

Legal action over US Drone Strikes

By [Drone Wars UK](#)

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Theme: [Law and Justice](#), [Militarization and WMD](#)

On both sides of the Atlantic, legal challenges related to US drone use are about to hit the courts.

Tomorrow [the American Civil Liberties Union \(ACLU\) will take the CIA to court](#) for refusing to comply with a Freedom of Information request for copies of documents related to the CIA's drone strike programme.

The CIA has refused to comply with the FOIA request on the grounds that it is forbidden to talk about the secretive programme. The ACLU say that the CIA cannot on the one hand refuse documents on the grounds of secrecy while at the very same time regularly give briefings about its drone strikes. Jameel Jaffer, the deputy legal director of the ACLU told [the Guardian](#):

"For more than two years, senior officials have been making claims about the programme both on the record and off. They've claimed that the programme is effective, lawful and closely supervised. If they can make these claims, there is no reason why they should not be required to respond to [FOIA] requests."

Here in the UK, [Reprivee and Leigh Day are bringing legal action against the Foreign Secretary](#), William Hague, over the passing of UK intelligence to the US for use in targeting of drone strikes in Pakistan. The case is schedule to take place in the High Court next month.

Yesterday The Times ran a front page interview with the former Director of Public Prosecution, Lord Macdonald on the case ([here but behind their paywall](#)). Lord Macdonald, who is now Chair of Reprivee, argued "the evidence is pretty compelling that we are providing that kind of information to the Americans... The British people have a right to know about the policies being pursued by their Government."

In a separate but [accompanying article](#), we get a glimpse of some of the likely response from the Government's lawyers. "Officials and analysts" told the Times that intelligence gathered by GCHQ, and other listening posts such as Menwith Hill in Yorkshire are covered by secret "UKUSA Agreement" between Britain and the US:

"Under the terms of the terms of the secret 1946 UKUSA Agreement between Britain and the US, which is also known as the "Five Eyes" system, Britain's network of listening stations is largely integrated, and its intelligence pooled with those of America and three other nations - Canada, New Zealand and Australia."

The article continues:

“Officials and analysts The Times spoke to said that such a web of exchange would lead to the possibility that British generate intelligence could inform US drone strikes. “It would be astonishing to me if GCHQ were not working to locate key al-Qaeda individuals who were subsequently targeted in drone attacks,” said Michael Clarke, director of The Royal United Services Institute, a think-tank.

Another commentator with experience in intelligence matters, who declined to be named, said “The problem is what goes into a particular targeting pack. If the information is there on a common-access database – how do you control that?

Analysts pointed out that drone strikes would only be one option among many potential uses of shared information, including arrest, surveillance, black propaganda, ground force attacks, or drone strikes.

“So GCHQ might plausibly claim that it is not directly complicit in drone attacks because it is not responsible for the subsequent decisions taken,” said Professor Clarke.

So it appears to be conceded that UK information is being used to ‘inform’ US drone strikes but that the UK has no responsibility on what is done with the intelligence gathered once it is placed in a shared database. I can think of a few judges who would give that argument short shrift (but unfortunately also some who wouldn’t.....)

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