



INTELLIGENCE AND SECURITY COMMITTEE OF PARLIAMENT



PRESS RELEASE

The Intelligence and Security Committee of Parliament (ISC) has today published its Report into UK Lethal Drone Strikes in Syria. The Chairman of the ISC, the Rt. Hon. Dominic Grieve QC MP, said:

“The lethal strike against Reyaad Khan on 21 August 2015 was exceptional in that it was the first time that the UK had conducted a lethal drone strike against a terrorist target outside of participation in a military campaign. In investigating the strike against Reyaad Khan, our focus has been the intelligence on him and the resulting assessment of the threat he posed. Other Committees have considered the legal, policy and military aspects of the strike but have been unable to scrutinise the intelligence basis, given that the intelligence itself is highly classified. This is where we see the ISC’s role.

“When considering the threat posed by Khan, we have taken as our starting point the legal justification set out by Government, since it provides a structure against which to assess the intelligence. We have not, however, sought to reach conclusions as to the legal basis for the strikes. The Government’s position is that the military action was undertaken in individual and collective self-defence, and they set out the grounds for individual and collective self-defence under Article 51 of the UN Charter as being:

- a threat sufficiently severe that it can be described as a potential ‘armed attack’;
- and which is imminent;
- but that the action taken must be necessary;
- and proportionate (including in terms of the Laws of Armed Conflict).

We consider each of these points in turn in our Report.

“In terms of the severity of the threat posed by Reyaad Khan, it appears from the 25 intelligence reports and two formal intelligence assessments that we have seen that Khan was a prolific recruiter and attack-planner. Over the course of nine months he, alongside another plotter (Junaid Hussain), encouraged multiple operatives around the world to conduct attacks against the UK and our allies. They provided practical instructions for the manufacture of bombs, and information on targets. We are in no doubt that Reyaad Khan posed a very serious threat to the UK. There is nevertheless a question as to how the threat is quantified and in this instance whether the actions of Khan and his associates amounted to an ‘armed attack’ against the UK or Iraq – which is clearly a subjective assessment. However we have been unable to consider how Ministers made that assessment since we were denied sight of the key Ministerial submission. This failure to provide what we consider to be relevant documents is profoundly disappointing. Oversight depends on primary evidence: the Government should open up the ministerial decision-making process to scrutiny on matters of such seriousness.

“In relation to the ‘imminence’ of the threat, we have seen from the intelligence reports that the timescale between Khan contacting an operative, recruiting them, and providing targets could be very short and there was very significant pressure on the Agencies in seeking to disrupt these attacks. However we note that the concept of ‘imminence’ may mean different things to different people. The Government has told this Committee that the question of imminence is decided by

Ministers, with support from the Attorney General, after they have considered the Agencies' assessment of the threat. Without access to the Ministerial submissions, we are not in position to comment on the process by which Ministers considered the question of imminence, and how it might have been considered in relation to the decision to conduct a lethal strike. Nevertheless we note that the question of imminence may have centred not on one specific attack about to take place but on a broader concern that – due to gaps in coverage – a plot may go undetected. We can only speculate that it was this question of 'visibility' which was a factor in the Ministerial decision-making process.

“We also considered the principle of ‘necessity’ – i.e. whether a lethal strike was the only realistic prospect of disrupting the threat posed by Khan. We recognise that the threat posed by Khan did not lie in him conducting his own attack against the UK, but in his identifying others to act as operatives and tasking them with attacks in this country. Focussing solely on the UK ‘end’ of the threat did not offer any guarantees in terms of successful disruption due to both the potential lack of visibility and the short timescales involved, and the Government therefore had to tackle the threat at source and disrupt Khan himself. The evidence we have seen shows that alternative disruption options were considered, were Khan to leave Syria. However it was concluded that Khan was highly unlikely to travel outside ISIL-controlled territory or to be dissuaded from his activities: the threat he posed was ongoing and there appears to have been no realistic prospect of it diminishing.

