



Department of Justice

STATEMENT OF

BRUCE C. SWARTZ
DEPUTY ASSISTANT ATTORNEY GENERAL
CRIMINAL DIVISION
DEPARTMENT OF JUSTICE

BEFORE THE

SUBCOMMITTEE ON NATIONAL SECURITY AND FOREIGN AFFAIRS
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
HOUSE OF REPRESENTATIVES

ENTITLED

“U.S. EFFORTS TO TRAIN AND EQUIP POLICE AND ENHANCE THE
JUSTICE SYSTEM IN AFGHANISTAN”

PRESENTED

JUNE 18, 2008

STATEMENT OF
BRUCE C. SWARTZ
DEPUTY ASSISTANT ATTORNEY GENERAL
CRIMINAL DIVISION
DEPARTMENT OF JUSTICE

BEFORE THE

SUBCOMMITTEE ON NATIONAL SECURITY AND FOREIGN AFFAIRS
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
HOUSE OF REPRESENTATIVES

ENTITLED

“U.S. EFFORTS TO TRAIN AND EQUIP POLICE AND ENHANCE THE
JUSTICE SYSTEM IN AFGHANISTAN”

JUNE 18, 2008

Mr. Chairman, Congressman Shays, and members of the subcommittee, I am pleased to appear before you today to discuss the role of the Department of Justice in U.S. efforts to train and equip police forces, enhance justice systems, and promote the rule of law in Afghanistan.

Afghanistan is working to establish the rule of law for its citizens, and the Department of Justice is committed to help achieve that goal. Together with our State and Defense Department colleagues, and with our international and Afghan allies, we are making progress notwithstanding the obstacles to these endeavors in Afghanistan. Today, I hope to share with you information about the Department's efforts in Afghanistan, which are carried out by various components of the Department including the Criminal Division, the Drug Enforcement Administration (DEA), the U.S. Marshals Service (USMS), and the Federal Bureau of Investigation (FBI).

At the outset, I also would like to express our thanks to the U.S. Department of State, which funds many of our activities in Afghanistan and supports our efforts through our Embassy in Kabul. I would like to thank the Department of Defense for its support as well. Combating the illegal narcotics trade and corruption, instituting a professional civilian police force, and cultivating an honest, fair, and effective judicial system are critical elements of our mission in Afghanistan. Illegal narcotics trafficking continues to undermine Afghanistan's political stability, slow economic growth, and undercut respect for the rule of law. It funds the Taliban insurgency and fosters public corruption.

While the task of establishing the rule of law in Afghanistan is daunting, it is critically important not only to Afghanistan's security but ours as well. Our work in Afghanistan already has secured important law enforcement successes – successes that could not have been achieved had DOJ personnel not been on the ground in Afghanistan to train and mentor our Afghan counterparts.

Just last week, in what may have been the largest-ever drug seizure anywhere, Afghan counter-narcotics police, trained by the Drug Enforcement Administration and the United Kingdom's Serious Organized Crime Agency, uncovered and destroyed 235 metric tons of hashish hidden in 6-foot-deep trenches in the Spin Boldak area of Kandahar province. The raid was the result of superb international coordination, intelligence gathering, and execution in a hostile area. The drugs were destroyed onsite by ISAF forces and several defendants are in custody. The investigation regarding this seizure will continue, and DOJ trained Afghan prosecutors from the DOJ-supported Criminal Justice Task Force (CJTF) in Kabul will present the case to the Central Narcotics Tribunal (CNT), Afghanistan's counter-narcotics court of national jurisdiction.

In another important case resulting from our work in Afghanistan, Khan Mohammed was recently convicted in the U.S. District Court for the District of Columbia. Khan Mohammed, from the Nangarhar Province of Afghanistan, was investigated by the DEA for weapons and narcotics offenses. The investigation revealed that Mohammed was part of a Taliban plan to obtain rockets to attack U.S. military and Afghan civilian personnel at Jalalabad Airfield in Jalalabad, Afghanistan. A cooperating witness working with the DEA met with Mohammed on several occasions to plan the rocket attack. Evidence presented at trial established that Mohammed had previously engaged in similar rocket attacks against other Afghan targets. During the investigation, Mohammed also sold opium and heroin that he knew was intended for importation into the United States. Mohammed faces a mandatory minimum sentence of 20 years and a maximum of life in prison. A sentencing hearing is scheduled during October 2008. The Khan Mohammed conviction represents the first time a defendant has been convicted in U.S. federal court of narco-terrorism since the statute, 21 U.S.C. 960a, was enacted in March 2006. Khan Mohammed's successful prosecution by the Criminal Division's Narcotic and Dangerous Drug Section would not have been possible without the excellent work of the DEA and Afghan law enforcement in Afghanistan, the outstanding logistical cooperation from the Department of Defense, and the work of our DOJ prosecutors and State Department colleagues in Kabul.

