went? Absolutely.

Kirsten Oswald: Are there understood parameters, then, within which information would be shared?

Namir Shabibi: I don't know so much about parameters. I know that there was great consternation in the UK Government, and indeed in the US Government, when the CIA broadened its targeting criteria from targeting high-level Al-Qaeda operatives in Yemen, to targeting mid-level people who they don't know, administrators, fixers, logisticians in a programme of what's known as 'signature strikes.' In other words, they take strikes based on observable signatures, such as a group of men of a certain age holding Kalashnikovs. The UK was very uncomfortable about that, and for that reason, in 2012, our MOD Joint Counter Terrorism Training and Advisory Team stopped working with the Yemeni agency that would pass on its

intelligence product to the CIA. However, SIS co-operation with the CIA did not stop, and I was told, by a former British official familiar with counter terrorism actions in Yemen, that they cannot remember a single strike in Yemen in which Britain had not played a part.

Q4 Clive Lewis: I want to get at this issue of a division of labour that there seems to be here. Lord West picked up on the integration that exists between the US and the UK intelligence services, and is it because of technical capabilities? So, has there been some kind of agreement, whereby the British kind of specialise in a specific type of tracking, or technological ability, and therefore they say, 'Okay, you work on this, whereas we'll work on these other areas, maybe the actual kill capability, and we'll do that.' Or is it more about the nature of the restrictions in each country, or a combination of all? I'm just working out, if you've got this integration, you know what each other's capabilities are. You could then mimic those capabilities and do them yourselves. So why use us if it's not for our technological capability or our logistics?

Namir Shabibi: I don't mean to take the easy option by saying it's a mixture of both, but I genuinely think it is in this case. The reason why the US won't go it alone is because, at least in the case of Yemen, and I think Jen will speak to Pakistan shortly, that we have very long-standing relationships with tribes, which are the bedrock of social relations in Yemen. If you don't have relations with the tribal structure appropriately, and you don't have the right contacts, you cannot even to begin to deal with that tribe, you'll be considered a hostile enemy. So, what the British had was, first of all, that pre-existing, long-standing relationship that goes back to colonial times. The second thing the British had, also, was a greater freedom to engage their Yemenis partners, such that they had greater trust. One of the British officials at the UK Embassy in Yemen was described by one of his counterparts as, 'Going totally native,' in other words, they would chew khat, that stimulant drug, about four times a week with their Yemeni counterparts. Therefore they were able to build a level of relationship that their American counterparts weren't, because they were holed up in the Embassy.

There are other, I can't speak so much to the technical side, I think Eric can, but it's well known that everywhere I go, and speak to people, they always say, 'The US have the best tech,' and where we have the best human resources, or at least social relations with the communities that we're dealing with. So that's the division of labour. I also think that there is-, we are clearer in our rules about what we can and cannot do. The source of those rules, I think someone with better legal knowledge can speak to that, but there are certainly-, we drew the line at signature strikes, at least the MOD did, SIS did not.

Q5 Baroness Stern: Could I come in on something extremely up to date, which is President Trump's raid on Yemen. I think you investigated this, could you tell us a bit about your investigation?

Prof Clarke: This is the raid on 28 January?

Baroness Stern: Yes.

Namir Shabibi: I can tell you what I think, to begin with, what I think worries me most about that, and I think what is most relevant for this committee. For at least five years, we've had three British military embeds in Camp Lemonnier, which is the nerve centre and launch pad for US special operations in Yemen. More information is to come out, watch this space about those particular embeds, but I think questions need to be asked about to what extent they were involved in either the planning, the intelligence, or any other aspect of that bungled raid. Now, the raid itself, there are many contradictory statements about it, but it seems that the Trump administration had decided to green-light a raid that President Obama had repeatedly refused to authorise, and that was probably a raid to target the Yemeni heads of AQAP. No-one who's serious believes that a special force raid of some 50 special operatives would descend on a Yemeni village just for the sake of site exploitation, or gathering intelligence, no-one believes that.

The raids proceeded around 2:30 in the morning on the 29th of January. Around 50 US special operatives, flanked by special operatives of the UAE, attacked a village. What happened in the first instance was a child, whose age I don't remember, but it was a young child, stepped out, and called out to the special operatives when they saw them, and was shot dead. From that point, what I know from the ground, is that a number of Yemeni tribesmen then engaged the special operatives, and Al-Qaeda, who were in the nearby mountains, there's no doubt about that, also descended to engage in the fight, and the rest is a bloodbath of 25 civilians killed, including nine young children.

