



SIGAR

Office of the Special Inspector General
for Afghanistan Reconstruction

August 10, 2016

The Honorable Ashton B. Carter
Secretary of Defense

Dear Secretary Carter:

I am writing to request information regarding the extent of your department's support for the newly established Anti-Corruption Justice Center (ACJC) in Afghanistan. On June 30, 2016, President Ghani signed a decree creating the ACJC and tasking it with combating high-level corruption within the Afghan government.¹ We understand that the ACJC, to be located in Kabul, will be comprised of investigators from Afghanistan's Major Crimes Task Force, prosecutors from the Attorney General's Office, and judges presiding over newly established courts.² The center is intended to be free from political pressures that historically hindered similar efforts in the past.³ The establishment of the ACJC appears to be a promising step toward improving Afghanistan's ability to investigate and prosecute high level corruption cases. We are addressing this letter to DOD because of DOD's involvement in supporting the development of ACJC operations.

In a briefing to SIGAR on June 10, 2016, DOD reported that the ACJC is supposed to be largely modeled after the Counter-Narcotics Justice Center (CNJC), which the Afghan government established in 2008 with the assistance of the United States and the United Kingdom. The CNJC houses Afghanistan's Criminal Justice Task Force, consisting of Afghan prosecutors and investigators, and the Central Narcotics Tribunal, which has exclusive nationwide jurisdiction to investigate and prosecute criminal narcotics offenders, similar to the ACJC mandate related to high-level Afghan government corruption.⁴

According to the Department of State, the CNJC has been touted by many in the international community as Afghanistan's leading entity for investigating and prosecuting narcotics crimes. For example, the Bureau of International Narcotics and Law Enforcement Affairs (INL) views the CNJC as one of the most efficient, fair, and transparent parts of the Afghan justice system. We believe that this has been achieved due, in part, to the ability and willingness of the U.S. government, principally INL and the Drug Enforcement Administration, to conduct robust vetting of CNJC officials and provide active, on-site mentorship for several years after the CNJC was established.

¹ Presidential Decree Establishing of Anti-Corruption Justice Center, Number (53), June 30, 2016.

² Deputy Chief of Staff Security Assistance/Combined Security Transition Command-Afghanistan, Briefing to Mr. John Sopko, June 10, 2016.

³ *Id.*

⁴ The Department of State's Bureau of International Narcotics Control and Law Enforcement (INL) paid for the CNJC's construction, and has provided funding for programs that include mentoring, training, and providing advisory services to the police, prosecutors, and judges of the Criminal Justice Task Force who work at the CNJC. The cases prosecuted at the CNJC are a product of the Afghan Counternarcotics Law, and are submitted to CNJC prosecutors by specialized investigative counternarcotics bodies.

However, the Independent Joint Anti-Corruption Monitoring and Evaluation Committee (MEC) in Afghanistan has reportedly expressed concern about the establishment of the ACJC.⁵ For example, according to a July 1, 2016 TOLONews article, the MEC has reported that the government's efforts are only "a symbolic move as a sign of cooperation in fighting corruption ahead of and in the wake of international summits on the issue."⁶ Moreover, the Chairman of the High Office of Oversight and Anti-Corruption (HOOAC)⁷ has reportedly noted that "the government seems reluctant to start the work of the recently established anti-corruption justice center."⁸ The concerns expressed by these anti-corruption institutions raise questions regarding the timing of the ACJC's establishment and whether the ACJC will have the support and resources necessary to achieve its mission.

