

The Hon Tony Abbott MP
Prime Minister
By fax: (02) 6273 4100

The Hon Julie Bishop MP
Minister for Foreign Affairs
By email: Julie.Bishop.MP@aph.gov.au

Senator the Hon David Johnston
Minister for Defence
By email: defence.minister@defence.gov.au

22 May 2014

Dear Ministers

Questions in relation to Australia's participation in United States (US) drone strikes

This letter is to express our grave concern about recent reports that two Australian citizens were killed by United States drone strikes in Yemen and to urgently request greater transparency about Australian involvement in drone strikes. We **attach** a list of questions in relation to Australia's possible involvement in civilian deaths caused by US drone strikes and the legal, policy and regulatory structure that governs that work.

On 21 July 2013, *The Age* newspaper reported allegations made by former Pine Gap personnel that the signals intelligence base has located and tracked al-Qaeda and Taliban leaders and has passed on location data (**locational intelligence**) to the US drone strike program and other military operations. On 2 December 2013, the Defence Minister told the Australian Parliament that the Pine Gap base operates with the 'full knowledge and concurrence' of the Australian government and all activities are conducted in compliance with Australian law. We **attach** a copy of the media report and the Minister's response to questions on notice.

If true, these allegations raise serious concerns about the complicity of Australian officials in civilian deaths caused by the US drone strikes. In particular, we are concerned that Australian officials may have facilitated targeted killing in violation of international humanitarian law and international human rights law, and may be implicated in war crimes.

Given the gravity of the allegations, and recent deaths of two Australians in drone strikes, we request information in relation to the legal, policy and regulatory framework that applies to any involvement by Australia in US drone strikes and otherwise that governs Australian defence personnel at Pine Gap in their sharing of locational intelligence.

We would be grateful for a response to the attached questions. If you have any queries, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'e. howie'.

Emily Howie
Director of Advocacy and Research
Human Rights Law Centre

Attachment: List of questions on Australian involvement in US drone strikes

Australia at war

- Does the Australian Government consider itself legally at war with any State or organized armed group?
- Is Australia involved in any way in US drone strikes conducted outside of Afghanistan? If so, what is the legal basis for that involvement?

Australian personnel

- How does the Australian military ensure that its military personnel at Pine Gap who are involved in downlinking, processing or analysing locational data that might be used to locate targets of US drone strikes are not complicit in or liable for any violations of humanitarian or human rights law committed by the US?
- Have Australian officers at Pine Gap been provided with legal advice as to their potential international criminal liability for their role in drone strikes as a result of sharing locational intelligence with the USA?
- Has the Australian government considered that if Australian officers at Pine Gap are involved in US drone strikes that they may be subject to prosecution at the International Criminal Court?

Pine Gap

- What is the legislative, regulatory and policy framework in which Pine Gap operates? What laws, regulations or policies govern Australian officials involved in the interception, downlinking, processing, analysis and sharing of information or intelligence at Pine Gap?
- The Defence Minister has declared that all activities at Pine Gap are conducted in compliance with Australian law. To what extent has the department made inquiries to satisfy itself that these activities are in compliance with Australian law? Are activities at Pine Gap also conducted in compliance with Australia's international law obligations, in particular international human rights law and international humanitarian law?
- Has the Australian government entered into any specific agreement with United States in relation to the sharing of locational intelligence downlinked, processed or analysed by Pine Gap that might be used in relation to drone strikes?

Australian knowledge at Pine Gap

- The Defence Minister says that Australia has "full knowledge and concurrence" of activities at Pine Gap. Does full knowledge and concurrence in relation to Pine Gap include full knowledge and concurrence in the purposes for which locational intelligence is shared?