



# Department of Justice

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STATEMENT

OF

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**UNITED STATES DEPARTMENT OF JUSTICE**

**BEFORE THE**

**HOUSE COMMITTEE ON ARMED SERVICES**

**U.S. HOUSE OF REPRESENTATIVES**

**CONCERNING**

**DEPARTMENT OF JUSTICE PERSONNEL DEPLOYED TO AFGHANISTAN AND IRAQ**

**OCTOBER 16, 2007**

Mr. Chairman and members of the committee, I am pleased to appear before you today to discuss the role of the Department of Justice's (DOJ) personnel deployed to Afghanistan and Iraq, the important and courageous work they do, and the challenges the Department faces in deploying personnel to those countries.

As you know, promoting the rule of law is central to the creation of democratic institutions. This requires sustained, long term efforts, to which the Department of Justice is firmly committed. Through the use of reimbursable and non-reimbursable details, DOJ employees have been (and continue to be) temporarily assigned in direct support of the development of the judicial and law enforcement sectors in Iraq and Afghanistan. DOJ's efforts in both countries depends on our partnership with numerous other government agencies and our ability to attract highly qualified civilian employees to support these development efforts.

To improve our ability to respond to overseas challenges and provide the personnel expertise needed will require that we increase our numbers of available, trained, and deployable personnel within our department and others and that we support them with a structure in Washington that conducts planning and coordination. DOJ is working with interagency partners and the Coordinator for Reconstruction and Stabilization at the Department of State to build that capacity and to support development of a "civilian reserve corps" of outside experts that we can also call on to fill additional requirements.

For decades, the Department of Justice has deployed federal prosecutors and law enforcement agents overseas to serve as advisors and liaisons with our international partners. Following U.S. military action in Afghanistan and Iraq, and with the support of the Department of State, the Department quickly deployed teams of prosecutors and police experts to assess what the United States Government could do to support the development of the judicial and law

enforcement sectors of each country. Since that time, DOJ has deployed hundreds of full-time personnel, and over eleven hundred contractors, in support of our missions in Afghanistan and Iraq. All are volunteers who have sacrificed time with friends and families in order to further the respect for the rule of law around the world, and to help fight crime and terrorism. I appreciate this opportunity to share with you some of the fruits of their efforts, and how they are compensated for their sacrifices, as well as the challenges the Department faces going forward.

DOJ personnel deployed internationally come from nearly every agency within the Department. They include prosecutors and administrative personnel from Main Justice and the U.S. Attorneys Offices (USAO) around the country; special agents from the Drug Enforcement Administration (DEA); the Federal Bureau of Investigation (FBI); the Bureau of Alcohol, Tobacco, and Firearms and Explosives (ATF); Deputies from the U.S. Marshals Service (USMS); and intelligence analysts from the National Drug Intelligence Center (NDIC). At a minimum, these personnel serve on three to six month temporary duty assignments to Afghanistan and Iraq. Some serve longer: the Assistant U.S. Attorneys (AUSA) from around the country and DEA agents who serve at the Criminal Justice Task Force in Kabul, and the AUSAs who serve as Resident Legal Advisors throughout Iraq, spend at least one year or more on assignments in these danger zones. In addition to our full time employees, the Department has hundreds of contractors currently serving as police trainers in Iraq, and a smaller number of contractors currently serving in Afghanistan.

## **AFGHANISTAN**

The Department's largest presence in Afghanistan comes from the DEA, but our personnel there include Special Agents from the FBI, Deputies from the USMS, a limited

number of police investigation trainers/mentors, and four specially selected Senior Federal Prosecutors. The prosecutors serve as trainers/mentors to a select group of Afghan investigators, prosecutors and judges at the recently established Criminal Justice Task Force and the Central Narcotics Tribunal located in Kabul.