Given the importance of anti-corruption initiatives to the future success of the Afghan government, I am seeking information that will allow my office to better understand the extent to which the ACJC will be able to contribute to the fight against corruption in Afghanistan.⁹ To aid us in this inquiry, please provide the following information, with supporting documentation, no later than August 25, 2016:

1. Does DOD believe that the ACJC currently has the funding, personnel and institutional commitment necessary for it to be useful in the fight against corruption in Afghanistan? If not, what additional support does the ACJC require and when would you expect the center to become useful?
2. What actions has DOD taken to help establish and support the ACJC?
 - a. What other entities are assisting DOD's efforts in this regard?
 - b. What assistance or support (financial, technical, or otherwise) does DOD intend to provide to the ACJC to assist with future investigations and prosecutions?
3. Please identify any challenges associated with establishing the ACJC, including local political challenges and challenges working with other U.S. and international agencies.
4. Please identify the procedures established to vet ACJC investigators, prosecutors, and judges. Will DOD have a role in implementing these procedures? If so, please explain.
5. To what extent have salary supplements been agreed to and established for ACJC investigators, prosecutors, and judges? Who will pay for these supplements?

⁵ The MEC "is an independent agency, and is not subject to direction from either the Afghan government or from the international community." The MEC focuses on "developing anti-corruption recommendations; monitoring and evaluating the anti-corruption efforts of the Afghan government and the international community; and reporting on a regular basis to the President, Parliament, and people of Afghanistan, as well as to the international community, about the state of the fight against corruption." Independent Joint Anti-Corruption Monitoring and Evaluation Committee (August 4, 2016), <http://www.mec.af/#about-us>.

⁶ Mir Abed Joenda, "Monitoring Bodies Warily Welcome New Anti-Corruption Center," TOLONews (July 1, 2016).

⁷ The HOOAC was established in July 2008 by presidential decree as the highest office in Afghanistan "for the coordination and monitoring of the implementation of the Anti-Corruption Strategy and the implementation of administrative procedural reform in the country." HOOAC (August 4, 2016), <http://anti-corruption.gov.af/en/page/8463>.

⁸ Sayed Sharif Amiri, "Delayed Anti-Corruption Center Frustrates Oversight Office," TOLONews (July 14, 2016).

⁹ U.S. Department of Defense/U.S. Department of State, U.S. Civil-Military Strategic Framework for Afghanistan: Revision 2 (August 2013), pp. 6-8.

6. Please describe any jurisdictional thresholds that have been established for prosecutions at the ACJC. To what extent was DOD involved in helping to determine these jurisdictional thresholds?
7. Recent reports indicate that DOD has plans underway to establish ACJC facilities in Kabul. Has a specific location been identified or are there current sites under consideration? Will DOD have a role in funding construction of a building to house the ACJC, equipping it, or funding its operations? If so, please explain in detail and provide an estimate of the related costs, even if preliminary.
8. Does DOD anticipate that the ACJC will have prosecuted any cases prior to the Brussels Conference on Afghanistan in October 2016?
9. Has DOD conducted, or is DOD aware of, any studies analyzing the efficacy of the CNJC model for combating narcotics in Afghanistan? If so, please identify all such studies.

I am submitting this request under the authority of Public Law No. 110-181, and the Inspector General Act of 1978, as amended. Should your staff have any questions about this inquiry, please have them contact Mr. Matthew Dove, Director of Special Projects, at [REDACTED] or [REDACTED].

Sincerely,



John F. Sopko
Special Inspector General
for Afghanistan Reconstruction

Encl: I – DOD Response, dated October 07, 2016

ENCLOSURE I: DOD COMMENTS FOR SIGAR 16-51-SP, DATED 07 OCTOBER 2016



ASIAN AND PACIFIC
SECURITY AFFAIRS

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
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OCT 7 2016

The Honorable John Sopko
Special Inspector General for Afghanistan Reconstruction
1550 Crystal Drive, 9th Floor
Arlington, VA 22202

Dear Mr. Sopko:

I am writing this letter on behalf of the Secretary of Defense in response to your request for information concerning Department of Defense (DoD) support for Afghanistan's newly established Anti-Corruption Justice Center (ACJC). Attached as an enclosure to this letter are responses to your specific questions.

I appreciate and support your efforts to provide independent and objective oversight of the U.S. funded reconstruction efforts in Afghanistan.