Baroness Stern: Why did President Obama keep refusing to do it?

Namir Shabibi: Probably because it was such an extremely risky raid in the heart of a civilian town, and not an Al-Qaeda camp. That much I can speculate.

Baroness Stern: Okay, and the number of people killed, and the nine children, is this acknowledged by the US, or are we hoping it will be?

Namir Shabibi: Well, every time I've asked Central Command have they opened a formal investigation, they've said, 'When we receive sufficient evidence.' However, they have told other journalists that up to three formal investigations have been opened. Insofar as their account of the numbers killed, when a journalist put my investigation, that's the Bureau of Investigative

Journalism's investigation, to a senior US official, the senior US official did not dispute those figures.

Baroness Stern: Yes, and the Yemeni Government, did they respond?

Namir Shabibi: They did. They made some noises, but the Yemeni Government is, well, it's had no sovereignty since 2014 and, let me just add to that, a former head of the Yemeni air force once said, in 2013, he did not know when the US was conducting an air raid, a lot of the air raids, at least, in the country. So it begs the question.

Baroness Stern: Finally, what are the implications of all of this to the UK?

Namir Shabibi: Well, what we know, what the former head of Yemeni Intelligence told me last year, on the record, was that British intelligence sharing with the US continued, despite the collapse of the Yemeni state in 2014-15. I don't know whether British intelligence or planning went into that Special Forces raid, but I think our Government has questions to answer on that.

Prof Clarke: Just before we move on a bit, I mean, you made a number of very important, very detailed statements, and I guess you would describe yourself as an investigative journalist, with the Bureau of Investigative Journalism. How would you characterise your sources? What should we absorb in terms of the nature of the sources that you use, and your own confidence in them?

Namir Shabibi: There's only so much I can say, but on the investigation of last year, I spoke to a number of very senior US, British and Yemeni officials. Quite a number of them are on the record, and former US Ambassador to Yemen Seche is the one who said we have a joint targeting list, and we triangulate our intelligence. Again, it's the-, don't take it from me, take it from the former head of Yemeni intelligence, who said, 'It was thanks to British surveillance teams mentoring our own teams, that we were successful in finding and fixing targets.' So the anonymised testimony was only used to support the other testimony that was given on the record.

Prof Clarke: So you're confident that you can triangulate material to cross-referenced sources as far as possible?

Namir Shabibi: Absolutely, because of the sensitivity of this investigation, my colleague and I, Jack Watling, endeavoured to triple-source information, at the very least, of course, double-source, but triple-source in nearly every instance.

Q6 Clive Lewis: Hello, Jennifer. You deal with both the US and UK, and also the embeds side of things. So if we stick on the UK air stations, and US air bases first of all. Just give us an oversight of your research, and with specific reference to how it interacts with the US drone programme.

Jennifer Gibson: Yes, it's actually going to, I think, play nicely off some of the stuff that they said, so I might intertwine it with comments that both of them have made. Reprieve have been looking at the US bases in the UK for several years now, because concerns started to be raised about what was going on at those bases, and how those bases played into a broad infrastructure around drones. I think what's important to remember with these drone strikes, and Namir's alluded to it with the Find, Fix and Finish, is that there is one person who hits the button, but there's an entire machinery that identifies the target, and then puts the target in the line of sight. So the pressing of the button, the so-called finish, is actually relatively low in terms of the sophistication needed, aside from the fact that the drone itself is sophisticated. Much of where the difficulty comes in, and the most challenging parts, are the finding and the fixing of the targets that then wind up on the list to get killed. There are several US bases here in the UK that appear to have a variety of different involvements, and so I'll go through a little bit of how the involvement seems to play out.

The first is there is a base called RAF Croughton that appears to have a direct communications link with Djibouti, which is the base that Namir was talking about, where most of the Yemen drone strikes are happening, there is also a base in Saudi. That communications link-up, there has been a lot of suggestion, is for, kind of, full-motion video, that type of intelligence link-up that would allow them to communicate around these drone strikes, and see what was going on. So, full-motion video analysis is one of the key roles, analysing what the drone is seeing. Questions around that base, questions around that communication link-up, were met repeatedly with evasions from the Government, and this is the typical type of evasion that you would get. You would ask whether the UK Government was aware of what was going on at Croughton, and what knowledge they had of the role of this link-up to Djibouti, and the response would be, 'The US is not flying drones from UK bases.' Now the flying of the drone is very different from the targeting. We rephrased the question in a different way, and the response would still come back, 'The US is not flying drones from the UK.'