### **DEA Activities in Afghanistan**

The DEA's commitment to counternarcotics enforcement is demonstrated by its global assignment of personnel and material to stem the flow of illicit drugs into the United States. The importance of that commitment is particularly acute in Afghanistan, where the illicit narcotics trade threatens the very viability of that nation's nascent democracy, and helps to fund and support the activities of the Taliban and terrorist groups that attack our allies and our own forces. As part of this effort, the DEA has expanded its presence by stationing Special Agents and Intelligence Analysts to enhance counternarcotics capabilities in Afghanistan. The DEA also provides counternarcotics training to Afghan security forces such as the Counternarcotics Police – Afghanistan (CNP-A). Together with the Department of Defense, DEA trainers have embarked on a multi-year mission to make the CNP-A's National Interdiction Unit capable of independent operations within Afghanistan. Progress in this area is on a steady pace.

In addition to an expanded country team in Afghanistan, DEA has established specially trained, Foreign-deployed Advisory Support Teams (FAST). The FAST program is a key tool by which DEA advances its enforcement and training operations. FAST currently consists of three teams of ten specially trained agents and analysts, who deploy to Afghanistan for 120 days at a time to assist the Kabul Country Office and the CNP-A in the development of their investigations. FAST members possess a unique skill set. As DEA agents they are trained criminal investigators, but because of the environment in which they operate in Afghanistan and

the demands posed by the work they perform, military training is also needed. To facilitate the latter, the Department of Defense has created a seven week program consisting of operations and weapons training, emergency medical care, and explosive and demolition training.

The first FAST deployments to Afghanistan were in April 2005 and teams have regularly rotated to Afghanistan since then. They provide guidance to their Afghan counterparts while also conducting bilateral investigations aimed at the region's narcotics trafficking organizations. FAST operations, which are supported and largely funded by DOD, also help with the destruction of existing opium storage sites, clandestine heroin processing labs, and precursor chemical supplies directly related to our investigations.

### **Criminal Division Activities in Afghanistan**

One of the significant, lesser known success stories from Afghanistan is the work of DOJ's four Senior Federal Prosecutors and three senior criminal investigator trainers/mentors at the Criminal Justice Task Force (CJTF) and the Central Narcotics Tribunal (CNT). Since 2005, the Criminal Division has deployed two to four experienced AUSAs to Kabul to work with the DEA, international colleagues from the United Kingdom and Norway, and our Afghan partners, to help develop the CJTF and the CNT. Currently, we have four AUSAs stationed at the U.S. Embassy in Kabul. They serve a minimum of one year tours, and several have elected to extend their initial commitment. The successes of their efforts are dramatic. Working within an Afghan judicial system nearly destroyed by decades of war, our AUSAs helped the Afghans craft new counternarcotics laws that created a specialized investigative/prosecutorial task force and a specialized court that has exclusive nationwide jurisdiction for mid and high level narcotics trafficking cases in Afghanistan. With the new laws, and with training and mentoring from our AUSAs, the Afghans have begun the use of new and advanced investigative techniques and

prosecutorial methods and tools. To date, the Central Narcotics Tribunal has successfully heard hundreds of cases. One significant example of their accomplishments is the recent sentencing of Haji Baz Mohammed (“Mohammed”) in the United States District Court for the Southern District of New York. Just two weeks ago, the Court sentenced Mohammed, an Afghan heroin kingpin closely aligned with the Taliban, and the first defendant extradited to the United States from Afghanistan, to 15 years in prison for managing an international narcotics trafficking organization that imported millions of dollars of heroin into the United States. Between 1990 and 2005, Mohammed’s heroin trafficking organization was responsible for manufacturing and distributing millions of dollars in heroin in Afghanistan, Pakistan, and ultimately in the United States. He operated under protection from the Taliban, funded their efforts, and bragged that his activities were part of a Jihad against Americans by poisoning them with heroin. His extradition to the United States would not have been possible without the efforts of the DEA personnel in Afghanistan, and the work of the AUSAs assigned to the CJTF at the time of his extradition.

The Criminal Division also has one full-time employee detailed to the Department of State who is serving in Afghanistan as the Deputy to the Commanding General of Combined Security Transition Command – Afghanistan, who has responsibility for U.S. police development and training efforts in Afghanistan.

### **ATF Activities in Afghanistan**

Last month, the ATF successfully completed its first Military Postblast Investigation Techniques course for all services in Afghanistan. The Department of Defense has already requested a second course for its Explosive Ordinance Disposal personnel in Afghanistan.