Similarly, in October 2007, in the U.S. District Court for the Southern District of New York, Haji Baz Mohammed, another Afghan heroin trafficker, was sentenced to more than 15 years in prison. President Bush previously had designated Baz Mohammed as a foreign narcotics kingpin under the Foreign Narcotics Kingpin Designation Act, and in 2005, President Hamid Karzai approved Baz Mohammed's transfer to the United States. Baz Mohammed pleaded guilty in U.S. District Court to running a heroin trafficking organization from 1990 to

2005, which operated under Taliban protection, and which transported heroin from Afghanistan and Pakistan to the United States.

Finally, the trial of Haji Bashir Noorzai, an accused Afghan heroin trafficker and close ally of the Taliban, is scheduled to begin on July 7, 2008, in the Southern District of New York. Noorzai is alleged to be the leader of the largest Central and Southwest Asia-based heroin drug trafficking organization known to DEA. According to the Noorzai indictment, Noorzai led an international heroin trafficking organization responsible for manufacturing and transporting hundreds of kilograms of heroin in Afghanistan and Pakistan and arranged for the heroin to be imported into the United States and other countries. The Noorzai organization provided demolitions, weaponry, and personnel to the Taliban in Afghanistan in exchange for protection for his organization's opium poppy crops, heroin laboratories, drug transportation routes, and members and associates.

All of these examples demonstrate the growing capabilities of Afghan law enforcement to pursue counter-narcotics operations, and the increasing cooperation U.S. law enforcement entities have with our counterparts in Afghanistan. None of these cases would have been possible without cooperation from Afghan law enforcement and legal authorities. And, in turn, that Afghan cooperation was possible in significant part because of the training, equipment, and capacity building assistance the United States Department of Justice has been able to provide to Afghan police and prosecutors. I turn now to a more detailed description of DOJ's programs in Afghanistan.

CRIMINAL DIVISION

Since 2005, the Criminal Division has assigned senior federal prosecutors and senior experienced criminal investigators to the U.S. Embassy, Kabul, to assist in law reform, as well as in training and mentoring of the Afghan Criminal Justice Task Force (CJTF), a special task force of prosecutors and police investigators responsible for cases against mid- and high-level drug traffickers. Currently, the Department of Justice (DOJ) has six senior Assistant U.S. Attorneys drawn from around the U.S. serving as Senior Legal Advisors at the CJTF and in the Afghan Attorney General's Office, and two senior criminal investigator mentors assigned to the CJTF. The DOJ attorneys also provide legal advice to the Chief of Mission at the U.S. Embassy, to the Afghan Attorney General, and to U.S. law enforcement agencies operating in Afghanistan.

The DOJ attorneys and the criminal investigator mentors work on a daily basis with the CJTF, the Central Narcotics Tribunal (CNT) the Ministry of Justice, the Ministry of the Interior, and the Attorney General's Office. They provide instruction to investigators, prosecutors, and judges throughout Afghanistan on investigative techniques, trial skills, ethics, and the new counter-narcotics and criminal procedure codes of Afghanistan. To date, they have provided training in Kabul, Nangarhar, Balkh, Paktia, and Bamiyan provinces..

The CJTF is a unique entity in Afghanistan. Established in 2005 pursuant to Afghan legislation that DOJ helped draft, the CJTF consists of specially selected and vetted Afghan police investigators and prosecutors. The CJTF brings cases before the Central Narcotics Tribunal of Afghanistan. This is an Afghan court of national jurisdiction designed to hear narcotics and narcotics-related corruption cases involving mid- and high-level traffickers and other offenders related to the narcotics trade. Currently, the CNT includes a Primary Court with seven judges, and an Appellate Court with seven judges.

In less than three years the CJTF successfully has investigated and prosecuted hundreds of narcotics trafficking and corruption cases. For example, in April 2006, less than one year after it was established, the CNT convicted three major narcotics traffickers - Misri Khan, Haji Bahram Khan, and Noor Ullah - and sentenced them to 17 years in prison for possession, sale, and attempted exportation of heroin. Since then, it has investigated, prosecuted, and convicted or acquitted hundreds more. Soon, it will move from old, cramped offices to the newly constructed Counter-Narcotics Judicial Center (CNJC) in Kabul. This state-of-the-art facility will provide secure office space, court rooms, detention facilities, evidence rooms, witness interview rooms, a dining facility, and a barracks for corrections officers and security forces exclusively dedicated to the prosecution of narcotics trafficking and related corruption cases. Our DOJ attorneys, along with their State Department and Defense Department colleagues, were instrumental in taking the CNJC concept and making it a reality.