Another way the bases have been tied to the operations going on in various parts of the world, not just Yemen and Pakistan, but you've had job adverts, particularly for RAF Molesworth, where you have Booz Allen Hamilton and some of the major US defence contractors putting out job adverts for things like, 'An all-source analyst whose job is to perform a variety of advanced targeting operations in support of employment of GPS-guided weapons, weaponising, and collateral estimation, as well as utilising tools required for advanced targeting.' That same base has a Reaper ISR Mission Intelligence Co-ordinator, and a full-motion video analyst whose job is to study video footage taken by drones and other surveillance aircraft in order to identify potential targets. In the case of one of the all-source analysts who is advertised for, they

were specifically required to have knowledge of Africa, and the targeting was for Africa. In other cases, there have been things like Arabic requirements. Now, all of these have spanned several years, so not just the ongoing conflict in Syria or Iraq, but pre-dates that, you can trace them for years.

Prof Clarke: What would be a starting date, Jennifer?

Jennifer Gibson: So some of these job adverts go back to 2012, 2013, so well before, kind of, some of these conflicts became a lot more complicated.

Prof Clarke: Okay, so you could date some things specifically in 2012, not certainly before that, but certainly after that?

Jennifer Gibson: Certainly after that, at RAF Molesworth. You've had similar job adverts for a few of the other bases. Croughton seems to be a bit of a black hole. Now, Croughton, it's important in terms of this intelligence sharing, was the base that was implicated in the Merkel spying, Chancellor Merkel, when she was spied upon by the US, the data went through RAF Croughton, so it appears to be playing a key role in covert operations. In addition to that, in December 2015, at RAF Lakenheath, which is much more known for its operations of manned aircraft, you had the US actually announce plans that it was going to vastly expand its drone programme and its drone bases. The LA Times quotes officials from the Pentagon as saying that they were looking at putting a drone operation centre at RAF Lakenheath in Suffolk. Questions to the Government were again met with evasions. The response from the MOD was that the UK and the US have routine discussions on all aspects of US visiting forces. No further information was forthcoming, despite FOIs, despite PQs. So we don't actually know, post December 2015, whether that operation centre was set up, or what the role of that operation centre is, or what kind of safeguards are in place to make sure that operation centre is not engaged in areas where the UK would have a different legal interpretation than the US. I'll come back to that point in a minute, because it might be that part of this is the legal interpretation these days.

At Menwith Hill, which Eric spoke about, in addition to what's known about the Five Eyes sharing, and what's there, was an investigation based on leaked Snowden documents published by the intercept in September of 2016, they released several of the documents with that. As part of the investigation, they named a number of programmes, Ghost Hunter, Ghost Wolf, Apparition, all involved in identifying targets at Yemeni cafes, of suspected Al-Qaeda terrorists. Much of it was metadata surveillance based. What's quite unique about the investigation of this story, is not only did they say there are 600 UK personnel at that base, but they had the MOD coming out saying that they knew what was going on there, and they approved of what was going on there. From December, they cited the December 2014 PQ, in which the UK

Government assured everyone that they were on top of what was going on in Menwith Hill, and completely happy with what was going on. Then the documents that were released underneath it, one of them specifically talked about a programme in which targets, and I'll just read the document to you. It says, 'In the short time that results from this technique have been available, many targets have been located to these cafes, including targets tasked by several target officers at NSA and GCHQ.' So they went one step further in the document, and the documents actually show what appears to be joint operations, rather than wholesale intelligence sharing or analysis.

Clive Lewis: You mentioned that the UK Government said they were happy with what was happening. What formal frameworks for oversight are there, in this country, to ensure that they are happy and they know what's going on?

Jennifer Gibson: Well, so this is a really interesting question, because we've asked several times about the various bases, and what oversight mechanisms exist. Is there an RAF commander there? How much are they told? How much do they know? How much are they treating this as sovereign territory? You get very confusing answers, and so I'm probably going to give you a very confusing answer back, which is, there's anything from answers that, 'We are satisfied with the arrangements that are in place.' Which doesn't really answer anything, because they won't then tell you what the arrangements are that are in place, to, 'We don't have details of what are taking place.' They've answered that in a PQ in relation to one of the bases, but that generally these are guided by the original MOU that would have set up the base, to the unique response in relation to Menwith Hill, which was pre this information coming out, which was, 'We're aware of what's going on, and we're satisfied with what's taking place.' On RAF Lakenheath it's slightly different, because that base has also been used to take manned airstrikes in Libya in the past year. Somewhat controversially, the Defence Secretary came out and said he had authorised those individual missions from Lakenheath.

