

TO THE ALL PARTY GROUP ON ARMED DRONES INQUIRY

Submission by Lindis Percy

(Co-founder of the Campaign for the Accountability of American Bases - CAAB)

INTRODUCTION

I welcome this inquiry by the All Party Parliamentary Group on Armed Drones (APPG) and the invitation to contribute to it. I co-founded the Campaign for the Accountability of American Bases (CAAB) in 1992 and was Joint Co-ordinator until January 2016.

This brief submission will concentrate on the accountability and oversight (or lack of it) of the US Visiting Forces and their Agencies in the UK.

I will include:

- accountability and oversight of US Visiting Forces (USVF) and their Agencies
- legal status of the presence of the US Visiting Forces and their Agencies and the reality of what is done
- where the bases are, their role and functions and the crucial US operational links to RAF bases here.

BACKGROUND INFORMATION

The Campaign for the Accountability of American Bases (CAAB) was founded by Lindis Percy and Anni Rainbow in 1992. The campaign evolved out of the long campaign of witness and peaceful protest at the American base at Menwith Hill, near Harrogate, North Yorkshire; local people having expressed their concerns at the arrival of the US Army at Menwith Hill in 1951.

We have continued to build on the work and struggles of many people over the years since the arrival, occupation and control of the US Visiting Forces (USVF) in the UK; and later extended it to explore and learn about the world wide web of US military bases. When the campaign was set up a key aim was to bring public scrutiny and awareness to the presence, role and functions of the US Visiting Forces and their Agencies.

All US bases occupied by the US Visiting Forces and their Agencies are called 'RAF'. CAAB has some interesting historical documents which were disclosed in a High Court case in 1993¹. The documents show why US bases were to be referred to as 'RAF', A RAF officer would be known as the RAF Commander. This is misleading. The officer is the RAF Liaison officer (RAFLO) and US bases are commanded by the US authorities. In this submission US bases will be referred to the correct name of the base eg the National Security Agency/National Reconnaissance Office (NSA/NRO) Menwith Hill.

CAAB has always acknowledged that not all information about operations etc can or indeed should be released to the general public. However, the campaign does not accept that what goes on on US bases should not subject to careful scrutiny by some body, Board, department etc. In reality the control and operations of US bases is left

to the USVFs ('the occupiers'): who are secretive, unaccountable and out of control of the UK government. CAAB's name was carefully considered when it was founded and the word 'accountability' is central in the title.

CAAB has worked in many different ways in pursuit of its aims, objectives and ways of working by this unique and important campaign². We have pursued the fundamental issue of which system/body/department has oversight of what happens on US bases.

An important part of the campaign is working with MPs in both Houses of Parliament. We have worked with many MPs (of differing parties) who have asked Parliamentary questions on our behalf over many years. As written questions and answers are recorded for reference and posterity in Hansard, it was crucial to the campaign that the questions were done in this way. Some of the answers are evasive, confusing and contradictory.

In an Adjournment Debate on the US Missile Defense system in the House of Lords on 10 Jan 2008 Column 969 by Sue Miller (Baroness Miller of Chilthorne Domor) says:

'... Before I close, I also want to pay tribute to the Campaign for the Accountability of American Bases. It operates in Yorkshire near Menwith Hill. It has been the eyes and ears of the public for what is happening there; it first revealed in 1997 that Menwith Hill was to be designated as the European ground relay station.

It has continued to raise this issue ever since. Its members have suffered an awful lot of personal aggravation, and I ask the Minister to look into some of the history of this. They have been arrested but not charged, and charged but the charges have been dropped; they would have welcomed those charges being pursued so that they could have had their day in court.