## **FBI Activities in Afghanistan**

The FBI personnel in Afghanistan work on criminal investigations and counter-terror missions. Currently, the FBI has a Legal Attaché and two Assistant Legal Attachés stationed at the U.S. Embassy in Kabul, as well as more than 33 Special Agents, technicians, and analysts who serve 90 day details in Afghanistan. Their priorities include conducting detainee interviews and biometric processing; providing technical support and intelligence in order to identify trends, target IED makers and enable both offensive and defensive counter operations by coalition forces; exploiting the thousands of documents seized from Al Qaeda and Anti-Coalition Forces; and providing counterterrorism training to our Afghan allies and US military personnel.

## **USMS Activities in Afghanistan**

Rotating teams of Deputies from the USMS provide security to our team in Kabul at the CJTF, and are helping to establish a judicial security force for the CNT. Additionally, they have provided security design advice for the soon to open Counternarcotics Justice Center in Kabul. This new facility will not only provide a secure environment for the daily activities of the CJTF and CNT, but will also include prisoner detention facilities, secure courtrooms, and a dining facility for the Afghan security forces and judicial personnel.

## **IRAQ**

As in Afghanistan, the Department has deployed federal employees as well as contracted police trainers to Iraq as part of the U.S. partnership with the Iraqis to rebuild the judicial and law enforcement sectors within their country.

## **Rule of Law Coordinator**

The Rule of Law Coordinator is a position recently assigned to Assistant U.S. Attorney James Santelle by the U.S. Ambassador as part of a complete reorganization of United States rule of law efforts in Iraq. The Embassy vested AUSA Santelle “plenary authority and complete responsibility for ensuring that all participants in the Rule of Law work of the Embassy are designing and implementing their programs and projects consistent with and in promotion of a unified vision and plan.” As a result, approximately 300 U.S. employees and a dozen organizations come under his guidance. We are grateful for the scope of the trust and confidence reposed in a Department of Justice employee at a U.S. embassy.

## **Justice Attaché**

The Justice Attaché is responsible for formulating strategy and ensuring coordination of DOJ activities in theater. The current Justice Attaché is a former judge from North Carolina.

## **CRM/ICITAP**

One of the largest DOJ programs in Iraq is managed by the Criminal Division’s International Criminal Investigative Training Assistance Program (ICITAP). Created in 1986, ICITAP, in partnership with, and funding from, the United States Department of State, has become a leader in law enforcement development and training worldwide, with active programs in 48 countries around the globe. ICITAP’s mission is to help achieve U.S. criminal justice and foreign policy goals by assisting in developing sustainable foreign law enforcement institutions that promote democratic principles, instill respect for human rights and human dignity, and reduce the threat of transnational crime and terrorism.

ICITAP’s activities, implemented at the direction of State, USAID, or other funding USG funding entity, encompass three principal types of assistance projects: (1) enhancing capabilities



of existing law enforcement institutions in emerging democracies; (2) assisting nations on the frontlines of the fight against terrorism; and (3) developing law enforcement institutions in the context of post-conflict reconstruction or international peacekeeping operations. In all of its assistance projects, ICITAP seeks to avoid piecemeal training efforts, and to instead focus on the comprehensive, long-term development of police forces and corrections institutions. Further, and whenever possible, ICITAP and its sister agency - DOJ's Overseas Prosecutorial Development, Assistance, and Training (OPDAT) - seek to integrate their assistance programs, and to work with other federal law enforcement agencies, in order to simultaneously develop all three pillars of the criminal justice system: police, courts, and corrections.

Worldwide, ICITAP has 21 federal Senior Law Enforcement Advisors (SLEAs) deployed overseas. They are usually attached to the local U.S. embassy or mission, and oversee the management and delivery of the police development programs in-country. Programs that are too small to support an in-country SLEA are managed by federal ICITAP headquarters (HQ) staff in Washington. Depending on the particular program, ICITAP also may utilize subcontractors to staff their programs. While ICITAP sometimes uses a contract to procure certain personnel and services, at all times, it is ICITAP employees that develop, manage, and evaluates all of its programs.