Clive Lewis: on Twitter.

Jennifer Gibson: Yes, on Twitter, and that he was quite confident he'd done so after a legal analysis of some sort. Now, at the time, there were a lot of questions about how that legal analysis could have complied with what everyone understood to be the British position. In January of this year, the Attorney General took the unique step of clarifying that the UK had expanded its definition of 'imminence' to almost exactly mirror that of the US. In that context, under that definition, it may now make sense as to how it got approved. Now, we would contest that that definition is accurate, or in any way representative of international law, but that might explain the Lakenheath strike.

Q7 Kirsten Oswald: I just wanted to ask a little bit about embedded personnel, and what your thoughts are on what kind of information is actually released, whether that is suggesting either an increase or a decrease in numbers, and how actually it works in practice?

Prof Clarke: Yes, so UK personnel embedded with American forces?

Jennifer Gibson: Yes, the embedded phenomenon, we don't know, unfortunately, a lot more than we knew in July of 2015, when Reprieve investigated the involvement of embedded personnel in Syria strikes prior to Parliamentary authorisation. At the time the Defence Secretary came out, and he promised that he'd answer any question anyone had on embeds, that this was not a big secret, and that these were British officers still following British rules of engagement. To his credit, in December, he did, of that year, December 2015, publish a list of embeds. The list was a cumulative list of the year, according to the MOD, but categorised things such that you couldn't actually tell what the embeds were doing. So there were seven miscellaneous coalitions listed, that had several dozen embeds. When we went back and asked, 'Which coalitions are these? Is this the NATO coalition in Afghanistan? Is this the coalition in Iraq? Is this a coalition we don't know about?' We didn't get an answer. It was NCND'd. He promised to publish that annually, he did not publish that in December of 2016. The MOD didn't publish further information. We've asked for it and not received it. In terms of how the embeds work, we are currently investigating that, and still trying to piece it together.

From our understanding in documents we've obtained thus far, it appears that there are three-, there are embeds, and then there are two different ways of loaning your personnel that are different from embeds. So embeds tend to be for training purposes, there is also something called the loaning service, and then secondments. Now the loaning service, in that instance, they remain on the MOD books. They remain paid by the MOD, they remain in position at the MOD. From what we've seen so far, and we still, I caution that we're still piecing it together, but secondments are something different, they fall off the MOD books, so they stop being MOD personnel, and they become the personnel of another agency within the British Government, or another country's forces. That means they're no longer under British rules of engagement, they're no longer under British law, but they have the right of return. So it appears to be a way of evading the need to, kind of, oversee your personnel when you're putting them in situations where they potentially won't be carrying out activities you want to disclose.

Q8 Lord Hodgson: Could I just ask you, Djibouti, which seems to me on the apex of the area where we've got quite a concern about Government pulling back in some ways the SIS, not pulling back. In Addis Ababa, where I happened to visit, there are clearly British personnel who are on secondment, because they are talking about

being Addis, and I've voiced it in committee. I mean, do we have any information about how they fit in, where they fit into the scheme that you were describing?

Jennifer Gibson: So, if they're saying they're seconded, and this is where it's all a bit opaque and we're trying to get more information from the Government, if I ask the MOD how many military-, this fits into, a little bit, about what Namir's saying about how many individuals are in various countries. We've asked in the past, for example in Yemen, how many MOD personnel are in Yemen, and we get a response that there are two or three, and they're all at the Embassy, and here are their positions. Then a month later it's reported that two dozen Special Forces, or two dozen MOD personnel are pulled out of Yemen, when the civil war broke out. What we think explains some of that, and will explain some of what you're asking for, if they're saying they're seconded, the MOD doesn't have to claim them as their own, because at that point at which they're seconded, they're not MOD personnel. They have the right to return, but they're not MOD.

Lord West: I want some clarity on that, I don't think that's right. A seconded officer, for example, I mean, I've been a seconded officer, you're still tied by British ROE. For example, say you're flying a jet, if that carrier you're on is an American carrier, is doing certain strikes, you have to say, 'Sorry, the UK is not striking this particular country.' The Americans know that as well, and you don't do it. Then similarly, when we were at the Falklands, I had seconded officers on my ship, and the Australians at that stage were not fighting for the Falklands, and they said, 'Well, sorry,' and I had to land them. So I don't think it's right say that seconded officers don't follow the ROE, and aren't under the control of their Government. They're seconded, yes, they're in the chain of command, and you're taking orders from the guy above, but you're not an American officer suddenly.

