



## OFFICE OF THE SPECIAL INSPECTOR GENERAL FOR AFGHANISTAN RECONSTRUCTION

### **Actions Needed For a More Strategic Approach to U.S. Judicial Security Assistance**

On December 18, 2009, the Special Inspector General for Afghanistan Reconstruction (SIGAR) released a report assessing U.S. judicial security assistance to Afghanistan (SIGAR Audit-10-3). Due to the sensitive nature of the issues discussed in the report, distribution was restricted to relevant agency and congressional officials as Controlled Unclassified Information. SIGAR is providing the following unrestricted summary of the report's findings and recommendations for public distribution. Sensitive information that could endanger U.S., allied, and Afghan lives and interests have been removed from this summary.

#### **WHAT SIGAR REVIEWED**

SIGAR Audit-10-3 assessed U.S. assistance to Afghanistan in the area of judicial security with a focus on support to the Judicial Security Unit (JSU)<sup>1</sup> and plans for a broader judicial security program. We examined: (1) the approach used by U.S. agencies to provide judicial security assistance, and (2) the factors that could affect the efficacy of such assistance. We conducted our work in Kabul, Afghanistan, and Washington, D.C., from July to November 2009 in accordance with generally accepted government auditing standards. During the course of the audit, SIGAR provided a letter to the U.S. Embassy on October 11, 2009, outlining issues that needed immediate attention. The Embassy responded to these concerns in a letter dated November 5, 2009. When preparing the final report, we considered written comments from the U.S. Embassy in Kabul and incorporated information based on technical comments from the Departments of Justice, State, and Defense.

SIGAR Audit-10-3 is part of a series of SIGAR audits addressing U.S. efforts to strengthen Afghanistan's anti-corruption capabilities and the rule of law.

#### **WHAT SIGAR FOUND**

The United States has been the single largest contributor to Afghanistan's justice sector, investing more than \$160 million in the last two fiscal years. An effective judicial sector is essential to establishing rule of law and good governance in Afghanistan. However, several reports and assessments highlight the risk that Afghan judicial officials face in performing their duties. Enhancing the security of judicial officials is an important element of the Afghanistan National Development Strategy and Afghanistan's National Anti-Corruption Strategy.

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<sup>1</sup> Afghanistan's Judicial Security Unit has also been referred to as the Judicial and Witness Security Protection Unit, the Court Security Unit, and the Afghan Marshals Service in documents provided by U.S. agencies.

Since 2007, the United States has provided training and infrastructure support to the JSU, a specialized unit of the Counter-Narcotics Police of Afghanistan under the Ministry of Interior. U.S. agencies that provide assistance include the Departments of Justice (DOJ), Defense (DOD), and State. The U.S. Marshals Service (USMS), a component of DOJ, mentors and trains JSU personnel in courtroom and personal security. DOJ also provides advisors to Afghan judicial institutions. DOD designed, funded, and built a \$4.5 million compound in Kabul to house and support the JSU. Completed in May 2009, the compound consists of barracks, offices, a dining facility, and medical building. The State Department's Bureau for International Narcotics and Law Enforcement Affairs (INL) will fund the JSU compound's operations and maintenance, as well as procure its furniture, fixtures, and equipment. The U.S. Embassy in Kabul's Rule of Law office is involved in interagency and international discussions on justice sector issues.<sup>2</sup>

The U.S. and Afghanistan governments have begun discussions on the provision of additional judicial security assistance. Discussions included proposals from both governments on the scope, size, funding, and implementation phases of a broader judicial security program.

### **U.S. Assistance Lacks Key Elements of a Strategic Approach**

U.S. judicial security assistance lacks key elements of a strategic approach and has at times been uncoordinated. Best practices for implementing federal programs include such elements as leadership, agreed upon standards, assessment of risk, and a planning process that takes into account requirements and stakeholders. Taking a strategic approach to program implementation promotes transparency and helps ensure that the program is based on a sound plan that can achieve results and reduce potential risks to U.S. investments.

- **Lead Agency to Coordinate U.S. Assistance**

Several U.S. agencies are responsible for developing, funding, and implementing U.S. judicial security assistance, but no single agency or individual has been officially designated to lead or coordinate U.S. efforts, which contributed to delays in opening the JSU compound. Moreover, there was no consensus among these agencies as to which agency should serve in that capacity. Best practices have shown that a lead agency or coordinator can serve as a focal point for integrating multi-agency efforts and ensuring effective program implementation. The U.S. Embassy proposed that its Rule of Law office be designated as the coordinator for future judicial security assistance in response to a letter SIGAR sent to the U.S. Embassy.

- **Judicial Security Standards**

The U.S. and Afghan governments have not established judicial security standards. As a result, initial U.S. and Afghan proposals for a broader judicial security program varied widely in terms of size, scope, and cost. Commonly accepted standards help ensure organizational, management, and budgetary decisions are made consistently across organizations involved in a multi-agency or international effort. They also provide the basis for defining program requirements.

