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# Game Changer

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An investigation by Reprieve into President Donald Trump's secret assassination programme and the massacre of Yemeni civilians in the villages of Yakla and Al Jubah.





**Photo** - House destroyed by a missile

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## 1. Executive Summary

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### **President Donald Trump's programme of drone assassinations in Yemen**

In his first six months in office, US President Donald Trump has waged a covert programme of drone assassinations in Yemen that eclipses all that came before it in scale and brutality. His Administration has overseen a projected fivefold increase<sup>1</sup> in drone strikes on the country, and ripped up President Obama's rulebook for approving strike targets. As this report shows, he has also presided over devastating ground raids and drone strikes leaving scores of civilians dead, including an eight-year-old girl and an 80-year-old tribal elder.

### **"Game Changer": the massacre of Yemeni civilians in Yakla and Al-Jubah**

This report contains Reprieve's investigation into armed raids on two Yemeni villages in Yakla and Al-Jubah Districts. Both raids saw armed drones destroy villages before Navy SEALs were sent in, resulting in the massacres of scores of innocent civilians. These raids ended in the deaths of young children, pregnant women, and tribal elders in their seventies and eighties. They resulted in several women suffering miscarriages and the death of one US Navy SEAL.

### **A wake-up call for UK politicians**

Although the extent of UK involvement in the Yakla and Al-Jubah raids is unclear, there is extensive evidence of British support for ongoing US operations in Yemen. In the absence of accountability and oversight, the drone programme has expanded beyond all recognition with the Trump Administration at the helm. After the raids described in this report, politicians can no longer dodge questions on whether the US drone war is legal, whether it is effective, and whether it makes us any safer.

### **Theresa May: compliant co-pilot in President Trump's drone programme**

President Trump's drone assassinations in Yemen are being undertaken with the full cooperation of Theresa May's Government. British bases help US drones find their targets, while British intelligence officers in Yemen draw up kill lists of targets for drones to strike. British pilots are seconded to US bases around the globe and tasked with operating US drones. New evidence, uncovered by Reprieve, indicates these pilots are not given written guidance about their legal obligations and the proper limits of their activities, placing them at serious risk of breaking the law. Days before Donald Trump took office, the UK Attorney General, Jeremy Wright, gave a speech on the use of lethal force and attempted to move the UK position much closer to America's "War on Terror"-style pre-emptive strikes.

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<sup>1</sup> As of June 30, 2017.

## **Ending UK support for President Trump's drone assassinations**

This report sets out three key recommendations for the UK:

1. Publish the secret Drone Guidance given to British personnel involved in American drone strikes, so the public and parliament can be assured that UK personnel are not being tasked with involvement in US abuses;
2. Clarify the legal basis on which the UK shares intelligence with, and provides material support for, the US drone strike programme;
3. Strengthen Parliamentary oversight of the UK's use of lethal force abroad.

Reprieve believes that the UK can no longer offer its unquestioning support to Donald Trump's deadly, chaotic and counterproductive assassinations programme. The atrocities described in this report should provoke a swift and decisive reaction from the UK lawmakers. We hope our Government and Parliament is willing to stand up to President Trump, and to end future UK involvement in the massacre of Yemeni civilians.

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## 2. Methodology

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This report is the result of on-the-ground investigation commissioned by Reprieve in January 2017 and May 2017 in the villages of Yakla and Al-Jubah in Yemen. It provides more detail on both raids and expands our initial findings on civilian casualties (reported by the [New York Times](#), [the BBC](#), [the Guardian](#), and others).

Reprieve endeavors to ensure that all investigations are conducted in line with best practice on interviewing victims. As news of the raid in Yakla first reached us, Reprieve spoke extensively with witnesses on the ground. In the days immediately after the raid, Reprieve commissioned investigators based in Yemen to travel to Yakla to conduct in-person interviews with the survivors. To date, Reprieve investigators remain in communication with and provide support to individuals affected by the raid in Yakla.

Following reports of the second raid in Al-Jubah, Reprieve investigators spoke with people from the affected community within hours of the raid. Subsequently, Reprieve investigators travelled to Al-Jubah and spent several days interviewing witnesses and survivors of the second raid. Our investigators on the ground continue to reach out to more families of victims to learn their stories. Where possible, our investigators have collected documentary evidence such as death certificates to corroborate witness testimony.

All the information Reprieve has received about both raids has been consistent with initial reports of civilian casualties. The Trump Administration currently reports lower civilian casualty numbers than Reprieve for the Yakla raid, and has yet to acknowledge any civilian casualties from the raid in Al-Jubah. However, it should be noted that US Central Command (USCENTCOM), the Defence Department's command center with geographic responsibility for Yemen, only has two full time civilian casualty investigators.<sup>2</sup> Survivors interviewed by Reprieve investigators have reported that no attempts to contact them have so far been made by US officials.

Reprieve has also collected, cross-referenced, and analyzed data on strikes from publicly available news sources including reports from the Bureau of Investigative Journalism, reports from official US sources, and comments from US officials. Moreover, Reprieve has conducted interviews with people in affected areas who have reported civilian casualties because of strikes. However, the lack of official transparency around strikes and the inaccessibility of some of the areas hit in Yemen render it difficult to draw a complete picture.

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<sup>2</sup> [How a woman in England tracks civilian deaths in Syria, one bomb at a time, The Washington post, 14 May 2017](#). Central Command has recently added personnel to the investigation teams but they only cover activities in Iraq and Syria.

