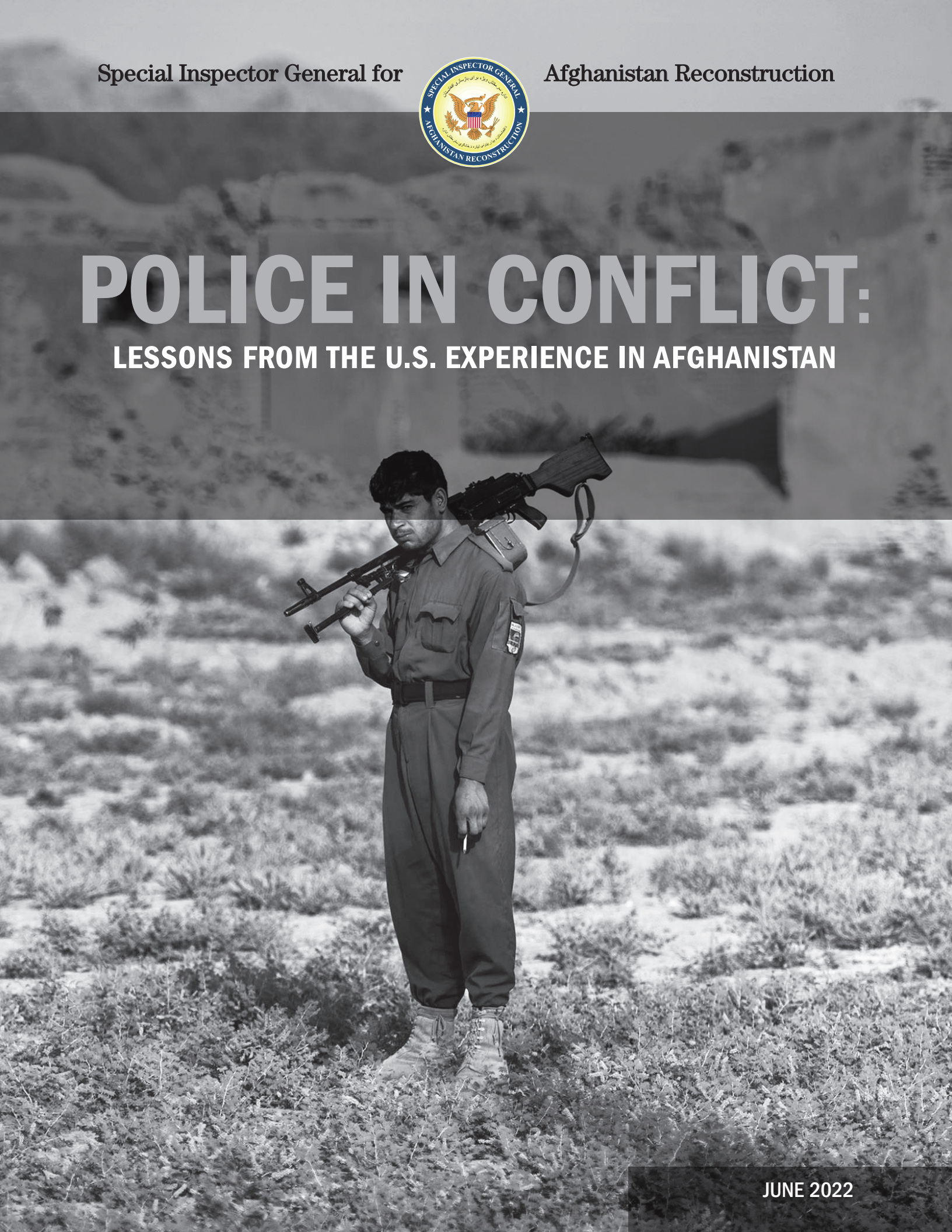
Special Inspector General for Afghanistan Reconstruction

POLICE IN CONFLICT:

LESSONS FROM THE U.S. EXPERIENCE IN AFGHANISTAN



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Cover photo credit:
A member of the Afghan police stands near a school in Kandahar Province, Afghanistan, that was set to be used as a polling place for the 2014 runoff in the Afghan presidential election. (AFP photo by Brendan Smialowski)

Special Inspector General
for Afghanistan Reconstruction

Ongoing world events highlight the critical importance of policing in conflict—that is, establishing an effective civilian law enforcement in countries undergoing civil war or defending themselves from outside aggression. Recent events in Ukraine illustrate how quickly stability can disappear, as well as how difficult it is to reconstruct a viable police force in the aftermath of military operations, when homes, businesses, and critical infrastructure have been destroyed, civilians have taken up arms, and conditions are ripe for criminal behavior. In Mali and Tunisia, where the United States is currently engaged in civilian-led police assistance missions, low-intensity internal conflicts are one spark away from igniting still another war that puts U.S. national security interests at risk.