Prof Clarke: OK, we'll take that on board as a statement.

Jennifer Gibson: Yes, yes.

Lord Hamilton: Can I come back on Special Forces? I mean, the Government has never commented on Special Forces.

Jennifer Gibson: Yes, yes.

Lord Hamilton: So therefore, whether they're in or whether they're out, they may announce that they're coming out, but it doesn't mean they ever acknowledged that they were in there at the beginning. So you can't count the heads, because they don't count.

Jennifer Gibson: No, no, and I think the difference here though is, from our perspective, what I'd push back on, is that the answer's quite misleading then, right? When the question is, 'How many MOD personnel are in the country?'

Lord Hamilton: Well if they're Special Forces they won't comment

Jennifer Gibson: Yes, no, no, absolutely, but then the response wasn't, 'No comment.' The response was, 'Three.' So, you know-,

Lord Hamilton: Well, they were talking about the ones they will open up about

Jennifer Gibson: Yes, yes, no, I know, and it's semantics, but I think it bears relation to the greater UK involvement in Yemen that's not really being disclosed at the moment by the Government.

Q9 Prof Clarke: I just want to go through, ask each of the witnesses to leave us with a headline, as it were, sorry, you might want think about that, but-,

Namir Shabibi: Can I just add a comment to the conversation about secondment, and it's importance in the context of Yemen. As I mentioned earlier there were, at one point, at least two special reconnaissance regiment personnel. Those personnel were acting under the aegis of SIS, in other words the FCO, which is why the MOD were able to say to Reprieve in 2014, when Reprieve asked about British military involvement in the drone war in Yemen, it said, in 2014, 'The UK does not provide any military support to the US campaign of remotely piloted aircraft strikes on Yemen.' That's because, through the process of secondment, the involvement of Special Forces, under the aegis of SIS, allows MOD personnel involvement to be completely and plausibly deniable.

Prof Clarke: Yes, understood, thank you.

Lord West: Actually, could I just make another statement as well though, that there are some very, I know, because I put them in place in 2010, strict rules now for SIS and the security service, in terms of involvement in things to do with countries like America or Yemen. There are really quite strict guidelines, which they are meant to follow. So, if they're breaking those, if they're doing more than that, then it is something we ought to be aware of, to be quite honest with you.

Prof Clarke: Those guidelines are confidential, presumably?

Lord West: No, we actually published those because there was such pressure on us because of the incidents that there had been in Afghanistan and things like that, where our people were accused of being privy to torture of-, which is not what, you know, we don't torture people, but they're in the same building and part of it. We did it really to protect our own people.

Prof Clarke: Is this the Consolidated Guidance?

Lord West: Absolutely.

Prof Clarke: OK, yes, so we do know about that. Thank you.

Q10 Prof Clarke: I'm going to ask each of the witnesses, we do need to finish now, and thank you very much for your presence here, and your information, it's been very helpful. Let me ask you, I mean, what headline should we take away from your approach to this subject? I'll just go in the order that we started with, so Eric.

Eric King: I suppose that the top line is the fact that GCHQ and NSA co-operation is incredibly integrated. Its oversight is not as well integrated, nor are the statutory rules governing it. Now, if I was in control of, well, who knows, the world, I would ask the Secretary of State to be making a statement, or publishing some sort of guidance to explain how she interprets the criteria in the statute for the sharing of the material. I would also say that our oversight bodies, in this instance it's going to be a new body called the Investigatory Powers Commissioner, who could pick up an investigation that IOCCO, our Interception of Communication Commissioner's Office, began in 2015 into intelligence sharing. They've not reported much on that, and that's in part, I think, because they're having a bit of a rough time, because they need co-operation from the Americans, if they're going to undertake this report. So I would, ideally, get the Secretary of State to instruct the oversight body to undertake a formal review of intelligence sharing, broadly, but also on this issue, and do the best that they are able to secure co-operation from the Americans, in ensuring they get the access that they need to satisfy themselves.

Prof Clarke: When we get a commissioner up and running, then that might be a useful contribution.

Eric King: They've just been appointed, apparently. It's Lord Justice Fulford, who used to serve on the ICC, I think.

Prof Clarke: As you say, I mean, it needs to get up and running.