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## 3. “Game Changer”: the escalation of drone assassinations in Yemen and the massacre of Yemeni civilians in Yakla and Al-Jubah

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Within days of taking office in January 2017, President Trump signalled a dramatic escalation in covert US operations in Yemen, authorizing a midnight raid on a village in Yakla.<sup>3</sup> By the morning of 29<sup>th</sup> January, as many as 23 innocent Yemenis were dead, including a newborn baby and an eight-year-old girl, as well as one American service member.<sup>4</sup> In the words of US Secretary of Defence James Mattis, the first Yemen raid was a “game changer”— and one that raises disturbing questions about the US’ expansive counterterrorism strategy.<sup>5</sup>

In May 2017, the Trump Administration conducted another raid on a village in Al-Jubah in Marib province. This resulted in the deaths of at least five civilians, including a partially blind 70-year-old man who was on his way to the local mosque when he was killed on trying to make contact with the Navy SEALs. Reports suggest that several other unacknowledged ground operations have also taken place.<sup>6</sup>

President Trump’s disastrous ground actions in Yakla, Al-Jubah, and elsewhere have been accompanied by a dramatic and brutal escalation of the US drone programme. Since President Trump took office, the Bureau of Investigative Journalism has recorded at least **90 US airstrikes in Yemen**.<sup>7</sup> In just a few months, President Trump has already more than doubled the total number of airstrikes conducted by President Obama in Yemen in the whole of 2016 (39) and is carrying out at least one strike every two days.

If strikes continue at the current rate, President Trump will have conducted **204** strikes by the end of 2017. This represents a five-fold increase from the number of strikes taken by Obama in 2016.<sup>8</sup> At least two children have already been killed this year and many more innocent people stand to lose their lives if this programme continues unchecked by Congress or the Courts.

Reprieve has collected credible reports of multiple deaths during these strikes. For example:

- **On 6<sup>th</sup> March, 2017 two boys under 15 were killed** in a strike in Yakla. Local residents identified them to Reprieve as Ahmed and Mohammed al Khobze. This was confirmed in a report by Reuters on 7<sup>th</sup> March, 2017.<sup>9</sup>

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<sup>3</sup> [Statement by the President on US Service Member Killed In Yemen, White House, 29 January 2017](#).

<sup>4</sup> [Trump’s Yemen raid killed newborn baby and scores of civilians, Reprieve, 2 February 2017](#).

<sup>5</sup> [Yemen Raid Had Secret Target: Al Qaeda Leader Qassim Al-Rimi, NBC News, 7 February 2017](#).

<sup>6</sup> [US ground operations stepped up inside Yemen, CNN, 4 April 2017](#).

<sup>7</sup> [Yemen: Reported US Covert Actions 2017, The Bureau of Investigative Journalism](#).

<sup>8</sup> *Id.*

<sup>9</sup> [Two children killed in Yemen drone strike: residents, Reuters, 7 March](#)

- On 23<sup>rd</sup> April, 2017, three people were reported killed in al Saeid, Shabwah province. Residents say they had been attempting to provide first aid to individuals hit in an earlier strike. This signals a return to controversial 'double-tap' strikes on rescuers that are strictly prohibited under international law.

The majority of strikes have concentrated on the provinces of Abyan, Al-Bayda and Shabwah.

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## The Yakla Raid

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January 29<sup>th</sup>, 2017



**Photo** - Al Ameri children and Zabnallah al Ameri and Basel al Zouba (centre) - brother of Abdallah Ahmad el Zouba, killed in raid

*“While I was searching among the bodies, I found my daughter Fateem lying dead in the street with her child in her arms and covered with blood. I did not imagine that and I cannot forget those painful moments. I thought at first that Mohammad was also killed, but when we took him from his mother’s arms he cried. He was sleeping all the time in his dead mother’s arms.”*

**Saleh Al-Ameri**, father of Fateem

**At 2:30AM on 29<sup>th</sup> January, 2017, US Navy SEALs landed in Qaifa, a few kilometers away from the village of Yakla. Around this time, residents of the village noticed that phone coverage ceased completely. Shortly after, airstrikes began—including strikes on a medical unit, school, and a mosque in the village.<sup>10</sup>**

The civilians killed in the raid included:

- **Ten children**
- **A heavily-pregnant woman whose injured newborn later died**
- **An 80 year-old tribal elder**
- **Abdullah Mabkhot Al-Ameri, a villager who narrowly escaped death in 2013 when a US drone strike hit his wedding.<sup>11</sup>**

Statements from villagers—collected by Reprieve and partners on the ground—suggest that after the drone strikes were fired, about 50 US Navy SEALs entered the village. The statements indicate that the raid unfolded as follows:

The US forces entered the village and met 12-year-old Ahmed Abdullah Al-Dhahab, who asked who they were. They shot Ahmed, killing him on the spot.

US forces then stormed a small house belong to the Al-Ameri family and opened fire, killing three more children: Khadija, 7, Hussein, 5, and Aisha, 4. Hussein and Aisha’s father, Mohammed, was also killed.

Mohammed’s father, 62 year-old Abdullah Mabkhot Al-Ameri, was shot by US forces after running toward his son’s house. Abdullah was later found dead, still in his pajamas, clutching a blood-soaked headtorch.

As the US forces approached her home, Fateem Al-Ameri, mother of seven, ran away, carrying her two-year-old son Mohammed in her arms. She was shot in the back and fell forward. Mohammed survived but was only found the next morning when Fateem’s body was moved; his face was covered in his mother’s blood.

The US forces then fired a missile into a third house which caused the house to catch fire, trapping five-year-old Halima Hussein Al-Aifa Al-Ameri inside, where she died.

A second US missile was fired at another house, causing the ceiling to collapse. The debris killed a 3-month-old girl, Ehsan Fahad Ali Al-Ameri, in her cot.

Grandmother Dhabia Ali Abdullah Al-Ameri and her two grandchildren – ten-year-old Mursil, and 12-year-old Khaled – were fatally hit by US gunfire while fleeing their home.