Developing police capabilities in the midst of conflict is a problem the United States is certain to face in the future—yet it has long been the weakest link in the U.S. security sector assistance portfolio. The U.S. government lacks coordination among agencies that deal with foreign police assistance, a coherent theory of change for police reform, and a clear doctrine on the role of police in counterinsurgency and counterterrorism operations.

Nowhere has this failure been more apparent in recent years than in Afghanistan. *Police in Conflict: Lessons from U.S. and International Police Assistance Efforts in Afghanistan* is the 12th lessons learned report to be issued by the Special Inspector General for Afghanistan Reconstruction. In this report, we explore the reasons behind the United States' inability to create an effective police force in that country—a failure that has much to teach us for future efforts elsewhere.

This report expands upon our previous security-focused lessons learned reports, *Reconstructing the Afghan National Defense and Security Forces* and *Divided Responsibility*, by examining the role of U.S. and international police assistance activities in Afghanistan since 2001. Importantly, it places this subject within a cultural and historical context by examining Afghan policing practices dating back to the late 1800s—an illustration of the in-depth cultural context that effective police assistance programs require and that U.S. advisors in Afghanistan often lacked.

Our findings highlight the difficulty of fighting a heavily armed insurgency while trying to develop indigenous law enforcement and civilian policing capabilities. As the Taliban-led insurgency gained inroads into southern and eastern Afghanistan in 2004 and violence escalated, the United States and the

international community decided to transfer from a civilian-led to a military-led police assistance mission. The result of this policy shift was that the Afghan police force became increasingly militarized, and its focus became fighting insurgents rather than arresting the common criminals and gangsters—many of whom were members of or closely affiliated with the Afghan government—who threatened the everyday lives of Afghan citizens. This militarization, along with the U.S. focus on counterinsurgency operations, ended up empowering and supporting warlords-turned-police chiefs who were tactically proficient in fighting, but who were also known to be human rights abusers and criminals. Police advisors often faced a moral dilemma: whether to partner with corrupt and abusive yet militarily effective police officials who had the support of key portions of the local population, or refuse and risk rising instability, the loss of support for the U.S. intervention, and the reduction of the United States' ability to target and disrupt terrorist cells.

This report also highlights smaller police assistance efforts in Afghanistan that had better results. Afghan police units created specifically to investigate certain crimes—such as narcotics, corruption, and terrorism—were provided with embedded U.S. and international advisors who were experts in those fields. These U.S. and international advisors often lived with their Afghan counterparts, which improved the advisors' ability to develop rapport, provide effective oversight, and mitigate political interference. As a result, specialized units within the Counter Narcotics Police, Major Crimes Task Force, and other special police units developed faster and became more proficient in law enforcement and investigative tactics. However, progress was fragile. As the international community drew down its presence starting in 2014, some U.S. advisors stopped embedding with their Afghan counterparts, and Afghan capabilities in those units rapidly deteriorated. Within a few months of the United States' 2021 announcement about withdrawing all military forces from Afghanistan, the Afghan National Defense and Security Forces, including the Afghan National Police, collapsed. The result was a Taliban takeover of all major cities, including the capital.

While the research and drafting for this report were underway, the U.S. presence changed from a reduced but enduring U.S. footprint to the complete withdrawal of U.S. military and civilian personnel. Early drafts of this report included recommendations for improving the U.S. police assistance mission in Afghanistan. However, in light of recent developments, this report will provide only recommendations to the Congress and executive branch agencies for improving the effectiveness and efficiency of future U.S. police assistance missions. Although it has withdrawn from Afghanistan, the United States will likely be drawn into this type of mission in the future—and foreign police assistance missions that are drawn from the U.S. experience in Afghanistan.

Lessons learned reports such as this one comply with SIGAR's legislative mandate to provide independent and objective leadership and recommendations to promote economy, efficiency, and effectiveness; prevent and detect waste,

fraud, and abuse; and inform the Congress, the Secretaries of State and Defense, and the Administrator for the U.S. Agency for International Development about reconstruction-related problems and the need for corrective action.

The Congress created SIGAR as an independent agency. Unlike most inspectors general, SIGAR is not housed inside any single agency. It is also the only inspector general focused solely on U.S. efforts in Afghanistan. While other inspectors general have jurisdiction over the programs and operations of their respective departments or agencies, SIGAR has jurisdiction over all programs and operations supported with U.S. reconstruction dollars, regardless of the agency involved. Because SIGAR has the authority to look across the entire reconstruction effort, it is uniquely positioned to identify and address whole-of-government problems as well as lessons and solutions.