Eric King: Yes, absolutely.

Prof Clarke: OK, thank you. Namir?

Namir Shabibi: I think there are two causes for concern that arose out of the Yemen investigation. The first is a vehicle used by the MOD to train, mentor and develop the intelligence capabilities of foreign paramilitary organisations. In Yemen that was through the vehicle of the Joint Counter Terrorism Training and Advisory Team, JCTTAT, if you want to call it that. That mentoring and training, and intelligence development, ultimately resulted in the hands of the CIA, as the CIA would collect the intelligence product of that Yemeni agency which it nurtured. Now I know from having spent about three months in Kenya

recently, that in fact the MOD is using a very similar vehicle in order to train other paramilitaries in Kenya as well, and in at least another twelve other countries, the MOD has that vehicle in operation.

The second, or second and third reasons for concern, are-, one I mentioned was the complete co-operation with the CIA in its targeted killing programme, including in its most controversial element of that, which is the signature striking programme, which is in effect, still in effect I believe, in Pakistan as well as Yemen. It includes also a programme that retired general Michael Hayden, formerly of the NSA and CIA, once said, 'We kill using metadata,' in other words all those digital signals they Hoover up are enough to put someone on a kill list, at least for the CIA and NSA. The third issue of concern is how the Government, the FCO, are exploiting military capabilities through the process of secondment, which allows the MOD to completely and plausibly deny that we are contributing in any military way to a military programme abroad.

Prof Clarke: OK, thank you. Jennifer?

Jennifer Gibson: Three points, headlines for the committee to consider. I think the first one is on the bases. I think this is sovereign UK territory, and if US bases, and all the evidence seems to suggest they are, are running portions of a drone programme that the UK says it's not involved in, from US bases, there needs to be far more oversight of those. At the very minimum, there needs to be transparency about what the safeguards are in place for activities being carried out at those bases, and what agreements underpin oversights of the activities of those bases. Especially when there are documents showing that GCHQ is tasking targets at Menwith Hill for a drone programme in Yemen. That's in black and white. That deserves questions and answers from the UK Government, until Parliament debates and decides on military action in Yemen.

I think the second thing is on something I didn't touch on, but let me touch on it very quickly, the raid, and Trump, in Yemen, I think this is something we are going to see repeated by the Trump administration. I think the Trump administration has repeatedly showed itself in the past two months to have less regard for the rule of law than its predecessor, and that should raise really worrying concerns for this Government in terms of what the co-operation is, and again, what safeguards are there in place. Reprieve has spent time investigating the raid, we're working with several of the families to try and get an investigation out of the US, and to get answers. It appears to be, from some of the reports, that it might have been a raid to try to capture or kill a specific target of Al-Qaeda, who wasn't there, who was missed for the fifth time. So we did an investigation a couple of years ago into how many times these high value targets die, for lack of a better word. It turns out that they're the cats with nine lives. They die an average of three times, some of them die up to seven times.

The purported target of the raid in Yemen was Qassim al-Rimi, who nobody's disputing is a bad guy in AQAP, but that was his fifth attempt of being killed. So the intelligence isn't right, and instead the result is a lot of civilian casualties in what has become a very counterproductive action by the US. The UK needs to take that into consideration in terms of its going forward with the US.

The other thing I would say is on the embeds comments. I think there just should be more clarity in terms of British soldiers being lent out, or seconded, or embedded with other forces. Again, when those forces are potentially engaging in behaviour that violates British interpretations of the law, whether that's military action in Syria before Parliament has debated it, or covert action in Yemen, or action elsewhere in Kenya. Then, the other thing I would say is on the Consolidated Guidance point, just to come back to it. That is in relation to torture. There is purportedly Consolidated Guidance on intelligence sharing for drone strikes that the Government has refused to release.

Lord West: I haven't seen that.

Jennifer Gibson: The former head of GCHQ, David Omand, as well as Tom Watson, the former head of this APPG, wrote and asked for it in 2014, and were told, basically, 'No.' So I think that its very core should be released, because if you can release the Consolidated Guidance on torture, you should be able to release the Consolidated Guidance on intelligence sharing for drone strikes.

Prof Clarke: We take that point on board. Thank you. We have to leave it there, but on behalf of all the members of the panel, I'm sure we found that extremely interesting and valuable. Thank you for your time, thank you for your expertise, and we will be taking this into consideration as our inquiry goes forward, and now we'll have a brief private meeting among the members of the panel, but thank you very much indeed.