The SEALs then advanced on the house of Abdul-Raouf al-Dhahab, where

<sup>10</sup> Media reports have confirmed the use of drones in this operation. See [Yemen Al Qaeda: U.S. Commandos Raid Stronghold, BBC, 29 January 2017](#); [U.S. Commando Killed in Yemen in Trump’s First Counterterrorism Operation, New York Times, 29 January 2017](#).

<sup>11</sup> [The Wedding that became a funeral: US still silent one year on from deadly Yemen drone strike, Newsweek, 12 December 2014](#).

they were reportedly met with gunfire. Abdul-Raouf, his brother Sultan, and an eighty-year-old tribal elder, Saif Al-Jawfi, were killed, as was eight-year-old Nawar al-Awlaki and her mother.<sup>12</sup>

Finally, a heavily pregnant woman was fatally hit in the stomach, and gave birth to an injured baby. The baby later died.

US SEAL Chief Petty Officer William ‘Ryan’ Owens was also killed, while two more US service members were injured when their helicopter “landed hard.”<sup>13</sup> The US team then used a missile to destroy the helicopter, to prevent it from “fall[ing] into enemy hands.”<sup>14</sup>

The raid decimated the village and destroyed the livelihoods of its inhabitants. Numerous houses were completely destroyed, and more than 120 goats, sheep and donkeys killed.

<sup>12</sup> [Donald Trump’s First U.S. Military Raid ‘Kills 30 Civilians, Including 10 Women and Children,’ Independent, 30 January 2017](#).

<sup>13</sup> [In a Deadly Yemen Raid, a Lesson for Trump’s National Security Team, Washington Post, 31 January 2017](#).

<sup>14</sup> *Id.*

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## The Al Jubah Raid

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May 23<sup>rd</sup>, 2017



**Photo** - Mohamed Mohsen al Ameri (centre) and his siblings.  
Their mother, Fateem, was killed during the raid.

*I hope that [they] could use the law  
and prosecution against those who  
prove to be guilty*

**Mabkhout Ali Arfaj Al-Athal**, a young  
man injured in the raid on Al Jubah on May 23, 2017.

At approximately 1:30AM on 23<sup>rd</sup> May approximately 50 armed American soldiers entered the village in Al Jubah. They were supported by helicopters, attack Apaches and drones. Five civilians were killed and at least five civilians were injured, including a child.

Among the dead was an elderly man in his 70s who was shot in the head; among the injured was a young child, Othman Mohammed Saleh, who was injured in both arms. Reprieve has also received reports that a number of pregnant women from the village suffered miscarriages as a result of the trauma of the raid. Their names have been withheld to respect their privacy.

Immediately after the raid, Reprieve spoke to witnesses who confirmed the names of five civilian victims. They were:

- **Nasser Ali Mahdi Al-Adhal**
- **Al-Ghader Saleh Salem Al-Adhal**
- **Saleh Al-Taffaf Al-Adhel**
- **Yasser Al-Taffaf Al-Adhel**
- **Shebreen Saeed Salem Al-Adhal**

Reprieve has received the following account of the raid:

The villagers were awoken in the middle of the night on 23<sup>rd</sup> May by shouting, dogs barking, heavy shooting, and helicopters. The first victim was Nasser al Adhal—a 72-year-old man who was partially blind. Nasser was leaving his house to go to the mosque when he encountered the SEALs. As he approached them, he was shot dead. He was not a member of al-Qaeda or any other terror group.

Many of the villagers came out of their homes to see what was happening. They sought to communicate with the SEALs. As a result, four more civilians were killed and five others were seriously injured.

One of the survivors injured during the raid, Mabkhout Arfaj Al-Athal, told us he was woken by the sound of gunshots and ran outside to try and make sure his elderly, disabled father would not be hurt. He was immediately shot twice, once in his right leg and once in his left elbow.

Also injured was 9-year-old Othman Saleh Mohammed, a bright young boy who is in the top five in his class at school and passionate about football. He was injured in both arms and knocked unconscious.

22-year-old Murad Saeed Salem Al-Athal has had his right leg amputated as a result of injuries suffered during the raid. He told us that people in the village are angry and frustrated that their village has been destroyed in an unjustifiable attack and that now women and children in the village are living in fear and shock.

A number of those injured told us that they were left bleeding for hours, unable to get medical attention because the helicopters remained over the village until dawn, preventing anyone from leaving or entering the village.

In the devastating aftermath of these sudden and unexplained US operations, survivors and witnesses are still struggling to make sense of what happened. The inhabitants of Yakla have been forced out of the village and some have taken to sleeping in the surrounding valleys. People are terrified to return to their homes lest they be terrorized by persistent and aggressive US air strikes.

Saleh Mohsin Al-Ameri survived the January raid in Yakla, which killed his daughter Fateem. He told Reprieve that he still wakes up in the middle of the night, gripped by the horror of the loss of his beloved and innocent daughter.

The sustained campaign of drone strikes and ground raids against the residents of these areas represents collective punishment of entire communities.

The US has failed to acknowledge the scale of arbitrary killing as a result of these actions. What little investigation there has been does not comply with international standards.<sup>15</sup> Moreover, there has been no official acknowledgement of, or investigation into, the loss of life in both the most recent US ground raid in Marib and as a result of the aggressive campaign of drone strikes.

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15 The relevant international standards are discussed further below.

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#### 4. A wake-up call for UK politicians

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As yet no clarity has been provided as to the level of UK involvement in the Yakla and Al Jubah raids. Nevertheless, the extent of the UK's involvement in almost every aspect of America's ongoing operations in Yemen mean the UK has serious questions to answer about complicity in the massacre of Yemeni civilians.<sup>16</sup> The demonstrable flaws in the Trump Administration's approach to these operations reveal a casual disregard for human life, a broken framework for lethal action, and a strategic incoherence at the heart of America's policy for use of armed drones. These events must act as a wake-up call for UK politicians, and must trigger domestic reform.