It is our hope that the CJTF and the CNJC will soon become the model for all Afghan prosecutions and trials, not just those related to narcotics trafficking. DOJ has suggested, for instance, a similar court of national jurisdiction to deal with anti-corruption investigations and prosecutions in Afghanistan. Nonetheless, it must be acknowledged that the CJTF itself faces continuing challenges, including salary issues, and the turnover of personnel.

The DOJ prosecutors not only have developed and cultivated strong working relationships with their Afghan colleagues; they also have established strong working relationships with our international partners from the United Kingdom and Norway. Our international partners' funding for, and presence at, the CJTF are essential to its success. It is a true partnership.

Part of the DOJ effort at the CJTF includes the dedicated work of the U.S. Marshals Service (USMS). Initially, the Marshals provided an assessment and suggestions for modification of security design features for the CNJC. Currently, they have four Deputies from their Special Operations Group stationed in Kabul, where they are training a group of Afghan police officers to serve as courtroom security officers, and prisoner transfer officers; they also will provide limited security for judges and prosecutors. Judicial and prosecutorial security issues, as well as witness security concerns are resource-intensive, but nonetheless critical. For any judicial system to function, judges, prosecutors, court administrators, corrections officials, and witnesses must feel safe in their environments.

DOJ also has provided key assistance on legislative drafting. In December 2005, Afghanistan adopted a new counternarcotics law which had been drafted with assistance from DOJ attorneys. This law was the first step in supporting Amendment 7 of the Afghan Constitution, which prohibits the cultivation and smuggling of narcotics and provides the legal and investigative authority for high-level investigations and prosecutions. Importantly, the law provides new investigative techniques and procedures for Afghan law enforcement and prosecutors, and makes criminal many narcotics-related activities including money laundering, corruption, and violent offenses. Additionally, Article 41 of the law provides that Afghan judges may reduce a convicted defendant's sentence by as much as 50% for cooperation with an investigation. The law also provides for investigative techniques new to Afghanistan, such as controlled drug deliveries, the use of under-cover officers, and the ability to clandestinely record conversations.

The law has been essential to Afghanistan's counter-narcotics efforts. For example, in August 2006, the DEA cooperated with Afghan law enforcement on the first controlled delivery

of heroin from Afghanistan to the United States (a related delivery connected to the same case went to the United Kingdom). The 2006 case led to arrests in the United States connected to a trafficking network. Similarly, several of these investigative techniques proved critical to the successful investigation and prosecution in the Khan Mohammed narco-terrorism case which I discussed earlier.

DEA

The Drug Enforcement Administration (DEA) also has played a central role in Afghanistan. DEA initially engaged in Afghanistan shortly after coalition forces entered the country, and established a permanent presence at its Kabul Country Office in 2004. The DEA has worked to assist the Afghan government with the reduction of illicit drugs trafficked in and from the country; it has helped develop Afghan capacity to conduct counter-narcotics operations, and has supported U.S. and Coalition efforts against insurgents and terrorism by targeting those terrorist organizations that benefit from narcotics trafficking and corruption. Along with our Afghan counterparts and the Coalition forces, the DEA has had success in identifying, disrupting, and dismantling the highest level of Afghan drug trafficking organizations, including their leaders, their infrastructure, and their illicit assets. Between 2004 and 2008, for example, DEA assisted with 210 arrests/detention of targets for violations of Afghan and U.S. narcotics laws and/or terrorist-related offenses; DEA also made seizures of 74.2 metric tons of opium, 9.3 metric tons of heroin, 362 kilograms of morphine base, 14.5 metric tons of chemicals, and 383.3 metric tons of hashish. In addition, between December 2005 and October 2007, on more than 19 occasions, DEA provided actionable intelligence that helped deter hostile acts, including rocket

and improvised explosive devices (IED) attacks, against U.S. and Coalition personnel and interests inside Afghanistan.

The Afghanistan Ministry of Interior (MOI) established the Counter Narcotics Police of Afghanistan (CNP-A), comprised of investigation, intelligence, and interdiction units, in 2003. Training, mentoring, and advising the CNP-A is an integral part of DEA's Afghanistan mission. DEA provides formal classroom instruction to the CNP-A in Afghanistan and at DEA's training academy in Quantico, VA. Additionally, through its Foreign-deployed Advisory Support Teams (FAST), DEA provides operational field guidance to Afghan law enforcement.. The FAST concept deploys specially trained and equipped Special Agents and Intelligence Analysts to Afghanistan for 120 day rotations to conduct bi-lateral investigations and to train, mentor and advise specialized CNP-A units.

DEA, along with its partners at the Departments of Defense and State, has nurtured a counter-drug infrastructure within the Ministry of Interior and the CNP-A. The principal elements of this structure are the National Interdiction Unit (NIU), the Sensitive Investigations Unit (SIU) and the Technical Investigations Unit (TIU). The NIU, an air mobile investigative and interdiction unit, functions to provide tactical and investigative support to Afghan law enforcement. The NIU also works with the Afghan Special Narcotics Force (ASNF), a UK-trained and supported paramilitary interdiction unit used to attack large, hard targets. With this cooperation, the NIU is developing the ability to perform specialized narcotics interdiction and investigative functions that are capable of disrupting and dismantling major trafficking organizations. NIU operations began in October 2004.