Earlier this year, I testified before the House Armed Services Subcommittee in greater specificity about ICITAP's efforts in Iraq, but it bears repeating that ICITAP's budget comes almost exclusively from project-specific funding provided by the Department of State, the U.S. Agency for International Development (USAID), the Department of Defense (DOD), and, recently, the Millennium Challenge Corporation. ICITAP receives no direct appropriations for

its work, and looks to other U.S. Government agencies with regard to both the selection and funding of overseas law enforcement development projects as they are required.

ICITAP personnel were some of the first federal civilian employees to deploy to Iraq in 2003. With funds provided by the State Department's Bureau for International Narcotics and Law Enforcement Affairs (INL), DOJ deployed a select team of 25 career senior justice practitioners into Iraq to assess the state of law enforcement and justice sector institutions. This team produced three comprehensive assessments, which were provided to the Coalition Provisional Authority (CPA) leadership, on the state of the Iraqi police service, the judiciary, and the correctional system.

The ICITAP component of the assessment team remained on the ground in Iraq to help to stand up the key components of the Ministry of Interior and the Ministry of Justice: the Iraqi Police Service (IPS), the Department of Border Enforcement (DBE), and the Iraq Correctional Service (ICS). Today, almost four years later, DOJ continues to provide support in three vital program areas: the Iraq Police and Border Services, the Iraq Correctional Service, and the Commission on Public Integrity. In each of these programs – police, corrections, and public integrity -- ICITAP has helped develop and implement institutional development strategies, has delivered basic and advanced instruction programs, and has operationalized and managed several training academies.

At present, ICITAP's in-country staffing levels supporting these three programs consist of four authorized federal senior management personnel positions and approximately 307 authorized contractor personnel. Funding to support these three program efforts has totaled approximately \$285.7 million to date and has been provided by INL via inter-agency agreements. This funding is used almost exclusively to manage program efforts and fund the

salaries of instructors and advisors. All support requirements (e.g., logistics, security, equipment) for all ICITAP personnel working in Iraq are provided by INL's contractor.

### **Police Program**

Within six months of deploying into Baghdad in 2003, an ICITAP team of experts, working with coalition partners, assisted in the development of a comprehensive police assessment; helped to: reconstitute the Ministry of Interior, stand up the Iraqi Police Service in Baghdad, and design the Iraqi Department of Border Enforcement; developed the basic police skills course curriculum; and contributed trainers and expertise to the Jordan International Police Training Center. ICITAP's efforts in these first critical months helped to launch what is arguably the largest international police development and training program ever undertaken. In early 2004, ICITAP contributed to the establishment of what is now known as the Multinational Security Transition Command's Civilian Police Assistance Training Team (CPATT), under the command of U.S. Central Command. From 2004 to 2006, ICITAP's federal senior law enforcement advisor in Iraq served as the deputy of CPATT and as the senior civilian advisor to each of the three succeeding CPATT commanding generals.

Funding for ICITAP's Iraqi policing initiatives comes entirely from the Departments of State and Defense, and totals more than \$219.5 million to date. ICITAP currently has authorization for two federal civilian managers on the ground in Iraq to work with CPATT in the police training mission, along with 191 subcontracted senior police trainers and advisors. Personnel provided by ICITAP and its contractor are primarily engaged in training, mentoring, and advising Iraqi Police Service personnel and Iraqi Police Service trainers at police academies.

Under the CPATT mission, to date, more than 204,000 Iraqi police have graduated from courses developed and/or delivered by ICITAP and/or ICITAP-trained Iraqi police instructors.

Additionally, ICITAP has provided assistance to CPATT to help establish a functional and sustainable border security department in Iraq that is capable of preventing violence, narcotics, and human trafficking, and of preserving the human rights and dignity of all who cross the Iraqi borders. Currently ICITAP provides up to 14 subcontractor border security instructors and advisors to provide basic skills and advanced training at the regional DBE training academies throughout Iraq. To date, ICITAP has assisted with the training of approximately 12,800 Iraqis in basic border security. Advanced and specialized training started earlier this year.