In one case, violence was used against a member, and no satisfactory explanation has ever been given for that. However, it has been incredibly important that people on the ground have been there to see what is happening with planning permissions and some of the issues raised by the noble Lord, Lord Judd. I wish them well in their campaign. They regularly campaign on Tuesdays outside Menwith Hill to draw attention to the unaccountability of this American base on British soil ... '

Some of the answers maintained that the Intelligence and Security Committee (ISC) had some degree of accountability and oversight of US bases. However, a Home Office Select Committee Inquiry in 2014 which investigated the 'Oversight of the Intelligence and Security Services' examined 'the plaudits and criticisms of the system (UK and US and to be found in Annex B)'. Their conclusion was: 'We believe that the current oversight is not fit for purpose for several reasons which we set out below³.

We were heartened by the reform of the ISC with the introduction of the Justice and Security Act 2013; making it a Committee of Parliament; providing greater powers; and increasing its remit (including oversight of operational activity and the wider intelligence and security activities of Government)⁴.

However there are fundamental gaps and still questions to ask as to who US military bases sited in the UK are accountable to, or indeed who has oversight.

A recent PQ asked by Rachel Maskell (MP for York) revealed another confusing answer and shed no light on the question.

(asked 28 February 2017 – answered 3 March 2017)

Q: Rachel Maskell (MP York): To ask the Secretary of State for Defence, to whom US military bases sited in the UK are accountable.

A: Mike Penning (Minister of State for the Armed Service - MP for Hemel Hemstead) : Military bases in the UK that are made available to the US Visiting Forces remain Crown Estate, and oversight and accountability for the bases rests with the Ministry of Defence. The US Visiting Forces are however responsible for administering their own activities and in doing so are accountable to US military authorities.

The Minister says oversight and accountability for the bases rests with the Ministry of Defence. He then says that the USVFs and US authorities are accountable to the US military authorities. This is another example of confusion and contradiction.

LEGAL STATUS OF THE PRESENCE OF THE USVFs

The legal basis for the USVFs in the UK is primarily the North Atlantic Treaty Organisation (NATO) Status of Forces Agreement 1951 and the Visiting Forces Act 1952; the VFA incorporates the NATO SOFA into UK law. Later other laws and agreements were made to consolidate the legal basis. An article entitled 'US Forces in the UK: legal agreements' sets this out and goes on to briefly explain and the history of the arrival, laws and agreements made which enabled US bases and USVFs to be here. Much of the information in this article has been worked at and pursued by CAAB. Some PQs asked are quoted in this article⁵.

Legal actions by CAAB to challenge unsafe law (eg Military Land Byelaws⁶ and the use of Dispersal Powers by North Yorkshire Police and the Ministry of Defence police⁷) have exposed more insights into the extent of the control and occupation by USVFs and their Agencies.

The International Security Board (May 2015) was tasked with conducting a study of the strategies for and challenges to U.S. negotiation of SOFAs. In the Introduction (para 4) the document states 'the NATO SOFA, Article VII, paragraph 10 gives the US Force the right to police UK bases which the US Force occupies'⁸.

Also the NATO SOFA Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces Article VII states that 'the Base Commander (US) has responsibility for the security of the base under their command.

The Memorandum of Arrangement between the United Kingdom Ministry of Defence Police and Guarding and the United States Air Force concerning the Provision of Security and Policing Services by the MDPGA to the US Force in the United Kingdom makes interesting reading as to who is in command of US bases¹⁰.

For example in the Memorandum says, 'This authority includes having security OPCON over the MDPGA complement in accomplishing internal base security tasks.

Security OPCON (Para 1) does not include command of Ministry of Defence (MDP) officers in exercising their constabulary powers, nor is it **intended** (my emphasis) to limit MDP powers and responsibilities established under UK law¹¹.

This statement does not use the word '**will**' but instead chooses to use '**intended**' so diminishing the legal interpretation of the powers of the MDP. In our view and in practice CAAB has experienced many examples of how the MDP are overruled and under the control of the USVFs. The services of the MDP are paid for by the US authorities¹⁵ so 'he/she who pays the piper calls the tune'. An example of this has been the way the MDP operates towards legitimate peaceful protest.