##### **Lack of clear legal basis**

International human rights law governs the use of lethal force outside of armed conflict. It permits the use of lethal force only in very narrow circumstances; specifically, only where it is "strictly unavoidable" in order to defend against an "imminent threat of death."<sup>17</sup> For instance, in the case of self-defence against an armed attack.

The raids on Yakla and Al-Jubah follow a pattern of ill-considered and legally questionable operations in Yemen. The purpose of the raid in Yakla was initially reported as being to capture or kill the alleged leader of AQAP, Qassim Al-Rimi.<sup>18</sup> However, it quickly emerged that Al-Rimi was not in the village at the time of the raid. In fact, shortly after the raid, he released a video which proved he was not killed in the attack. Subsequently, the US indicated that the aim of the "highly successful" mission was, instead, to gather intelligence.<sup>19</sup> If, as stated by Press Secretary Sean Spicer, this operation were conducted with the purpose of gathering intelligence, then it must be considered an abject failure as it led to several civilian deaths, as discussed.

If, alternatively, the operation were conducted in order to kill Qassim Al-Rimi, the use of lethal force would only be justified if the US could prove that it had, in advance of the raid, objective and credible evidence that Al-Rimi was planning an "imminent" attack, a defence against which was otherwise "strictly unavoidable."

This standard, by design, would be extremely hard to meet. Indeed, the government has yet to disclose such evidence, or even such an allegation. Further, considering the fact that Al-Rimi was not even present, the subsequent loss of life appears both without logic and without legal justification. To that end, the ACLU has filed an FOIA complaint in relation to the Yakla raid specifically requesting that the Executive publish "the legal and policy bases in domestic,

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16 The extent of UK involvement in the US assassinations programme is discussed in detail in Chapter 5 of this report.

17 United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, princ. 9 (1990).

18 [Death in Al Ghayil: Women and Children in Yemeni Village Recall Horror of Trump's "Highly Successful" SEAL Raid, The Intercept, 9 March 2017](#)

19 [White House, Press Briefing by Press Secretary Sean Spicer, 7 February 2017.](#)

foreign and international law” which justified the raid.<sup>20</sup>

### Absence of strategy

Aside from their legal uncertainty, the strategic and intelligence value of these operations is doubtful. In the raid on Yakla, the only houses the SEALs entered belonged to civilians. They did not enter the only house belonging to an individual with alleged connections to AQAP. Shortly after the raid, the US released and promptly withdrew a video that they claimed was obtained during the raid. In fact, the video was at least nine years old and had previously been released to the public.<sup>21</sup>

Similarly, the alleged purpose of the raid on Al-Jubah was to gather intelligence, however, none of the residents of the village were aware that US forces had taken anything or anyone. Indeed, residents told us that the village rarely has access to electricity and that the only things in the village for the soldiers to take would be mattresses and other personal items.

Senior military and intelligence figures have criticized the US drone programme as a poor strategy to combat terrorism. Former General Stanley McChrystal, who headed US Special Forces operations, warned against the use of drones. He said they are “hated on a visceral level” and exacerbate a “perception of American arrogance” suggesting the US can take strikes anywhere it pleases.<sup>22</sup> Robert Grenier, a former head of the CIA Counter-Terrorism Center and former CIA Station Chief to Pakistan, has warned that the US has been “seduced”<sup>23</sup> by counterproductive technology “creating a situation where we are creating more enemies than we are removing from the battlefield.”<sup>24</sup> President Obama’s former Defence Intelligence Chief and three-star General, Mike Flynn, has described the drone programme as a “failed strategy” observing that “when you drop a bomb from a drone ... you are going to cause more damage than you are going to cause good.”<sup>25</sup>

### Abandonment of Obama-era safeguards

Coupled with the apparent lack of strategy behind the Yakla and Al-Jubah raids is President Trump’s deliberate disregard for the minimal safeguards put in place during the Obama administration.

President Obama introduced a policy governing US action in countries outside of “areas of active hostilities” (the “Drone Policy”).<sup>26</sup> These actions include

20 [ACLU v DoD – Yemen FOIA Complaint, ACLU, 8 May 2017.](#)

21 [Military botches release of video seized in Yemen raid, CNN, 4 February 2017.](#)

22 [Retired general cautions against overuse of “hated” drones, Reuters, 7 January 2013. <http://uk.reuters.com/article/us-usa-afghanistan-mcchrystal-idUSBRE90608O20130107>](#)

23 [Drone attacks create terrorist safe havens, warns former CIA official, The Guardian, 5 June 2012. <https://www.theguardian.com/world/2012/jun/05/al-qaida-drone-attacks-too-broad>](#)

24 *Id.*

25 [Obama’s former defence intel chief: Drones a ‘failed strategy’, Politico, 16 July 2015.](#)

26 [Procedures for Approving Direct Action Against Terrorist Targets](#)

drone strikes and operations designed to capture alleged terrorists. The Drone Policy sets out a process that must be followed before action can be taken. The policy references a covert decision-making protocol, purportedly introduced to guard against loss of life and misdirected strikes. It requires “near certainty that the individual being targeted is in fact the lawful target and located at the place where the action will occur” and “near certainty that the action can be taken without injuring or killing non-combatants.”<sup>27</sup>