### **Corrections Program**

Since 2003, ICITAP has led U.S. efforts to reconstitute an Iraqi corrections system, and it has worked collaboratively with the State Department to implement prison reform initiatives in Iraq. The program is headed by two ICITAP federal civilian managers in Iraq who oversee approximately 80 contractor personnel serving as International Corrections Trainers (ICTs) to support the development of the Iraq Corrections Service (ICS). Unlike the ICITAP police trainers who are under CPATT's control, the ICT mission remains under the authority of the U.S. Ambassador. To date, ICITAP has received approximately \$65.5 million from INL for this effort.

In practice, the correctional system in Iraq consists of the ICS national system and an independently operated system in the country's northern Kurdish region. ICITAP has successfully built an indigenous training capacity within the ICS, providing instructor development courses to Iraqi instructors, who in turn provide advanced courses in weapons, emergency response team training, transportation, personal security details, and biometrics. ICITAP also established the National Corrections Training Academy and regional training academies, which have graduated more than 7,500 new staff from pre-service training.

In addition, ICITAP has facilitated the transfer of authority at the Baladiyat Prison from the Iraqi Ministry of Interior (MOI) to the Ministry of Justice. Baladiyat is an 860-bed, newly constructed MOJ-operated detention facility. Following the completion of renovations funded by the U.S. military, the facility now houses ICS inmates.

### **The Commission on Public Integrity (CPI)**

The Commission on Public Integrity (CPI) was created in 2004 as an independent governmental body with the mission to prevent and investigate corruption, and to promote transparency and the rule of law throughout Iraq. The Iraqi Governing Council vetted Iraqi civilians with legal backgrounds to carry out the commission's investigative functions. Since 2004, INL has provided more than \$14.9 million in funding to ICITAP to provide institutional support, training, mentoring, and investigative surveillance equipment needed to establish and train an effective CPI investigative corps. ICITAP has deployed 16 contractor advisors in-country to oversee this effort and support the investigators assigned to the CPI. To date, ICITAP has successfully trained over 380 anti-corruption investigators.

### **Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT)**

Since 2003, OPDAT has deployed 36 AUSAs and judicial officers (including State and Federal judges, Federal Public Defenders, attorneys, and Clerks of Court) to serve with the Regime Crimes Liaison Office, the Major Crimes Task Force, and Assessment Personnel, and as Resident Legal Advisors (RLAs) in Baghdad and as part of Provincial Reconstruction Teams (PRT) located throughout Iraq. The PRTs are a mainstay of U.S. efforts to build capacity for Iraq's local, municipal, and provincial governments to deliver goods and services to the Iraqi people. Currently, DOJ has eight AUSAs serving as RLAs performing one year tours of duty.

The RLAs currently advise and mentor trial and investigative judges under the authority of the Higher Juridical Council; provide advice on changes in law and policy within the Higher Juridical Council; and provide counsel, support, and assistance on a variety of court administration, management, security, and case-specific matters. The RLA programs are conducted pursuant to agreements with the State Department, and State funding for the effort since 2003 has totaled approximately \$25.4M.

### **United States Marshals Service**

Currently, 12 Deputy U.S. Marshals from the USMS Special Operations Group (SOG) serve in Iraq on four-month rotational assignments. Their duties included security assistance to the Regime Crimes Liaison Office during the trials of Saddam Hussein and the members of his regime. With the Department of State funding, they also provide technical assistance and training support to the Iraqi judicial sector on security for witnesses, judges, prosecutors and other court personnel, as well as security and design and construction for five state-of-the-art courthouses funded by DOD and adjacent witness security sites funded by INL. Additionally, SOG has assigned Deputies to the Major Crimes Task Force, and they have started to provide support for an INL program to create a counterpart Judicial Protection Service modeled after the US Marshals Service. Since its initial deployment to Iraq in 2003, SOG has rotated approximately 75 of its 95 personnel through overseas assignments. To date, USMS programs have received \$53M from INL and IRRF appropriations for these efforts.

