



**SIGAR**

Office of the Special Inspector General  
for Afghanistan Reconstruction

August 10, 2016

The Honorable P. Michael McKinley  
U.S. Ambassador to Afghanistan

Dear Ambassador McKinley:

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.<sup>1</sup> 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.<sup>2</sup> The center is intended to be free from political pressures that historically hindered similar efforts in the past.<sup>3</sup> 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 U.S. Embassy Kabul to determine the Embassy's role 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.<sup>4</sup>

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.

---

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

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

<sup>3</sup> *Id.*

<sup>4</sup> 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.<sup>5</sup> 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."<sup>6</sup> Moreover, the Chairman of the High Office of Oversight and Anti-Corruption (HOOAC)<sup>7</sup> has reportedly noted that "the government seems reluctant to start the work of the recently established anti-corruption justice center."<sup>8</sup> 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.<sup>9</sup> To aid us in this inquiry, please provide the following information, with supporting documentation, no later than August 25, 2016:

1. Does U.S. Embassy Kabul 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 U.S. Embassy Kabul taken to help establish and support the ACJC?
  - a. What other entities are assisting to help establish and support the ACJC?
  - b. What assistance or support (financial, technical, or otherwise) does U.S. Embassy Kabul 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.

---

<sup>5</sup> 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>.

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

<sup>7</sup> 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>.

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

<sup>9</sup> 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.

4. Please identify the procedures established to vet ACJC investigators, prosecutors, and judges. Will U.S. Embassy Kabul 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?
6. Please describe any jurisdictional thresholds that have been established for prosecutions at the ACJC. To what extent was U.S. Embassy Kabul 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 U.S. Embassy Kabul 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 U.S. Embassy Kabul anticipate that the ACJC will have prosecuted any cases prior to the Brussels Conference on Afghanistan in October 2016?
9. Has U.S. Embassy Kabul conducted, or is the Embassy 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 – Embassy Kabul Response, dated September 07, 2016

ENCLOSURE I: EMBASSY KABUL COMMENTS FOR SIGAR 16-52-SP, DATED 07  
SEPTEMBER 2016

---



*Embassy of the United States of America*

*Kabul, Afghanistan*

September 7, 2016

Dear Special Inspector General Sopko:

I understand you plan to visit Kabul in October. I look forward to meeting with you then.

In the meantime, I thank you for your August 10 letter requesting information regarding Embassy Kabul's relationship with Afghanistan's Anti-Corruption Justice Center (ACJC). While supportive of Afghanistan's anti-corruption efforts in general, Embassy Kabul's position has consistently been that the ACJC must be an Afghan-led initiative.

The Afghan-led ACJC is still in a developmental phase, and Embassy Kabul's role in this initiative has been limited. USAID, the State Department's Bureau of International Narcotics and Law Enforcement (INL), and the Department of Justice have neither contributed resources nor participated in decision-making for the ACJC. U.S. and other international representatives participated alongside Afghanistan government representatives at the ACJC Working Group. U.S. participants included the Embassy's Justice Attaché and a Political Officer (for reporting purposes), and international representatives included the United Nations Assistance Mission in Afghanistan's (UNAMA) Rule of Law program, Resolute Support Mission's Combined Security Transition Command – Afghanistan (CSTC-A), and the United Kingdom's Department for International Development (DFID), among others. DFID, UNAMA, and CSTC-A have taken the lead in securing donor assets and logistical resources for the ACJC. The most important factor in the ACJC's success, however, will be the Afghan government's political will to prosecute high-level officials in a fair and impartial manner, in order to combat corruption.

Given that Embassy Kabul has played no role in establishing or funding the ACJC other than to the limited degree described above, the information we have regarding the questions raised in your August 10 letter is as follows:

- 1. Does U.S. Embassy Kabul 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?**

We are not aware of any dedicated funding for the ACJC, nor do we believe that it has a funded line item in the Afghan government's budget. We understand that the Attorney General's Office and Supreme Court have named prosecutors and judges to the ACJC, but these positions continue to be funded through the Attorney General's Office and Supreme Court budgets. The Afghan government has considerable work remaining to establish the ACJC's jurisdiction and legal authority, capital and operating budgets, transparency and vetting procedures, and asset recovery provisions.