Our lessons learned reports synthesize not only the body of work and expertise of SIGAR, but also that of other oversight agencies, government entities, academic institutions, independent scholars, and current and former officials with on-the-ground experience. The reports document what the U.S. government sought to accomplish, assess what it achieved, and evaluate the degree to which these efforts helped the United States reach its reconstruction goals in Afghanistan. They also provide recommendations to address the challenges stakeholders face in ensuring efficient, effective, and sustainable reconstruction efforts in future contingency operations.

SIGAR's Lessons Learned Program comprises subject matter experts with considerable experience working and living in Afghanistan, aided by a team of seasoned research analysts. I want to express my deepest appreciation to the team members who produced this report. I thank James Cunningham, project lead and SIGAR's resident expert on security sector assistance; Anna Andriychuk, Zachary Martin, and Sarah Rababy, senior analysts; Justin Graham and April Gillis, student trainees; Nikolai Condee-Padunov, program manager; Tracy Content, editor; and Joseph Windrem, director of the Lessons Learned Program. In producing its reports, the program also uses the significant knowledge and experience found in SIGAR's Audits, Investigations, and Research and Analysis directorates.

In 2019, SIGAR published a lessons learned report that identified international coordination and collaboration as important elements of the NATO-led Afghanistan reconstruction mission. To enhance our own international collaboration, SIGAR partnered with the NATO Stability Policing Centre of Excellence in Vicenza, Italy to examine U.S. and international police assistance activities, including conducting joint fieldwork in Afghanistan. This relationship endures, thanks to Brig. Gen. Andrea Paris and Col. Giuseppe De Magistris, who are, respectively, the former and current director at the NATO Stability Policing Centre of Excellence. It is also due to the efforts of Col. Catalin Stegariou, of Romania, and Lt. Col. David Ellero, of Italy, the former and current leads for the project. I thank all of the individuals from the NATO Stability Policing Centre

of Excellence who provided their time and effort to contribute to this report, as well as their colleagues at the European Gendarmerie Force Permanent Headquarters and at the Italian Center of Excellence for Stability Police Units.

I am also grateful to the many current and former U.S. government and military officials at the Departments of Defense, Justice, Homeland Security, and State, international partners at NATO, and the experts who volunteered to peer review this report. During the official agency review process, both the Departments of Defense and State were focused on the herculean task of drawing down military forces and evacuating U.S. citizens and Afghan refugees, while providing security to everyone involved as armed Taliban moved freely inside the capital. Based on these circumstances, neither agency was able to provide formal comments on this report.

I believe lessons learned reports such as this will be a key legacy of SIGAR. Through these reports, we hope to reach a diverse audience in the legislative and executive branches, and at the strategic and programmatic levels, both in Washington and in the field. By leveraging our unique interagency mandate, we intend to do everything we can to make sure the lessons from the most ambitious reconstruction effort in U.S. history are identified, acknowledged, and—most importantly—remembered and applied in future reconstruction efforts elsewhere in the world.

John F. Sopko,
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Arlington, Virginia


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CALLOUT BOXES, HIGHLIGHT BOXES, AND ESSAYS

Resolute Support photo by Sgt. Heidi Agostini

EXECUTIVE SUMMARY

For nearly 20 years, the United States and the international community provided assistance to the Afghan National Police (ANP) with the goal of creating a legitimate, accountable, and effective civilian police force that could protect the population from criminals and uphold the country's rule of law. The lack of such a civilian law enforcement authority increases the risk that a country remains unstable or reverts back to active conflict. Yet—with the exception of some specialized police forces—community policing and law enforcement capabilities in Afghanistan were weak or nonexistent, despite more than $21 billion in U.S. and international financial support.[1] Overall, the ANP proved incapable of enforcing the law, protecting Afghan citizens from attacks from the Taliban and the Islamic State, or ensuring that Afghanistan does not become another safe haven for international terrorists. In August 2021, four months after the U.S. president announced a full withdrawal of U.S. military forces from Afghanistan, the Afghan National Defense and Security Forces (ANDSF)—including the ANP—collapsed, paving the way for a Taliban takeover.[2]

Many factors have contributed to this situation, but one of the most important lies in Afghan history: Afghanistan has never had an effective nationwide police force dedicated to protecting its citizens. Its police have existed to protect government power, often through corrupt or abusive means. As one member of the ANP summed it up, "While the world knows how hated the Taliban had become by the time of the

U.S. invasion in 2001, most forget that all police forces before the Taliban had been similarly hated."[3]

Another contributing factor in the collapse of the ANP was the failure of the international community to learn from experience. In December 2001, as the international community was mediating a signed compact among the various anti-Taliban Afghan factions, the United States and the United Nations largely ignored the well-documented need to rapidly deploy police and rule of law advisors to stabilize what was, at least at that moment, a post-conflict country. Instead, starting in 2001, the United States chose a "light footprint" strategy of maintaining a small troop presence, and the international community followed suit. As the United States focused on pursuing al-Qaeda and its Taliban sponsors, senior Afghan government officials seized the opportunity to reestablish a police force beholden only to them, at the expense of the Afghan people.