US BASES WITH OPERATIONAL LINKS re ARMED DRONES

The meticulous work of Chris Cole (Drone Wars UK) provides credible and important information/details of where the UK bases are as well as a section on US Drone operations¹².

Drones do not fly unless there is a system of surveillance and intelligence gathering to programme the information and set the drone on its way to its deadly mission.

Two US bases crucially involved with intelligence led warfare are USAF bCroughton which is to become the Joint Intelligence Analysis Center (JIAC) NSA/NRO Menwith Hill(MH). Three US bases will close by 2020; USAF Mildenhall, USAF Alconbury with the US JIAC base at Molesworth transferring operations to JIAC Croughton by the end of 2017. The work has started and is on going.

USAF Croughton near Oxford

News that USAF Croughton was to expand and become the Joint Intelligence Analysis Center (JIAC) was announced in an article by Cahal Milmo in the Independent in May 2014¹³.

The Article reported that 'Washington is to spend almost £200m to turn one of its British military bases, already implicated in mass surveillance and drone strikes, into one of its largest intelligence hubs outside the mainland United States. He went on to say that 'RAF Croughton, a US Air Force (USAF) base near Milton Keynes, which has a direct cable link to Government Communications Headquarters (GCHQ) at Cheltenham, is to be the site for an ultra-secure intelligence centre staffed by up to 1,250 personnel and covering operations in Africa, a current focus for US counterterrorism activities.

He continued ‘...the \$317m (£189m) project, which includes an installation for the Defense Intelligence Agency, the Pentagon's main military espionage service, underlines RAF Croughton's position as a centre for clandestine and classified US communications in Britain’

Another article in the Observer in October last year also highlighted the major developments at this base. Jamie Doward reported that ‘Around a third of all US military communications in Europe already pass through Croughton, which has a direct cable link to GCHQ, the intelligence services’ giant listening hub at Cheltenham. A high-speed fibre-optic line connects the base to Camp Lemonnier in Djibouti, from where the US flies drones that target terrorist groups in Somalia and Yemen¹⁴.

NSA/NRO Menwith Hill near Harrogate North Yorkshire

Menwith Hill is the largest National Security Agency’s intelligence gathering and surveillance base outside America. An article in the Intercept by Ryan Gallagher last year was significant because original documents revealed by the whistle blower Edward Snowden meant that intelligence led warfare at Menwith Hill was authoritatively confirmed¹⁵.

Over the past decade, writes Ryan Gallager (Inside Menwith Hill) the documents show, the NSA has pioneered ground breaking new spying programs at Menwith Hill to pinpoint the locations of suspected terrorists accessing the internet in remote parts of the world. The programs, with names such as GHOSTHUNTER and GHOSTWOLF. have provided support for conventional British and American military operations in Iraq and Afghanistan. But they have also aided covert missions in countries where the U.S. has not declared war. NSA employees at Menwith Hill have collaborated on a project to help “eliminate” terrorism targets in Yemen, for example, where the U.S. has waged a controversial drone bombing campaign that has resulted in dozens of civilian deaths.

He goes on to say, The disclosures about Menwith Hill raise new questions about the extent of British complicity in U.S. drone strikes and other so-called targeted killing missions, which may in some cases have violated international laws or constituted war crimes. Successive U.K. governments have publicly stated that all activities at the base are carried out with the “full knowledge and consent” of British officials.

This article is informative and detailed as to the role, function and operational links of the crucial connection between the US military and the British intelligence agency at GCHQ. There are a number of GCHQ personnel at Menwith Hill. However the number has never been revealed in the PQs that Fabian Hamilton has asked. The response by the Secretary of State at the time has always been that the British Government knows what is going on and further more what goes on is legal.