- 2. What actions has U.S. Embassy Kabul taken to help establish and support the ACJC?**

As set forth above, the ACJC is not yet in operation and is an Afghan-led initiative. Consequently, while supportive of the Afghan government's efforts to demonstrate its commitment to battling corruption by successfully prosecuting high-level corruption cases, U.S. Embassy Kabul has played no role in planning, designing, or funding the ACJC.

- a. What other entities are assisting to help establish and support the ACJC?**

Several members of the international donor community have offered the Afghan government advice and assistance in establishing the ACJC, primarily DFID, the UNAMA Rule of Law program, and CSTC-A.

- b. What assistance or support (financial, technical, or otherwise) does U.S. Embassy Kabul intend to provide to the ACJC to assist with future investigations and prosecutions?**

U.S. Embassy Kabul has not received any formal requests from the Afghan Government to support the ACJC. The Department of Justice may explore whether security and political conditions exist to request INL funding to bring U.S. federal prosecutors to Afghanistan to advise officials from the Attorney General's Office in preparing ACJC cases for prosecution.

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

U.S. Embassy Kabul assesses the ACJC will need continuing Afghan leadership support, clear budget commitments, resolution of operational issues, continuing and direct international community mentoring and support, and ACJC personnel co-location so that corruption cases may be tracked from investigation through adjudication. The most important factor, however, will be whether the Afghan government has the political will to use the ACJC to prosecute high-level corruption cases in a fair and impartial manner.

- 4. Please identify the procedures established to vet ACJC investigators, prosecutors, and judges. Will U.S. Embassy Kabul have a role in implementing these procedures? If so, please explain.**

As described above, the ACJC is an Afghan-led initiative, and the Afghan government will have to determine the appropriate vetting procedures for ACJC investigators, prosecutors, and judges. U.S. Embassy Kabul envisions no active role in implementing these procedures.

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

As the ACJC is an Afghan-led effort, the Afghan government will have to determine for itself if salary supplements for ACJC investigators, prosecutors, and judges are warranted and will need to budget for these additional expenses. U.S. Embassy Kabul envisions no role in such decisions and has no plans or resources to fund these supplements. We understand that the UK is considering providing salary incentives for ACJC primary and appellate judges; we are not aware of any details regarding that consideration.

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

Afghanistan's Supreme Court recommended to the High Council on Rule of Law and Anti-Corruption that the ACJC's jurisdiction should be limited to: 1) government officials of high rank who are accused of crimes; 2) any government official accused of bribery, illegal mining, or theft of historical and cultural properties for which the criminal proceeds exceed five million Afghanis (about \$74,000); or 3) any government official accused of crimes for which the criminal proceeds exceed 10 million Afghanis (about \$148,000) for other crimes. U.S. Embassy Kabul was not involved in determining these jurisdictional thresholds, which were set by the Afghan government.

**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 U.S. Embassy Kabul 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.**

Our understanding is that the ACJC would be located at Camp Heath, a former Drug Enforcement Administration facility currently owned by the Afghan government. We refer you to CSTC-A for any plans DOD may

have. U.S. Embassy Kabul has no plans to fund construction, provide equipment, or finance operations at Camp Heath.

**8. Does U.S. Embassy Kabul anticipate that the ACJC will have prosecuted any cases prior to the Brussels Conference on Afghanistan in October 2016?**

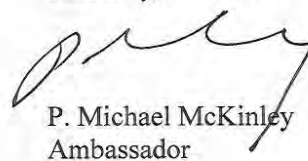
As the ACJC is an Afghan-led effort, it will be up to the Afghan government to determine when to initiate prosecutions.

**9. Has U.S. Embassy Kabul conducted, or is the Embassy aware of, any studies analyzing the efficacy of the CNJC model for combating narcotics in Afghanistan? If so, please identify all such studies.**

While a formal study on the efficacy of the CNJC model has not been conducted, INL performance reviews are completed on a regular basis. CNJC also conducts monthly program reporting and shows that the CNJC has a 98 percent conviction rate and that the median sentence for a narco-trafficker is 17 years.

I hope these responses are helpful in your assessment of the Afghan government's anti-corruption initiatives. Please do not hesitate to contact me or my team at U.S. Embassy Kabul if we may provide you with any additional information.

Sincerely,



P. Michael McKinley  
Ambassador