In March 2017, President Trump took steps to weaken the already limited Obama-era safeguards by designating three provinces of Yemen as “areas of active hostilities.”<sup>28</sup> This means that US action in Yemen is no longer covered by the Drone Policy. Instead, the Administration claims to abide by the laws of war, which only require that use of force be “necessary” and “proportionate.” The limited safeguards Obama put in place are now gone, placing lives at much greater risk. The designation of areas of Yemen as “areas of active hostilities” came contemporaneously with the grant of authority to the CIA—an intelligence agency and not a military body—to conduct drone strikes, similarly weakening controls on the US’ programme of extrajudicial assassinations because “some of the Obama administration rules were getting in the way of good strikes.”<sup>29</sup> The grant of authority to the CIA is particularly concerning given the highly secretive nature of CIA decision making processes,<sup>30</sup> and the lack of the reporting requirements to which the Defence Department is statutorily beholden.<sup>31</sup>

The facts surrounding the Yakla raid reveal the deadly impact of removing these minimal safeguards. It has been reported that the decision to conduct this raid was taken over dinner and with such haste that neither the Yemeni authorities nor the US Ambassador to Yemen was informed.<sup>32</sup> Moreover, US officials have said that forces were sent to Yakla without “sufficient intelligence, ground support or adequate backup preparations.”<sup>33</sup>

[Located Outside of the United States and Areas of Active Hostilities, 22 May 2013.](#)

27 *Id.*

28 [Trump Administration Is Said to Be Working to Loosen Counterterrorism Rules, New York Times, 12 March 2017.](#)

29 [CIA ‘given new authority to conduct drone strikes’ as Donald Trump rolls back restrictions, Telegraph, 14 March 2017.](#)

30 [Columbia Law School Human Rights Clinic and Sana’a Centre for Strategic Studies, Out of the Shadows: Recommendations to Advance Transparency in the Use of Lethal Force, June 2017.](#)

31 Strikes by the CIA are classified as Title 50 covert actions, defined as “activities of the United States Government . . . where it is intended that the role . . . will not be apparent or acknowledged publicly, but does not include traditional . . . military activities.” As covert operations, the government cannot legally provide any information, nor hold oversight hearings on how the CIA conducts targeted killings, while JSOC operations are guided by Title 10 “armed forces” operations and a publicly available military doctrine.

32 [Death in Al Ghayil: Women and Children in Yemeni Village Recall Horror of Trump’s “Highly Successful” SEAL Raid, The Intercept, 9 March 2017.](#)

33 [US military probing more possible civilian deaths in Yemen raid, Reuters, 2 February 2017.](#)

### **Hear No Evil: ignoring evidence of innocents killed by the US**

The Trump Administration has failed to acknowledge the scale of killing set out in this report.

In relation to the raid on Yakla, the Administration has only officially accepted that there were somewhere between four and twelve casualties.<sup>34</sup> The US military has not released its full assessment, casting doubt on its methodology and the adequacy of its investigation.<sup>35</sup>

In relation to the raid in Marib, there has been no acknowledgement of, or investigation into, the loss of innocent life. Instead, Pentagon spokesman, Captain Jeff Davis, stated that there was no credible indication that there were civilian casualties in the raid.<sup>36</sup> To date, there is limited evidence that any full investigation into the civilian casualties caused by the May 2017 raid has been launched.<sup>37</sup>

Similarly, many of those killed in the escalating campaign of drone strikes across Yemen remain unrecognized. In response to the deaths of the two children killed in the strike on 6 March, which was reported by Reuters, the US Central Command said that they were not aware of any credible civilian casualty allegations.<sup>38</sup>

### **Impunity: no redress for arbitrary killing and injury**

Investigation of wrongful deaths is a crucial aspect of ensuring respect for the right to life.<sup>39</sup> It offers victims transparency and accountability, creating scope for meaningful resolution of the trauma they have experienced. Under both international and US law, unlawful killings reported by relatives of those killed, NGOs, or other credible news sources are sufficient to trigger an official government investigation. In accordance with the UN Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (Minnesota Protocol), States are under a duty to investigate where there are any “reasonable allegations” of “potentially unlawful death.”<sup>40</sup> The Protocol further provides that “all legitimate lines of inquiry into potentially unlawful death should be pursued.”

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34 [US says January raid in Yemen killed 4 to 12 civilians, Reuters Canada, 9 March 2017.](#)

35 [ACLU v DoD – Yemen FOIA Complaint, ACLU, 8 May 2017.](#)

36 [Seven al Qaeda militants killed in U.S. raid in Yemen: Pentagon, Reuters, 23 May 2017.](#)

37 [US Raid Killed Five Yemen Civilians, Says Rights Group Disputing Official Story, The Guardian, 24 May 2017.](#)

38 [Yemen: Reported US Covert Actions 2017, Entry YEM265, The Bureau of Investigative Journalism.](#)

39 It is a fundamental rule of international human rights law that no-one may be arbitrarily deprived of his or her life. Article 6(1) of the International Covenant on Civil and Political Rights (ICCPR), provides: “Every human being has the inherent right to life.”

40 [Minnesota Protocol on the Investigation of Potentially Unlawful Death \(2016\): The Revised United Nations Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.](#)

By way of Executive Order 13732, US domestic law also requires that the government “review or investigate incidents involving civilian casualties, including by considering relevant and credible information from all available sources.” In fact, it goes even further than international law and requires that the US “acknowledge US Government responsibility for civilian casualties and offer condolences, including ex gratia payments” to the injured and the families of those killed.<sup>41</sup>

The US has thus far failed entirely to discharge these binding legal obligations. In relation to the Yakla raid, a Pentagon spokesperson claimed that they would not conduct an on-the-ground investigation because the location makes inquiries difficult.<sup>42</sup> This statement is indicative of the casual disregard for human life and legal duty present in the drone programme. Any investigation into lethal strikes appears to be limited to internal post-strike video analysis and is concluded within 24–48 hours of the military action.<sup>43</sup> USCENTCOM only has two full time civilian casualty investigators.<sup>44</sup> This raises serious concerns that any investigation the US conducts will not have sufficient resources to arrive at a result.