### **Bureau of Alcohol, Tobacco, Firearms and Explosives**

ATF has participated since October 2003 in the planning and implementation of counterterrorism/explosives training for the Iraqi Police in support of CPATT. ATF has completed numerous post-blast investigation courses and basic explosives courses for over 300

Iraqi Police Service officers. In addition, ATF has deployed 24 personnel to Iraq in support of the Combined Explosives Exploitation Cell (CEXC), including Certified Explosives Specialists and Explosives Enforcement Officers assigned to incident response teams, who provide technical explosives and post-blast investigative expertise. Since March 2004, ATF also has deployed a Certified Explosives Specialist and Special Agent Canine Handlers to Iraq to perform missions related to sensitive critical infrastructure protection, including searching vehicles, individuals, and facilities to reduce and counter the threat of improvised explosive devices. Since that time, 21 ATF canine handlers have deployed to Iraq on temporary 90-day rotational assignments.

In 2005, ATF began to support the Regime Crimes Liaison Office with 13 90-day rotations of special agents (four special agents per rotation). Since 2006, the ATF has deployed seven 90-day rotation teams of two special agents to the Major Crimes Task Force.

This year, ATF has received over two million dollars in supplemental funding for Iraq operations. A portion of these funds will be used to establish an ATF presence at the U.S. Embassy in Baghdad. ATF will station four full time personnel to the embassy including an Attaché, two Assistant Attachés, and an Intelligence Research Specialist.

### **Drug Enforcement Administration**

Although the DEA has no permanent presence in Iraq, it has delivered courses in intelligence and intelligence analysis to the Iraqi police agencies in support of CPATT, and it supports the Regime Crimes Liaison Office and the Major Crimes Task Force by assigning Special Agent teams to 90-day rotations to each office. As of October 2007, 50 DEA agents have been deployed to Iraq, and six of those agents have served two or more 90-day assignments.

## **Federal Bureau of Investigation**

Since 2003, the FBI has deployed rotating teams of personnel to provide specialized counterterrorism and complex criminal case training to the Iraqi police in support of CPATT pursuant to interagency agreements with the State Department. In addition, the FBI has ten personnel at the Legal Attaché Office in Iraq to perform investigations and other operational activities. The FBI also provides rotating teams of 5 personnel to the Major Crimes Task Force. The Department also has 70 agents and support staff at the Baghdad Operations Center (BOC) and throughout Iraq; the majority of these agents serve on rotating details. These details include 70 FBI personnel per rotation. Since 2003, the Bureau has deployed approximately 1,500 personnel to Iraq.

## **Major Crimes Task Force**

In 2005, Embassy Baghdad established an FBI-lead interagency USG team to advise, train, and mentor a newly created Iraqi Major Crimes Task Force (MCTF), which assists the Iraqi police agencies and judicial investigations with the investigation of major crimes, such as murder and kidnapping. Using a train-the-trainer approach, ten federal law enforcement personnel from the FBI, DEA, USMS, and ATF enhance the Iraqi police officers' abilities to conduct complex criminal investigations with the intent of restoring law and order. The State Department has provided \$13.2M in IRRF and INCLE funding for the MCTF.

## **The Regime Crimes Liaison Office (RCLO)**

The RCLO was established in May 2004, to assist the Government of Iraq in investigating and prosecuting crimes by Saddam Hussein and key members of his regime, and in establishing the Iraqi High Tribunal (IHT) to try former regime members for their crimes. Currently, four DOJ attorneys support its efforts. At its peak, the RCLO included 13 AUSAs as



well as DOD Judge Advocates, DOJ and international investigators (including agents from the FBI, DEA, ATF, and USMS), forensic scientists, administrative personnel (including intelligence analysts from NDIC), and contractors, under the leadership of the Regime Crimes Liaison, a DOJ employee.

### **The Law and Order Task Force (LAOTF) and Rule of Law Complex**

DOJ also supports the Multi-National Force-Iraq's (MNF-I) recently established Law and Order Task Force by providing special agents, and attorneys to serve as its Director (on detail from his position as Director of NDIC), and as trial attorneys to work with Iraqi counterparts. The LAOTF Director supervises the operation of the 91 member task force to accelerate the Iraqi capacity for independent, evidence-based, and transparent investigation and trial of major crimes in the Central Criminal Court of Iraq (CCCI). The CCCI, which was created in June 2003 by the Coalition Provisional Authority to try terrorism and insurgency-related cases, has been a successful venue for the prosecution of major crimes. DOJ also provides personnel support for MNF-I's establishment of the Rule of Law Complex in Baghdad to provide a secure location combining police, courts, forensic labs, corrections functions, judicial housing and detention facilities.