For over a decade, that post-2001 Afghan police force operated with near-total impunity. The Afghan government and international community did not hold Afghan police officers, especially those with political connections, accountable for numerous acts of corruption and human rights abuses: extortion, arbitrary detention, torture, and even extrajudicial killings. This rapidly diminished the population's hope that the new Afghan government would serve their interests. Over time, the Taliban exploited that lack of trust to reestablish inroads in Afghanistan.

By mid-2002, the international community recognized the depleted state of the Afghan police and the need to increase international support. Based on its longstanding ties with the Afghan police dating back to the 1930s, Germany took the lead for this task. Germany's approach focused on a multi-year, university-like training for Afghan police officers, in addition to reconstructing police infrastructure. While Germany largely met its stated goals for training and restructuring the force, the overall plan was inadequate—too small in scope, and too slow in implementation—to meet the law enforcement needs of the volatile Afghan environment.

Frustrated with the German approach, but unwilling to directly criticize it, the U.S. Department of State created its own program of police reform in 2003. Although by law State is the lead U.S. agency for police assistance, it does not have a dedicated team of deployable police development experts. Instead, it contracted out its entire police development mission with little to no oversight. From the start, the State-led police assistance program struggled. Like Germany's, the U.S. police training program was based on the assumption that Afghanistan was a post-conflict state, and that the international community had years to implement a professional police training program. By then, however, Afghanistan was not a post-conflict country; it was a "conflict-paused" country. As the Taliban regained strength, security deteriorated—as did State's freedom of movement, limiting U.S. personnel to bases and the U.S. embassy in Kabul. State also failed to implement a universal best practice of embedding experienced police advisors with newly trained police officers to provide follow-up training in the field. In short,

despite having the legal authority and the budget, State proved ill-prepared to operate in a high-threat environment like Afghanistan.

Starting around 2004, then-Secretary of Defense Donald Rumsfeld began to advocate for the U.S. Department of Defense (DOD) to take over the police assistance mission from both State and the Germans. Rumsfeld directed military commanders in Afghanistan to conduct fact-finding missions to support his arguments. The findings were alarming: despite existing training programs, the ANP were short over 3 million basic items, including cold weather uniforms and sleeping bags, and had only 15 percent of the weapons and communications equipment that they needed.[4] After a year of increasingly urgent memos from Rumsfeld to the White House and to then-Secretary of State Colin Powell, Rumsfeld succeeded in persuading then-President George W. Bush in 2005 to authorize the transfer of all police assistance and training programs from State to DOD because DOD seemed better resourced for the mission.

DOD rapidly organized itself for the new mission—first, by working with the Congress to create the Afghan Security Force Fund, a DOD mechanism for funding the Afghan police forces, and then by reorganizing the command in Afghanistan to include a Police Reform directorate. Despite a 2006 congressionally mandated study of Iraq concluding that the U.S. military was ill-equipped to train foreign police forces, the U.S. military rapidly deployed advisors to partner with police forces in Afghanistan.[5] The U.S. military moved embedded training teams originally deployed to partner with the Afghan National Army to ANP units. The result was that the U.S. police assistance mission became, in effect, an extension of its military training mission.

By 2006, the U.S. military created separate police training teams called police mentoring teams, with the intent to deploy soldiers specifically focused on the police assistance mission. Despite the change in approach implied by the new name, the police mentoring teams continued to be staffed mostly by soldiers who lacked a basic understanding of policing, including law enforcement, community policing, or criminal investigations, but rather had expertise in infantry, combat aviation, and other military related capabilities. This was largely the result of a lack of human resource management systems within DOD that could properly identify and deploy U.S. military officers who had experience and expertise in law enforcement tasks. The teams were also short-staffed, and team members were frequently reassigned to other units. The relatively small number of police mentoring teams meant that many ANP units lacked regular trainers and mentors. The teams themselves were often confined to the base because they did not have the required force strength to both guard the base and advise the Afghan police. Frequent reassignments of team members also resulted in misleading reports from the field. According to one advisor, U.S. military personnel "may be in somebody's database as being a police mentor, but they weren't mentoring anybody. . . . So this is getting reported up the chain that we have X many thousand number of mentors, but it's not really true."[6]