Reprieve’s investigation, as described in this report, shows that it is quite possible to collect first-hand testimony and evidence of US actions. Our investigators have meticulously recorded the names of those injured and those deceased, and have also gathered documentary evidence such as death certificates to support witness testimony. Not only have none of the victims we interviewed been offered US condolences or ex gratia payments, but none have even been contacted by US personnel since the raid. Several victims are suffering ongoing medical complications as a result of injuries caused by the raids and are left without any financial or medical assistance.

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41 [Executive Order 13732 – United States Policy on Pre – and Post-Strike Measures to Address Civilian Casualties in U.S. Operations Involving Use of Force.](#)

42 [Twitter, Zachary Fryer-Biggs, 10 March 2017.](#)

43 [‘Iraq/ Syria Civcas Allegation Tracker’, declassified CENTCOM document, published 3 September 2015.](#)

44 [How a woman in England tracks civilian deaths in Syria, one bomb at a time, The Washington post, 14 May 2017.](#) Central Command has recently added personnel to the investigation teams but they only cover activities in Iraq and Syria.

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## 5. Theresa May: compliant co-pilot in Donald Trump's drone programme

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There is mounting evidence of the UK's involvement in the United States' assassinations programme in Yemen. Earlier this year, in responding to a PQ on this issue, former Foreign Office Minister, Mr Tobias Ellwood said: '[W]e continue to work with regional and international partners to tackle the threat posed by terrorist organisations including AQAP [the US' primary target in Yemen].'<sup>45</sup> The Joint Committee on Human Rights has raised strong concerns about the UK's involvement in the US targeted killings programme, noting that the UK's intelligence agencies work "hand in glove" with the US.<sup>46</sup>

### British bases provide intelligence and operational support to US drone attacks in Yemen and beyond

The UK is a key link in the US drone programme's "kill chain", and UK sites are critical to the drone programme's infrastructure. Leaked intelligence documents show that the NSA and GCHQ have developed intelligence programmes operated from within UK bases which are used to locate potential targets with drone strikes, including in Yemen.<sup>47</sup>

Last year, an investigation by The Intercept showed that RAF Menwith Hill, a US base in Yorkshire, was playing a critical role in the targeting of individuals in Yemen. There are over 600 British personnel working at the base, and the UK Government has said that operations at the base "have always been, and continue to be carried out with the UK's "knowledge and consent".<sup>48</sup>

GHOSHUNTER and APPARITION are the code-names of two programmes operated out of Menwith Hill which have facilitated "a significant number of capture-kill operations against terrorists."<sup>49</sup> Both programmes are used to locate individuals when they access the internet and thus provide crucial locational data to support the programme of targeted killings. GCHQ also helps the NSA intercept and collect vast amounts of metadata which is often the main or only source of intelligence on which the decision to take a lethal strike is made.<sup>50</sup>

Leaked documents further show that the UK has created guides on how to assign targets to such programmes. These guides suggest the GCHQ is aware that specific requests for locating targets may come from US bodies who conduct drone strikes outside of armed conflict.<sup>51</sup>

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45 See <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2017-01-20/61033/>

46 Joint Committee on Human Rights, The Government's policy on the use of drones for targeted killing, May 2016.

47 APPARITION becomes a reality: New Corporate VSAT Geolocation Capability Sees Its First Deployment, 11 November 2008.

48 Hansard Written Answers, 10 April 2014:Column 342W.

49 *Id.*

50 GCHQ taps fibre-optic cables for secret access to world's communications, The Guardian, 21 June 2013; 'We kill people based on Metadata', New York Review of Books, 10 May 2014.

51 GCHQ documents raise fresh questions over UK complicity in US



**Photo:** The room where a three month old baby died.

*"This was something that was, you know, just—they [the generals] wanted to do".*

**President Trump** on the decision making process in relation to the Yakla raid

### British “boots on the ground” help drone strikes find their targets

In Yemen, British personnel on the ground provide vital human intelligence to help the US target deadly strikes. A former US Ambassador to Yemen has said that in support of the US policy of targeted killings “British sources fed into the hunt for targets” and UK officers were “very collaborative.”<sup>52</sup>

Reports indicate that personnel have been on the ground selecting targets, directing drone strikes and training their Yemeni counterparts.<sup>53</sup> UK personnel co-operate closely with Yemen’s national intelligence service, the National Security Bureau, which signs off on strikes proposed by the CIA.<sup>54</sup>

US personnel were reportedly accompanied by elite forces from the UAE in their assault on Yakla in January 2017; just weeks before this raid, the UK conducted at least two training exercises with UAE military personnel, including some that focused on “close quarter battle training”<sup>55</sup> and “training on the planning, implementation and management of joint military operations.”<sup>56</sup>

### British pilots fly American drones

UK personnel are routinely seconded to US military bases and reportedly “sit in the same seats” as US pilots in carrying out lethal strikes. UK troops have been stationed at Camp Lemonnier, the US base in Djibouti which is used to carry out drone strikes in Yemen and Somalia.<sup>57</sup> Three UK personnel were stationed there in 2014.<sup>58</sup> Recently, the Government revealed the UK has a Planning Officer and an Intelligence Officer based in Djibouti.<sup>59</sup>

A joint US-UK defence memo obtained by Reprieve in 2015 provided details of RAF attachments to the US air force’s (USAF) 432nd unit based at Creech in the Nevada desert, one of the main hubs for drone strikes against Isis in Iraq and Syria as well as targets in Afghanistan, Pakistan and Yemen.<sup>60</sup> Reprieve has now unearthed new evidence that shows that between 2010 and 2015, UK personnel embedded within this unit were not provided with written advice concerning their legal obligations and the limits of their activities.<sup>61</sup> Instead the Ministry of Defence provided guidance that is “usually bespoke and often

drone strikes, The Guardian, 24 June 2015.