### **Benefits and Challenges Facing DOJ**

The men and women from the Department of Justice who have volunteered for service in Afghanistan and Iraq deserve, I believe, our thanks and praise. The majority of those employees who deploy to these danger zones do so on 90-120 day rotations. Some have repeated those tours. Other DOJ employees, such as the attorneys who work at the embassies in Kabul and Baghdad, and the RLAs living and working at the PRTs throughout Iraq, serve minimum one year tours of duty. To date, seven AUSAs from around the country have served at least one year

tours in Kabul, and 18 AUSAs and DOJ trial attorneys and have served one year tours in Iraq. Several of these attorneys have extended their tours beyond their initial one year commitment. For example, an AUSA from Wisconsin, who is now the Rule of Law Coordinator in Iraq has served nearly two years in Baghdad. Another AUSA from Arizona, working as a RLA in Mosul, has served nearly 18 months in northern Iraq, where he has helped establish the Major Crimes Court in Mosul, the first court in predominantly Sunni areas other than the Central Criminal Court in Baghdad to hear insurgent-related trials.

Funding for the DOJ personnel in Afghanistan and Iraq varies according to the program that supports their particular effort in their respective countries. The AUSAs serving as Senior Federal Prosecutors in Afghanistan are fully funded via DOJ-INL agreements. The U.S. Attorneys Offices who consent to the deployment of these attorneys do not suffer any financial consequences for the loss of their AUSA, but they do have to address the absence of a typically long experienced AUSA from their offices. DOJ funds the positions of those AUSAs who deploy to six month positions with the Regime Crimes Liaison Office, the Major Crimes Task Force, or as Embassy personnel such as the Rule of Law Coordinator and the Justice Attaché.

Attracting qualified and experienced attorneys to spend a year away from their friends and families in Iraq and Afghanistan is a challenge the Department works to address every day. To ease this challenge, the Department, like its sister agencies, offers certain incentives to those willing to volunteer for service in these danger zones. While on detail, an individual may be eligible for certain monetary and non-monetary benefits and entitlements. Most of these allowances are established in law, with rates and rate changes being managed by the Department of State, as described in the Department of State Standardized Regulations. Typically, these allowances/benefits are used government wide; thereby, providing equity for employees serving

in similar areas and situations. It should be noted that several of the monetary benefits associated with assignment to a PRT are directly related to the elevation of the “Pay Cap”. As such, The National Defense Authorization Act (Public Law 109-364), signed by President Bush on October 17, 2006, authorized an increase to the annual limitation on basic pay and premium pay up to \$212,100 for calendar year 2007. Normally, the ceiling on basic pay and premium pay for employees overseas would be \$136,200 for 2007. The President’s action, however, allowed the cap for DOJ to be lifted for designated overseas areas in support of the war.

In addition to the “Pay Cap” elevation, DOJ employees deploying to Afghanistan and Iraq may be eligible for the following benefits:

**MONETARY BENEFITS:**

**Danger Pay:** Danger pay is designed to provide additional compensation to employees who serve in hostile or dangerous areas where it has been determined that there is a threat of imminent danger. Danger pay, as determined by the Department of State, is currently 35% of an employee’s base pay (not including locality pay) for a 40-hour workweek. Danger Pay is paid to a DOJ employee upon arrival to Afghanistan or Iraq, provided that he or she will be at post for a minimum of 4 hours and payments will stop immediately upon departure of post designated as a Danger Pay post. It is not earned for overtime, is a taxable benefit and subject to change without notice. Payments are subject to the aggregate pay limitation, but they are not, however, subject to the bi-weekly premium pay limitation.