Sincerely,

Jedidiah P. Royal
Deputy Assistant Secretary of Defense (Acting) for
Afghanistan, Pakistan and Central Asia

| Encl: As stated.



**Department of Defense Response to Special Inspector General for Afghanistan
Reconstruction Inquiry Letter: Anti-Corruption Justice Center**

1. Does DoD believe that the ACJC currently has the funding, personnel, and institutional commitment necessary for it to be useful in the fight against corruption in Afghanistan? If not, what additional support does the ACJC require and when would you expect the center to become useful?

DoD is not in a position to make an authoritative assessment of what additional support the ACJC may need and when it may become useful. The DoD mission focuses on developing the Ministries of Defense and Interior and their forces. Because the ACJC is not subordinate to either of those ministries, DoD's Afghanistan Security Forces Fund (ASFF) cannot be used to directly fund establishment and operations of the ACJC. ASFF funding has been indirectly used to support the ACJC by funding training and equipping of MOI elements of the Afghan-led Major Crimes Task Force (MCTF) that might contribute to the ACJC mission by investigating corruption cases.

2. What actions has DoD taken to help establish and support the ACJC?

DoD's role in supporting the establishment of the ACJC has involved participation by Combined Security Transition Command-Afghanistan (CSTC-A) working within the RS mission framework with the U.S. Embassy, the United Nations Assistance Mission in Afghanistan, the UK Embassy and other entities in support of Afghan efforts to establish and fund the ACJC.

3. Please identify any challenges associated with establishing the ACJC, including local political challenges and challenges working with other U.S. and international agencies.

Given DoD's mission focus on developing the Ministries of Defense and Interior and their forces, DoD defers to other organizations that are better positioned to authoritatively make such assessments.

4. Please identify the procedures established to vet ACJC investigators, prosecutors, and judges. Will DoD have a role in implementing these procedures? If so, please explain.

DoD, through CSTC-A, can support and assist the MoI in the development of methods to vet MoI investigators. However, vetting of members of Afghanistan's Attorney General's Office, the Judiciary, or the ACJC is not part of DoD's mission in Afghanistan.

5. To what extent have salary supplements been agreed to and established for ACJC investigators, prosecutors, and judges? Who will pay for these supplements?

Funding of Afghan government prosecutors or judges is outside the scope of DoD's authority. If funding was requested from DoD for salary supplements for ACJA investigators, prosecutors, and judges, DoD would only be authorized to consider funding ACJC investigators detailed from the MoI.

6. Please describe any jurisdictional thresholds that have been established for prosecutions at the ACJC. To what extent was DoD involved in helping to determine these jurisdictional thresholds?

Any jurisdictional thresholds that may have been established for prosecutions at the ACJC would have been an internal Afghan government decision. DoD is not directly involved in the advising of the Afghanistan legal system.

7. Recent reports indicate that DoD has plans underway to establish ACJC facilities in Kabul. Has a specific location been identified or are there current sites under consideration? Will DOD have a role in funding construction of a building to house the ACJC, equipping it, or funding its operations? If so, please explain in detail and provide an estimate of the related costs, even if preliminary.

The Afghan government has selected an MoI compound to house the ACJC. DoD has no authority to fund ACJC construction requirements since those requirements would not be for the direct benefit of the MoI or MoD.

8. Does DoD anticipate that the ACJC will have prosecuted any cases prior to the Brussels Conference on Afghanistan in October 2016?

The Afghan government would be the authoritative source of information regarding the status of prosecutions at the ACJC.

9. Has DoD conducted, or is DoD aware of, any studies analyzing the efficacy of the Counter Narcotics Justice Center (CNJC) model for combating narcotics in Afghanistan? If so, please identify all such studies.

DoD is not currently aware of any studies analyzing the efficacy of the CNJC model for combating narcotics in Afghanistan. Although DoD funds counter narcotics efforts in Afghanistan conducted by the MoI and MoD, DoD is not currently directly involved with the CNJC.