52 *Id.*

53 Cash, Candy and ‘Collateral Damage’: An Anatomy of a CIA-MI6 Drone Assassination, Vice News, 13 April 2016.

54 *Id.*

55 British and Emirati forces conduct joint exercises, 9 February 2017.

56 Britain and UAE launch joint military exercises, Reuters, 15 January 2017.

57 Leaked Documents Indicate the US is running a drone war against terrorism in Africa, Quartz Africa, 17 October 2015.

58 UK troops working with US military at base for Yemen drone operations, The Guardian, 12 May 2014.

59 United States Africa Command, Ministry of Defence Reply to Written Questions, 9 March 2017.

60 RAF Personnel assigned to US unit carrying out drone strikes against Isis, The Guardian, 22 July 2015.

61 Freedom of Information Act responses, provided to Reprieve by the Ministry of Defence on 7 June 2017 and 16 June 2017.

delivered verbally”.<sup>62</sup> This policy of verbal briefings is undertaken with the full knowledge of Ministers within the Ministry of Defence.

In the absence of written guidance, these institutional secondments raise troubling questions around the risk faced by frontline UK personnel and potential UK complicity in US human rights abuses.

Two UK Parliamentary committees have registered concerns about the UK Government’s evasive responses to questions in this area.<sup>63</sup> The JCHR has asked the Government to clarify its understanding of the legal basis on which the UK provides any support which facilitates the use of lethal force outside of armed conflict, by other States, such as the US, which have a wider view about the circumstances in which such lethal force may be used. Such clarification has not been forthcoming. The JCHR has said that at present, there is insufficient clarity for UK personnel to reassure them that they are not at risk of criminal prosecution for complicity in unlawful acts. In 2012, the High Court found that it was “certainly not clear” that UK personnel complicit in US drone strikes would be immune from prosecution for murder.<sup>64</sup>

### Britain’s legal basis for lethal operations has crept toward the US position

On 21 April 2004, the then Attorney General, Lord Goldsmith, in a statement to the House of Lords, set out the then Government’s position on the use of self defence in international law.<sup>65</sup> He said that “*international law permits the use of force in self-defence against an imminent attack but does not authorize the use of force to mount a pre-emptive attack against a threat that is more remote*”.<sup>66</sup>

This was said in order to distinguish the UK from the much more expansive US doctrine of pre-emptive self-defence set out in the US’s 2002 National Security Strategy. By contrast the NSS argued: “*[T]he greater the threat, the greater is the risk of inaction – and the more compelling the case for taking anticipatory action to defend ourselves, even if uncertainty remains as to the time and place of the enemy’s attack. To forestall or prevent, we will act pre-emptively*”.<sup>67</sup>

Since then, the UK has slowly sought to align its policy on self defence with the controversial position of the US. In January 2017, less than ten days before President Trump’s inauguration, UK Attorney General Jeremy Wright QC gave a speech arguing for a much more expansive interpretation of when a State may use force in self-defence, attempting to move the UK much closer to the position asserted by the US.<sup>68</sup> He asserted that “*the absence of specific evidence of*

62 Request under the Freedom of Information Act 2000, FOI 2017/05758, 16 June 2017.

63 Joint Committee on Human Rights, The Government’s policy on the use of drones for targeted killing, Government response to the Committee’s second report, October 2016; Intelligence and Security Committee, UK Lethal Drone Strikes in Syria, April 2017.

64 R(on the application of Noor Khan) v Secretary of State for Foreign and Commonwealth Affairs [2014] EWCA Civ 24, para 19.

65 HL Paper 141/HC 574, para 3.32.

66 *Ibid.*

67 The National Security Strategy of the United States of America, September 2002, available at: <https://www.state.gov/documents/organization/63562.pdf>

68 Attorney General, Speech at the International Institute for Strategic

where an attack will take place or of the precise nature of an attack does not preclude a conclusion that an armed attack is imminent for the purposes of the exercise of a right of self-defence”.

This flies in the face of established customary international law as well as a common sense understanding of the term “imminent”, which requires some evidence of how and when a threat will materialize. Unsurprisingly, the Attorney-General had to concede “we should not expect every state to agree with us... we need to be aware of the legitimate concerns of some states, states which are worried about the abuse of international law by aggressive neighbours who threaten their sovereignty.”

The prohibition on the use of force is an essential principle in maintaining a peaceful international order and protecting the right to life; and as a result the exceptions to the prohibition are very narrowly drawn. Diluting these exceptions undermines state sovereignty and permits intervention in a far wider set of circumstances than is currently accepted. The UK runs the risk that other States will use its permissive position to justify attacks around the world.

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## 6. Ending UK support for President Trump’s drone assassinations

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In light of the civilian massacres revealed in this report, the five-fold increase in secret drone strikes on Yemeni territory, and the abandonment of previous minimal safeguards on approval for strikes, Reprieve believes the UK Government must end its unconditional support for Donald Trump’s drone assassinations.