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<sup>2</sup> Although we did not examine the full extent of international assistance for judicial security in Afghanistan, we note that the U.S. government has coordinated with the French and British governments in planning and implementing its judicial security assistance.

- **Judicial Security Assessments**

Although we are not able to discuss U.S. or Afghan efforts in conducting security assessments, we note that threat and risk assessments are important initial steps in defining and prioritizing program requirements. These assessments are necessary to determine, among other things, the number of security personnel and quantity and type of equipment needed to protect judicial personnel.

- **Planning for JSU Compound**

Although construction of the \$4.5 million JSU compound was completed in May 2009, it remained dormant without water, electricity, or furniture for more than six months because of delays in funding its operations and maintenance and in purchasing furniture, fixtures, and equipment. Two factors contributed to these delays. First, requirements for operating and furnishing the compound were not included in the construction contracting documents. Identifying specific funding and other resources required to implement a program is a standard strategic planning practice. Second, not all stakeholders were involved early in the planning process, in part, because there was no lead agency to coordinate such efforts. Involving stakeholders in the planning process can help in identifying and fulfilling such requirements. Because operations and maintenance and furniture, fixtures, and equipment requirements were not identified early in the planning process, USMS and INL spent several months refining requirements for the compound and deliberating over contract implementation. Following the clarification of requirements, cost estimates for operations and maintenance exceeded the allocated funding level.

### **Additional Challenges Could Hinder Plans for a Broader Judicial Security Program**

As U.S. agencies work with Afghan officials to develop a broader judicial security program, they will likely encounter several issues related to planning, manpower, command structure, and jurisdiction. For example, the Afghan government's initial proposal estimated costs for salaries, uniforms, equipment, and vehicles, but did not include infrastructure requirements for facilities to train the security force or to provide offices throughout Afghanistan. In addition, the Ministry of Interior has agreed to loan additional personnel from another unit to the JSU. However, questions remain over the command structure for these additional personnel. In its technical comments, the Combined Security Transition Command – Afghanistan said that command structures issues had been resolved.

### **WHAT SIGAR RECOMMENDED**

Action is needed to ensure that progress made in establishing the JSU is not lost and that implementation challenges are mitigated as the United States and Afghanistan work together to develop a broader judicial security program. The United States could otherwise run the risk of committing to an investment greater than anticipated or building a security force that the government of Afghanistan cannot sustain.

SIGAR made a total of six recommendations to the U.S. Ambassador to Afghanistan and INL. We recommended that the U.S. Ambassador designate a lead agency or office with responsibility for coordinating the planning and implementation of multi-agency U.S. judicial security assistance. We further recommended that the designated lead agency or office: (1) assist Afghan government partners in establishing judicial security standards and developing appropriate job descriptions for members of current and future Afghan judicial security forces; and (2) fully involve important stakeholders in the

planning process, especially those stakeholders who could provide potential funding for infrastructure, equipment, or operations and maintenance. Other recommendations are not included in this summary.

The U.S. Embassy concurred with the report's findings and recommendations and outlined actions that have been taken in response to our recommendations. These actions include the appointment of a lead agency and the establishment a multi-agency planning team with relevant stakeholders. While we welcome the actions already taken, we reiterate the need for working with Afghan government partners to establish security standards. Collectively, our recommendations can help U.S. agencies determine the size, scope, and implementation phases of a judicial security program that is based on prioritized needs of key judicial officials. To prioritize these needs, however, U.S. and Afghan officials need to establish security standards and conduct security assessments based on those standards.

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## **ABBREVIATIONS**

|       |                                                                |
|-------|----------------------------------------------------------------|
| DOD   | Department of Defense                                          |
| DOJ   | Department of Justice                                          |
| JSU   | Judicial Security Unit                                         |
| INL   | Bureau for International Narcotics and Law Enforcement Affairs |
| SIGAR | Special Inspector General for Afghanistan Reconstruction       |
| USMS  | United States Marshals Service                                 |

(This report was conducted under the audit project code SIGAR-007A).

## **SIGAR's Mission**

The mission of the Special Inspector General for Afghanistan Reconstruction is to enhance oversight of programs for the reconstruction of Afghanistan by conducting independent and objective audits, inspections, and investigations on the use of taxpayer dollars and related funds. SIGAR works to provide accurate and balanced information, evaluations, analysis, and recommendations to help the U.S. Congress, U.S. agencies, and other decision-makers to make informed oversight, policy, and funding decisions to:

- improve effectiveness of the overall reconstruction strategy and its component programs;
- improve management and accountability over funds administered by U.S. and Afghan agencies and their contractors;
- improve contracting and contract management processes;
- prevent fraud, waste, and abuse; and
- advance U.S. interests in reconstructing Afghanistan.

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