The Sensitive Investigations Unit and its companion Technical Investigations Unit are the elite investigative units of the CNP-A. The SIU and TIU are comprised of 56 Afghan police officers who have undergone integrity vetting and an intensive four-week training program at DEA's academy in Quantico. To maintain this level against attrition, DEA has trained a total of 90 officers. The balance comprises a pool to be called on as replacements are needed. Both the SIU and TIU are trained to focus on Afghan high value targets, and national and international level drug trafficking organizations, by using the most advanced investigative techniques available.

In addition to these programs, DEA's International Training teams have conducted twenty-seven sessions in Afghanistan on the basic elements of narcotics and clandestine laboratory investigations. Looking forward, DEA, in conjunction with the Department of Defense, has plans for Regional Training Teams led by Special Agents who will engage in training and mentoring at the provincial level.

FBI

In April 2005, the FBI's Office of International Operations established a presence in Afghanistan by assigning a Temporary Duty (TDY) Assistant Legal Attaché (ALAT) to the U.S. Embassy in Kabul. The purpose of the assignment was to foster bilateral relations with Afghan law enforcement and intelligence agencies and to accomplish common goals, such as the capture of Al Qaeda terrorists, and Taliban insurgents. The Legal Attaché Office (Legat) was officially opened in late January 2006 and currently is staffed with a Legat, an Assistant Legal Attache (ALAT), and a Legat Operations Specialist (LOS).

The Department of Defense (DoD), through its Combined Security Transition Command - Afghanistan (CSTC-A), assists Afghan law enforcement to enhance its biometric data gathering capability. As part of this effort, in March 2008, the FBI's Criminal Justice Information Services (CJIS) Division, along with FBI Special Agents deployed to Afghanistan, initiated collection of biometric data from members of the Afghanistan National Police (ANP), from the Afghanistan National Army (ANA), and from select Afghan prisoners. Using the FBI's Quick Capture Platform (QCP) equipped with fingerprint, palm and iris capture devices, the Afghans and the FBI collected more than 16,000 records.

During this same period of time, 25 ANA and 25 ANP personnel were thoroughly trained in fingerprint collection, as well as proper use, maintenance, and troubleshooting of the QCP. These 50 ANA and ANP personnel have since assumed the responsibility of the collection efforts and will continue until records are collected from all ANA and ANP personnel. These records will be entered into the automated biometric system provided by CSTC-A.

The Legal Attaché staff also has provided training assistance to Afghan law enforcement and intelligence services. The training includes instruction in post-blast analysis, crime scene processing, major case and law enforcement management, public corruption, fraud, fingerprint collection, database management, forensics, and laboratory accreditation. As part of those efforts, Legat Kabul presented a twelve-day post-blast training course to 12 National Directorate of Security students and Kabul City Police from October 28 through November 8, 2006. Legat also sponsored the first Afghan students to attend the FBI's National Academy. Ministry of Interior (MOI) Major General Jalili, Chief of the Intelligence Branch and National Directorate of Security (NSD) Colonel Niam attended the 225th National Academy Session from April through June 2006.

CHALLENGES

We believe that our efforts in Afghanistan have already begun to bear fruit. Should the State Department or the Department of Defense require, however, DOJ's International Criminal Investigative Training Assistance Program (ICITAP) stands ready, willing, and able to assist in all aspects of these endeavors. ICITAP's police and corrections advisors are able to provide years of expertise and experience from their efforts in Iraq and more than 48 other countries around the world. Additionally, ICITAP has the ability to reach back to DOJ's various entities and agencies, such as USM, ATF, BOP, DEA, FBI, and Main Justice, for the most current expertise in the areas of police and corrections training, judicial and witness security, forensics, biometrics, and legislative drafting.

CONCLUSION

I want to thank the Subcommittee for this opportunity to discuss the Department of Justice's training and mentoring programs and its efforts to establish sustainable and effective law enforcement institutions and the rule of law in Afghanistan. Given the critical importance of police, prosecutors, and the courts to ensuring security and the rule of law, we will continue to work closely with our U.S. partners at the Department of State and the Department of Defense, along with our Afghan and international partners, to pursue ways to improve our efforts and ensure their continued success.

In closing, I would like to acknowledge the courage, professionalism, and dedication of the men and women of the Department of Justice who have served and are serving in Afghanistan in the most difficult of circumstances. Again, thank you for the opportunity to

appear before you today, and thank you for holding this hearing on such an important topic. I would be happy to answer any questions you may have.