To this end, the report sets out three key recommendations for the UK:

### Recommendation 1

**Publish the secret guidance given to British personnel involved in American drone strikes, so it can be assured that they are being fully protected from involvement in US human rights abuses.**

UK personnel who provide intelligence that may be used in operations like those in Yakla and Al Jubah do so according to a classified policy document known as the “Drone Guidance”.<sup>69</sup> Although it is understood that this document is designed to ensure such UK intelligence sharing complies with the British Government’s obligations under domestic and international law, the Government has refused to disclose any further details of the policy itself or even officially confirm its existence.<sup>70</sup>

Calls for publication of the Government’s secret Drone Guidance have been led by the former GCHQ Director David Omand, the MPs David Davis and Tom Watson, and Baroness Vivien Stern, who in a joint letter to the Foreign Secretary in November 2014 expressed concerns that “failure to confirm that such safeguarding arrangements exist undermines the assurances of Government and could make it harder, if issues arise, to defend the UK’s actions”. This letter argued that:

*“In our view, disclosure of the Guidance, setting out the principles which govern intelligence sharing consistent with UK domestic and international law, in the context of the US covert drone programme, would serve to safeguard the important work of UK intelligence officers pursuing their statutory functions. Disclosure would reassure an anxious public that the UK government will protect personnel from inadvertent collusion in counter-terrorism operations contrary to our understanding of the law”.<sup>71</sup>*

The prospect that UK personnel may have contributed to the massacres of civilians in Yakla and Al Jubah – and that the UK may find itself complicit in further such strikes – highlights the need for proper safeguards to protect UK personnel from complicity in such atrocities. Unfortunately, Government secrecy around the Drone Guidance hides it from public scrutiny and naturally raises concerns about its rigor and effectiveness.

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69 [Publish guidance on lethal drone strikes, says former GCHQ chief, FT, 26 November 2014.](#)

70 [Foreign and Commonwealth Office, Response to Written Question, 26 September 2014.](#)

71 [Joint Letter to Philip Hammond MP, 19 November 2014.](#)

The Government has previously and reluctantly disclosed several national security related policies that, once declassified, were revealed to exhibit serious flaws and in some cases were found to be unlawful; among them the Government's Torture Policy, policies on intercepting lawyer-client communications and the Overseas Security and Justice Assistance policy. There is no reason why the Government should not follow the same principles with respect to its involvement in US drone strikes.

As David Anderson QC, the former Independent Reviewer of Counter-Terrorism Legislation, commented:

*"Procedures which have never seen the light of day sometimes turn out to need improvement when they are exposed to it."*<sup>72</sup>

Reprive therefore calls on the Government to publish its secret Drone Guidance so that it may be subjected to effective public, parliamentary - and if necessary judicial - scrutiny.

### **Recommendation 2**

#### **Clarify the legal basis on which the UK shares intelligence with, and provides material support for, US drone strikes outside of armed conflict.**

In light of this report's findings, there is an urgent need for the UK to clarify the legal and policy basis on which it shares intelligence with the US which can then be used in drone strikes. At present there are glaring ambiguities in the UK's legal justification for participation in lethal drone attacks. This suggests that the secret Drone Guidance referenced above does not adequately protect UK personnel from complicity in civilian massacres such as Yakla and Al Jubah, potentially rendering them liable for criminal prosecution.

In its April 2016 report on the Government's policy on the use of drones for targeted killing, Parliament's Joint Committee on Human Rights warned that the Government "urgently needs to demonstrate that it at all times complies with the international legal frameworks that regulate the use of lethal force abroad outside of armed conflict", including Article 51 of the UN Charter and Article 2 of the European Convention on Human Rights (ECHR).

The Committee's report went on to caution that:

*"ongoing uncertainty about the Government's policy might leave front-line intelligence and service personnel in considerable doubt about whether what they are being asked to do is lawful, and may therefore expose them, and Ministers, to the risk of criminal prosecution for murder or complicity in murder."*<sup>73</sup>

The UK's quiet creep toward the United States' policy on use of lethal force opens the door for further brutal raids such as those on Yakla and Al Jubah, in which scores of civilians have been killed in pursuit of vaguely defined

<sup>72</sup> David Anderson QC – Independent Reviewer of Terrorism Legislation, A Question of Trust: Reprt of the Investigatory Powers Review, June 2015, Para. 10.4.

<sup>73</sup> Joint Committee on Human Rights, The Government's policy on the use of drones for targeted killing, May 2016

objectives such as "intelligence gathering". The US considers the requirement of an imminent threat is so diminished that it invokes pre-emptive "self defence" without further explanation to justify the devastation of whole villages.

There is an urgent need for the British Government to bring its legal position into line with international law, so that vague criteria for justifying the use of lethal force do not end up giving license to reckless action of the kind exposed in this report. Specifically, we believe this document should set out the safeguards, sign-off processes, and post-strike investigation procedures that must be employed to ensure UK personnel are not put in a position where they are in breach of the criminal law or the UK's obligations under Article 2 of the ECHR.

### **Recommendation 3**

#### **Strengthen Parliamentary oversight of the UK's use of lethal force overseas.**

For too long UK involvement in the US drone war has been cloaked in secrecy by the British Government. There is a critical role for Parliament to play in scrutinizing this critical area of UK action overseas, but a lack of transparency over even general matters of policy has prevented MPs from performing this oversight function.

The Intelligence and Security Committee (ISC) has a formal role in scrutinizing this area, but it has been hobbled by a lack of structural autonomy from Government, and from Downing Street in particular. Critically, the Prime Minister holds an absolute veto over who sits on the ISC, and controls what information it is allowed to see and publish.

The ISC itself has been highly critical of Government secrecy around the use of lethal force overseas. It is also clear that the Government has failed to actively engage with the ISC, denying its members access to crucial documents notwithstanding the fact that all ISC members are security cleared. When publishing its April 2017 report on the use of lethal drone strikes in Syria, the Committee called the Government's refusal to provide what it saw to be key documents as "profoundly disappointing". The Committee went on to conclude that:

*"The Government should be more transparent about these matters and permit proper scrutiny of them"*<sup>74</sup>

In light of the dramatic escalation of Trump's drone assassination programme in Yemen, it is vital that Parliament is empowered to fully scrutinize the UK's role. Reprive recommends that Parliament and Downing Street initiate an open dialogue – with relevant third party stakeholders – to determine an appropriate model by which MPs can more effectively scrutinise Government action in this area.

<sup>74</sup> Intelligence and Security Committee of Parliament, Press Release, 26 April 2017.

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