Under DOD's leadership, the mission and focus of the Afghan police also came to reflect the U.S. military's counterinsurgency strategy. Instead of focusing on rule of law or community policing, most Afghan police units were focused on providing security and support to Afghan National Army operations. Starting in 2009, the U.S. military, NATO, and the Afghan Ministry of Interior adopted a "clear, hold, and build" counterinsurgency approach in Afghanistan, in which the various Afghan police units—the Afghan Uniform Police, Afghan Border Police, and the Afghan Civil Order Police—each had, in theory, specified roles. The Afghan Uniform Police was responsible for providing law enforcement and community policing in secure districts, the Afghan Border Police was assigned to protect the border from insurgent movement, and the Afghan National Civil Order Police was supposed to be a bridge between military-led operations and police-led security.

In reality, these roles were confused. Afghan Uniform Police and Afghan Border Police were involved in initial counterinsurgency operations to clear districts, and the Afghan National Civil Order Police—the smallest of the forces—was unable to provide policing in all high-threat areas. Ill-equipped to fight and hold territory against heavily armed insurgents, the Afghan Uniform Police suffered high casualties and even lost newly gained territory back to the insurgency. By focusing on the counterinsurgency fight and the growing violence throughout the country, the Afghan police failed to develop the basic law enforcement and community policing capabilities required to prevent and respond to criminal activities that plagued the daily lives of many Afghan citizens, even in areas of Afghanistan that were secure enough for a civilian police presence.

Afghan police officers struggled to deliver law and order to local communities, and in many cases actually contributed to crime by engaging in extortion, assault, and human rights abuses, which eroded the legitimacy of the police and the entire Afghan governance system in the eyes of the local population. Because of underdeveloped investigative techniques, the police relied almost exclusively on written confessions for court convictions. This practice led to the widespread use of illegal detention and torture of suspected insurgents. In response to such police brutality, some communities, especially in the Pashtun heartlands of southern Afghanistan, welcomed the Taliban back as liberators—just as they did in the 1990s.

The U.S. military's approach to police training preserved Afghanistan's pervasive culture of police impunity by funding and providing technical assistance to Afghan police units that faced credible reports of committing gross human rights abuses. Afghanistan thus illustrated a key dilemma for U.S. advisors in stabilization and reconstruction missions: Is U.S. cooperation with brutal but militarily capable security forces worthwhile if it restores security to contested or enemy-controlled territory—or does such cooperation create more conflict in the long run by undermining good governance and rule of law?

Police assistance in Afghanistan did have some small success stories. Over the past 19 years, the United States and international community helped develop advanced investigative capabilities within the specialized police units responsible for investigating

specific crimes or core police functions. These specialized units—the Counter Narcotics Police of Afghanistan, the Major Crimes Task Force, and the Special Police Units—investigated criminal activities important to international donors: narcotics, corruption, and terrorism. Unlike other police assistance programs, these units received embedded advisors who had the requisite technical expertise and training. To isolate these units from corruption in the formal justice system, these units also benefitted from the creation of specialized criminal justice systems to prosecute these specific crimes, avoiding the lack of coordination among police, prosecutors, and courts that affected other criminal cases.

Despite these limited success stories, Afghan police capabilities were significantly underdeveloped at the time the United States decided to withdraw military forces. In the face of an aggressive Taliban offensive and lacking either logistical support or the benefit of U.S. air strikes, many units of the Afghan National Police simply quit, often without a fight.

This report examines the creation of the conditions in which such a massive failure could happen. It is laid out into 10 chapters:

- **Chapter 1,** ***Introduction: Importance of Police Assistance in Stabilization and Reconstruction Missions,*** provides an overview of the role of international police assistance in stabilizing fragile and post-conflict countries and the critical role police play in establishing security and the rule of law. It also describes the importance of integrating foreign police assistance with the host nation's criminal justice system and how foreign police assistance must be tailored to the host nation's legal traditions, police structures, informal dispute resolution customs and—particularly in Islamic countries—religious law.

- **Chapter 2,** ***Setting the Scene: The History of Afghanistan's Police,*** provides the reader with a better understanding of the historical and cultural attributes that have influenced the formation of Afghan police forces. It also includes a closer look at Afghanistan's informal dispute resolution traditions, known as customary law, which enabled the vast majority of rural Afghans to administer their own justice in areas where the central government had limited reach. Finally, it examines the enduring problem of police corruption and brutality in Afghanistan's history, and the danger of merely rebuilding police forces without first reconstructing a new social contract between the population and the police.