RAF Menwith Hill

Fabian Hamilton: To ask the Secretary of State for Defence whether his Department was (a) aware of the nature of and (b) consulted before the start of surveillance being carried out at NSA Menwith Hills. [194679]

Mr Francois: Operations at RAF Menwith Hill have always been, and continue to be, carried out with the knowledge and consent of the UK Government. 10 Apr 2014 : Column 342W

Fabian Hamilton says at the end of the article:

“.....The revelations about the role it has played in U.S. killing and capture operations, he said, showed there needed to be a full review of its operations. “Any nation-state that uses military means to attack any target, whether it is a terrorist, whether it is legitimate or not, has to be accountable to its electorate for what it does,” Hamilton said. “That’s the basis of our Parliament, it’s the basis of our whole democratic system. How can we say that Menwith can carry out operations of which there is absolutely no accountability to the public? I don’t buy this idea that you say the word ‘security’ and nobody can know anything. We need to know what is being done in our name.”

CAAB endorses what Fabian Hamilton says. This article is important because it charts the history of Menwith Hill and shows the extent of the involvement of Menwith Hill in targeted killings by armed Drones.

CONCLUSION

CAABs’ work and the quotes from Ryan Gallagher and Fabian Hamilton sum up the urgent need for more credible and effective accountability and oversight of US bases in the UK particularly in relation to armed drones.

I am willing and would hope that the All Party Parliamentary Committee will ask me to give oral evidence. I feel that I cannot do justice to the work and concerns of the campaign in this brief submission.

Armed drones are a terrifying war fighting invention. It is more important than ever that those who make decisions to operate and use them are brought to account for their actions. We owe it to the all the people who are so seriously and devastatingly affected.

20 March 2017

References

- [1] Documents disclosed in a High Court case in Lindis Percy's possession
 - [2] Refer to aims, objectives and ways of working section by CAAB in archived information: <http://www.caab.org.uk/>
 - [3] Home Office Select Committee Inquiry – Oversight of the Security and Intelligence Agencies:
<https://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/231/23108.htm>
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- [4] Justice and Security Act 2013
<http://www.legislation.gov.uk/ukpga/2013/18/contents/enacted/data.htm>
- [5] Brooke-Holland, L (2015) US Forces in the UK: legal agreements
 Research briefings.files.parliament.uk/documents/SN068 (June 9 1951- last updated October 2009)
- [6] DPP v Percy and another LJ Woolf and Pill QBD 1993
- [7] Report of outcome of case and ruling by Magistrates – R v Percy Harrogate Magistrates' court September 15/16 2016 – archived on CAAB website:
<http://www.caab.org.uk/>
- [8] International Security Advisory Board - state.gov
www.state.gov/documents/organization/236456.pdf
- [9] NATO Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces
- [10] The Memorandum of Arrangement between the United Kingdom Ministry of Defence Police and Guarding and the United States Air Force concerning the Provision of Security and Policing Services by the MDPGA to the US Force in the US Force in the United Kingdom 20 May 2008.
- [11] Ibid, page 1V Command and Control para 1
- [12] Drone Wars UK section on US involvement in the use of Drones:
<https://dronewars.net>
- [13] Milmo C, Washington spends £200m creating intelligence hub in Britain, The Independent 17 May 2014
- [14] Doward J, US personnel 'targeting killer drones from Britain' The Observer 30 October 2016
- [15] Gallager, R, Inside Menwith Hill: the NSA'S British Base at the Heart of US Targeted Killing, the Intercept 6 September 2016
<http://www.theverge.com/2016/9/6/12813736/menwith-hill-gchq-nsa-satellite-wireless-surveillance-leaks>

Essential reading

1. Nunnerley M L, Surveillance, Secrecy and Sovereignty: how a Peace Campaign Challenged the Activities of a US Base in Britain (2014)
 2. The Memorandum of Arrangement between the United Kingdom Ministry of Defence Police and Guarding and the United States Air Force concerning the Provision of Security and Policing Services by the MDPGA to the US Force in the US Force in the United Kingdom 20 May 2008. (The MDPGA was renamed
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the Ministry of Defence Police and Guarding Service in 2009 and was no longer an Agency) – available in the Parliamentary Library.

3. The Report on the SOFA Agreements by the International Security Board (May 2015)