“In terms of whether the lethal strike was proportionate, we have focussed on whether the action was consistent with the law of armed conflict, making an adequate distinction between combatants and non-combatants. The strike against Khan was also thought to have killed two other individuals travelling in the same vehicle: Rahul Amin and another passenger. We accept that the possibility of collateral damage cannot always be avoided in military engagements, nevertheless it is essential that it is properly assessed beforehand and we therefore questioned what was known about the other occupants of the vehicle. However, the Government considered that as the strike was part of a military operation, this was outside the ISC's statutory remit. We have therefore been prevented from looking at this issue in as much detail as we consider it requires. On the basis of the information that was made available to us, there would appear to be questions around the assessment of the possibility of collateral damage which would benefit from further scrutiny. While the Defence Select Committee might expect to be able to scrutinise this issue, we note that Government may refuse them access to the related intelligence material on grounds of classification. There is therefore a serious concern that this matter will go unscrutinised.

“It is to the Agencies' credit that their investigation of Khan's activities led to the disruption of the attacks he planned, thereby avoiding what could have been very significant loss of life. Nevertheless our inquiry into the intelligence on Khan has revealed wider policy issues surrounding the strike itself – notably around the Ministerial decision-making process and the assessment of collateral damage. The Government should be more transparent about these matters and permit proper scrutiny of them.”

NOTES TO EDITORS:

1. The report will be available from the Committee's website, <http://isc.independent.gov.uk/>, shortly after it is laid in Parliament (at 10.00am BST on Wednesday 26 April).
2. The Intelligence and Security Committee of Parliament (ISC) was established in 1994 under the Intelligence Services Act, and was reformed in 2013 year under the Justice and Security Act. The ISC is a cross-party committee of nine parliamentarians from the Commons and the Lords. The Committee's membership for 2016/17 is as follows:¹
 - The Rt. Hon. Dominic Grieve QC MP (Chair)*
 - The Rt. Hon. Richard Benyon MP (from 21 October 2016)*
 - The Rt. Hon. David Hanson MP (from 21 October 2016)*
 - The Rt. Hon. the Lord Janvrin GCB GCVO QSO*
 - The Most Hon. the Marquess of Lothian QC PC*
 - The Rt. Hon. Fiona Mactaggart MP*
 - The Rt. Hon. Angus Robertson MP*
 - The Rt. Hon. Keith Simpson MP*
 - The Rt. Hon. Gisela Stuart MP*
3. The Committee routinely takes evidence in private, and its Members are subject to the Official Secrets Act 1989. This ensures they are able to scrutinise the most sensitive work of the intelligence Agencies which cannot be made public. However, when producing reports, the Committee aims to put as much material as possible into the public domain, subject only to restrictions on grounds of national security or *sub judice* rules.
4. On 7 September 2015 the then Prime Minister announced details of two lethal strikes (one by the UK and one by the US) in Syria which had killed UK nationals Reyaad Khan, Ruhul Amin, Junaid Hussain and another unnamed individual.² On 29 October 2015, the ISC announced that it would be investigating the intelligence basis for the lethal strikes. The Committee decided this should encompass the assessment of the threat posed by Reyaad Khan, the intelligence that underpinned that assessment, and how that intelligence was used in the ministerial decision-making process.
5. The Committee had completed its report on 16 December 2016 and it was sent to the Prime Minister at that point, whilst we awaited requests for redactions. These requests were received on 12 April 2017. The Committee would ordinarily consider, challenge and negotiate each redaction proposed by the Agencies and Departments. However, on 18 April, the Prime Minister announced that she would seek an early General Election.
6. The only way this Report could be published before the dissolution of Parliament, therefore, was for the Committee to agree to all the requests for redactions submitted and not seek to challenge them as would be usual. The Committee decided that it was in the public interest for the Report to be published, even if it was more heavily redacted than we would normally accept. The redactions shown in the report are therefore precisely those as proposed by the Agencies and Departments on behalf of the Prime Minister.

¹ Other Members of the Committee during this Inquiry were the Rt Hon Sir Alan Duncan MP (until 17 July 2016) and the Rt Hon George Howarth MP (until 18 October 2016).

² <https://www.publications.parliament.uk/pa/cm201516/cmhansrd/chan38.pdf> (Column 25).