- **Chapter 3,** ***2001–2002: A Missed Opportunity to Establish Rule of Law,*** discusses the impacts of the United States' post-9/11 policy of using a "light footprint" approach in Afghanistan, in contrast to prior peacekeeping operations. It also describes how Afghan political factions captured the ANP and the Ministry of Interior, creating institutions that were designed to protect political power rather than serve the needs of the population. As a result, insecurity, lawlessness, and abusive police practices flourished.

- **Chapter 4,** ***U.S. and International Community Tackle Police Reform—Understaffed, Underfunded and Without a Coherent Strategy,*** analyzes the civilian approach to police assistance during the early years of U.S. involvement in Afghanistan, as well as the challenges civilian agencies encountered when security began to deteriorate. This chapter highlights how the U.S. and international community's narrow focus on training and equipping Afghan police, combined with its neglect of broader ministerial reform and its failure to integrate police and judicial sector reform, stunted the development of rule of law in an increasingly insecure Afghanistan. These factors, together with the lack of post-training monitoring and evaluation, created a situation in which newly trained officers were reintegrated into an unreformed, corrupt environment. During this civilian-led reconstruction, U.S. and international forces were essentially training and equipping Afghans to better serve their militia commanders.

- **Chapter 5,** ***U.S. Civilian Agencies Are Poorly Structured for Large-Scale Police Development,*** looks beyond Afghanistan to analyze U.S. civilian agencies' capacities to reform or rebuild foreign police and justice systems more broadly. This chapter evaluates the capabilities and limitations of State's Bureau of International Narcotics and Law Enforcement Affairs, the International Criminal Investigative Training Assistance Program at the U.S. Department of Justice (DOJ), and other civilian agencies often deployed to assist in police or justice sector reform, such as the Drug Enforcement Administration (DEA) and the U.S. Marshals Service. Ultimately, this chapter concludes that the United States lacks an institutionalized civilian expeditionary capability with the capacities to support foreign police development during stabilization and reconstruction missions.

- **Chapter 6,** ***The Military Takes Over, with Minimal Improvement,*** analyzes the transition of police assistance efforts from State to DOD in 2005, including how DOD organized itself to meet mission demands, and how the effort was funded. It traces early DOD criticisms of State-led programs and outlines why senior leaders believed that DOD was better suited for the mission, despite its lack of policing expertise. Finally, since the DOD effort took place in the context of a NATO mission, the chapter examines NATO contributions to police development and international coordination mechanisms.

- **Chapter 7,** ***Police in Counterinsurgency,*** discusses the evolution of police training from 2005 on, as a reconstituted Taliban organized an insurgency starting in the south and east regions of Afghanistan. This forced the United States to develop a new counterinsurgency strategy, which quickly came to subsume U.S. police training efforts. This chapter evaluates the effectiveness of the police assistance as part of a counterinsurgency campaign with an ANP that was neither trained nor equipped for a combat role. Two case studies detail the use—and misuse—of Afghan police in combat.

- **Chapter 8, *The Other Fight: Crime and Civil Security,*** analyzes the consequence of emphasizing counterinsurgency tactics in police training: the overmilitarization of the Afghan police and the detrimental effects on the ANP's ability to perform basic law enforcement functions. It examines how U.S. military partnerships with unsavory but militarily effective warlords and human rights violators contributed to battlefield success at the expense of long-term good governance and rule of law. Ultimately, the failure of the U.S. and international community to develop the ANP's law enforcement capabilities left the ANP ill-equipped to handle the rise of garden-variety crime in the country's urban areas. The ANP's limited capacity to fight crime in Kabul is a particularly damning indictment of 20 years of police assistance efforts by the United States and its international partners.

- **Chapter 9, *Specialized Police Units: An Alternative Approach,*** describes the development of specialized police forces designed to respond to specific crimes, with the support of the United States and the international community. Police forces such the Counter Narcotics Police of Afghanistan, the Major Crimes Task Force, and the General Command of Police Special Units dealt directly with crimes of interest to the international community, such as drug smuggling and corruption. Over time, specialized courts were developed for these units in order to improve synergy between the various elements of the criminal justice system. The combination of creating independent and integrated court systems with embedded trained law enforcement experts proved to be an effective approach to developing Afghan investigative capabilities.

- **Chapter 10, *Conclusions,*** lists the report's findings, lessons, and recommendations for U.S. agencies and policymakers. The conclusion summarizes the key takeaways from close to two decades of U.S. support to the Afghan National Police that failed to materialize into developing an effective, trusted, and capable civilian policing entity.