**Post Differential (Hardship Duty Pay):** Post differential is designed to provide added compensation to employees assigned in foreign areas where conditions of environment differ substantially from the environmental conditions in the continental United States. Again, the

amount is determined by the Department of State and is currently 35% of base pay (not including locality pay) for a basic 40-hour workweek. This is separate and different benefit than the danger pay discussed above. In order to qualify for this payment, the employee must be assigned at the post for 42 consecutive days. Subsequently, on the 43<sup>rd</sup> day, post differential must commence. For employees who are detailed to Afghanistan or Iraq, post differential continues to be paid while the employee is away from post for up to 30 days. If the detailed employee has not returned to post by the end of the 30 days, post differential shall be terminated. In order to re-establish eligibility, the detailed employee must again, remain at post for another 42 days and commence post differential on the 43<sup>rd</sup> day. Post differential is not earned for overtime or weekends, is a taxable benefit and subject to the aggregate pay limitation. However, post differential is not subject to the bi-weekly premium pay limitation.

**Overtime:** Employees are eligible to receive additional compensation for time worked outside their regular shift (overtime). Overtime pay is typically subject to the bi-weekly premium pay limitation, however, the Attorney General authorized the application of the higher cap of \$212,100 to be applied to employees currently detailed and assigned overseas (e.g., Afghanistan or Iraq).

**Sunday Premium Pay:** Sunday Premium Pay is paid to employees whose work schedule reflect that the employee is scheduled to work ‘regularly’ on Sundays. Sunday Premium Pay may only be paid for work ‘actually’ performed on Sundays and is paid at a rate of 25% of the employee’s hourly rate (including locality). This payment is subject to both the aggregate pay limitation and the bi-weekly premium pay limitation.

**Hazardous Duty Pay:** Regardless of whether a DOJ employee is stationed in Afghanistan or Iraq, in order to pay any General Schedule employee hazardous duty pay, the employee must meet the requirements in 5 CFR part 550, Subpart I. In other words, hazardous duty pay may be paid only to employees who are assigned hazardous duties or duties involving physical hardship for which a differential is authorized (See 5 CFR part 550, Subpart I, Appendix A). It may not be paid to an employee who undertakes to perform a hazardous duty on his or her own, without proper authorization, either expressed or implied. When an employee performs a duty for which a hazard pay differential is authorized, the agency must pay the hazard pay differential for all of the hours in which the employee is in a pay status on the day on which the duty is performed.

### **NON-MONETARY BENEFITS**

**Home Leave:** Department employees who are permanently stationed overseas must serve continuously at least one 24-month period at the assigned post before home leave can be used. Travel for home leave for these employees will not be paid by the Department. Home leave must be taken in the U.S. or its territories or possessions.

The Department is working toward the discretionary granting of home leave to, and funded home leave travel for, an employee who has been detailed to Afghanistan or Iraq following the employee's completion of a continuous 12-month period of service at either of those posts. Whether an employee uses home leave as a result of serving continuously for 24 or 12 months, the home leave must be used during their continuing service overseas or within a reasonable time after their return provided that the employee will return to service overseas

either immediately or on completion of an assignment in the United States. (5 C.F.R. § 630.606(c)(2)).

**Administrative Leave:** In accordance with Department of State policy, DOJ is working toward allowing for the granting of administrative leave for employees temporarily stationed in Afghanistan or Iraq. Employees shall receive the necessary relief, or short periods of relaxation and recovery, without charge to their leave from post of these two countries which have been designated as a Special Rest and Recuperation post.

### **Conclusion**

I want to thank the Committee for this opportunity to discuss the efforts of these courageous DOJ employees in Afghanistan, Iraq, and around the world. They, like many other Americans serving abroad, answered their nation's call in ways they probably never anticipated. They build skills and give hope to those in the countries where they serve. They fight crime and terror, and each day they make it harder for those who wish to do us harm. They are a true inspiration to all of us at the Department of Justice. As an institution, we try to find ways to reward them and their families for their sacrifices. While a larger pay check or additional leave may help to compensate financially for their service, nothing we can give them can make up for the missed special family events, little league or soccer games, or a quiet weekend at the beach. Nothing fully expresses our gratitude or can compensate for the debt we owe them. In closing, I would like to acknowledge their courage, professionalism, and dedication. They are true American heroes.