FINDINGS

This study identified 11 key findings from U.S. and international police assistance since 2002 that highlight the problems and successes of police assistance in Afghanistan:

1. In many ways, the United States' approach to police assistance in Afghanistan resembled failed efforts by the Soviet Union, other international donors, and former Afghan government administrations. All resulted in an overmilitarized police force incapable of protecting average citizens from internal and external threats.

2. Historically, Afghanistan has been fragmented by ethnic divisions and struggles among warlords. Police have always been perceived as the central government's heavy-handed enforcer and tax collector, not as protectors of the citizenry and maintainers of law and order. The design of the ANP failed to take into account that one of the first steps in reforming the police was to establish a new social contract between the police and the Afghan citizens which would outline the roles and responsibilities of the newly formed Afghan police in relation to society. It would also

give that society a role in holding the new police force accountable for adhering to its new standards.

3. The civilian approach was based on the assumption that Afghanistan was a post-conflict state, which would allow for a long-term professional development program that would take years to reach fruition. In reality, security deteriorated quickly after 2005. Without adequate resources, the civilian agencies suffered from reduced freedom of movement and the lack of force protection capabilities required to operate in high-threat environments. For this reason, both the German and U.S. civilian approaches were too slow for the Afghan environment. Neither organization was able to provide consistent training in the field, a widely recognized best practice.

4. U.S. military-led police assistance resulted in an overmilitarized approach that prioritized training the police to engage in combat operations against the Taliban at the expense of providing law enforcement and community policing. The U.S. military is not organized or prepared for foreign police assistance missions. It lacks an institutionalized mechanism to deploy technical experts in rule of law, law enforcement, and community policing. Instead, the U.S. military deployed soldiers with no experience in policing as police advisors.

5. The police are only one pillar of the overall criminal justice system. Yet police assistance programs were conducted independently from other donor-led programs focusing on two closely related pillars: developing courts and training prosecutors.

6. Afghan police commanders who were effective in combating the insurgency and who were supported by large portions of the local population also engaged in criminal behavior, torture of detainees, corruption, and even extrajudicial killings. Police advisors faced a dilemma of how to balance U.S. short-term objectives of combating the insurgency with the long-term objectives of creating a legitimate and professional police force that respected human rights and the rule of law.

7. The establishment of hundreds of isolated police checkpoints provided the ANP the opportunity to prey upon the local population, and provided the Taliban-led insurgency with targets of opportunity. This resulted in an unsustainable number of Afghan police casualties and the loss of U.S.-provided equipment.

8. U.S. and NATO counterinsurgency doctrine discusses the importance of closing the gap between the local population and the government, and increasing interaction between the citizenry and the police. However, absent reforms to the ANP, the counterinsurgency strategy increased the opportunity for a predatory and corrupt police force to abuse local citizens. Locals increasingly opposed the Afghan police presence that followed successful counterinsurgency clearing operations.

9. The failure to create, resource, and integrate a national literacy campaign from the outset undermined the effectiveness of police assistance programs. Low literacy

rates in host nations' populations are a major challenge confronting foreign police training efforts. Yet literacy training is often overlooked, or is implemented after police have already been deployed. Illiterate police cannot perform basic law enforcement functions such as writing reports, recording license plate numbers, and obtaining witness statements. Illiteracy among police also limits the amount and quality of evidence that can be used in prosecutions.

10. To address immediate security needs, U.S. police assistance initially prioritized rapidly increasing the quantity of police officers in the ANP over the quality and sustainability of police training. This resulted in poorly trained police being sent into communities. For example, DOD pushed to increase the ANP force strength from 62,000 to over 120,000 police, while hastily deploying poorly trained local auxiliary forces to fight on the front lines.

11. A best practice for international police assistance is to embed advisors with the required technical expertise and ability to influence and teach foreign police as advisors within host nation police units. This approach was done successfully in Afghanistan with the deployment of DEA agents to support select units of the Counter Narcotics Police, Federal Bureau of Investigation (FBI) agents with the Major Crimes Task Force, and military special operations forces with the special tactical teams of the General Command of Police Special Units.

LESSONS

Our examination of the U.S. and international police assistance mission in Afghanistan from 2001 until August 2021 has distilled 10 lessons that can improve current and future U.S. and international community police assistance missions in fragile and post-conflict states.

1. The U.S. and international community lack an expeditionary police assistance capability resourced with sufficient numbers of qualified and trained police assistance experts required for most stabilization and reconstruction missions in nations suffering from high levels of violence.

2. Predeployment training and education for international police advisors should include an understanding of a host nation's legal traditions, the historical relationship between police and populace, the extent of police corruption, the command and control organization of the host nation's police forces, frameworks within the host nation to hold the police accountable to the rule of law, and the host nation's policy and planning documents for police operations.

3. Country-wide stabilization and reconstruction assistance plans should implement police assistance programs and strategies across the spectrum of security, governance and rule of law programming.

4. To effectively reform a host nation's criminal justice sector, police assistance programs must be coordinated and developed simultaneously with the other pillars of the justice sector, such as courts and prisons.

5. Embedding U.S. and international advisors with the required technical expertise for an extended period of time improves the effectiveness of police assistance programs.

6. Police assistance missions that require new recruitment and training of a large majority of its force should include a field advising component from the outset to reinforce core training concepts, provide oversight to ensure that new police are upholding and enforcing the rule of law, and to make sure that what is taught in the classroom is put into practice in the field.

7. In countries that suffer from government corruption and political interference in police activities, a sustained international police assistance mission can make it easier for the police to investigate politically sensitive crimes such as official corruption and organized crime. Corrupt officials may be less likely to interfere in an investigation that is conducted under international oversight.

8. Counterinsurgency doctrine calls for greater contact between the police and the populace, but if the police are predatory or corrupt, this increased contact can undermine government legitimacy and contribute to the insurgent cause.

9. Counterinsurgency and stabilization missions require the various security forces to be distinguished between those responsible for fighting the insurgents and those responsible for community policing and enforcing the rule of law.

10. International police advisors may face a moral dilemma when advisors are asked to support a police official who holds an official government position, but who is also a militia or factional leader who does not adhere to international human rights standards or uphold the nation's rule of law. Without clear guidance from senior leaders, international advisors must ensure that international assistance does not reinforce behaviors that run counter to international standards.

RECOMMENDATIONS

Based on these lessons, we have identified 10 recommendations designed to improve the efficiency and effectiveness of future U.S. foreign police assistance in post-conflict and fragile states. A fuller explanation of the importance and impact of each of these recommendations can be found in the conclusions chapter of this report.

Matters for Consideration by the Congress

1. The Congress may wish to consider passing legislation to reform the U.S. government's approach to foreign police assistance. This legislation would clarify roles and responsibilities of the multiple executive branch agencies engaged in assisting police forces in fragile and post-conflict states, mandate the use of monitoring and evaluation systems, and require professional training for all police assistance personnel.

2. The Congress may wish to consider reviewing Section 660 of the Foreign Assistance Act, an amendment passed in 1974 prohibiting foreign police training abroad except by special waivers, to determine its applicability today, based on the current U.S. approach to international assistance.

Recommendations for Executive Branch Agencies

3. The Secretaries of State and Defense and the U.S. Attorney General should review agency budgets to ensure that those departments responsible for foreign police assistance receive the required funding to staff their departments with the appropriate numbers of program managers, technical experts, and monitoring and evaluation professionals.

4. The Secretary of State should create an organization responsible for foreign police assistance that focuses on developing core police capabilities in fragile and post-conflict states. Currently, State's lead organization for foreign police assistance, the Bureau of International Narcotics and Law Enforcement Affairs (INL), focuses primarily on developing specific investigative components like counternarcotics units, with less institutional expertise and focus on developing the core policing tasks required in most police reconstruction and reform missions.

5. The Secretary of State should instruct INL, or the new organization created based on our recommendation above, to include, as part of its initial program design phase, assessments of critical components of the target nation's police force. This includes the history of police, legal system and traditions, the nature of criminality in the county, levels of corruption in the criminal justice system, existing accountability mechanisms, the level of transparency within the police service, previous training received, and institutional capacities and state of current policing capabilities.

6. The Secretary of State should direct INL, or the new organization created based on our recommendation above, to coordinate all police assistance activities with the DOJ's International Criminal Investigative Training Assistance Program (ICITAP) and other foreign police assistance key stakeholders (such as the DEA, Customs and Border Protection, U.S. Marshals Service, the Department of Homeland Security, and the FBI) to ensure the United States is providing a whole-of-government solution

tailored to the targeted nation's policing requirements.

7. The Secretary of State should direct INL, or the new organization created based on our recommendation above, to coordinate all foreign police assistance activities with international partners also engaged in police assistance activities in the same country. INL should ensure that police assistance programs in a specific country are mutually reinforcing.

8. The Secretary of State should create a fully resourced assessment, monitoring, and evaluation unit responsible for evaluating the efficiency and effectiveness of U.S. foreign police assistance activities. State should partner with other U.S. government agencies responsible for police assistance programs (such as ICITAP, the DEA, the Department of Homeland Security, and U.S. Customs and Border Protection) to develop universally accepted measures of effectiveness and performance that will be used to evaluate foreign police assistance programs.

9. The Secretary of Defense should develop a capability that can quickly identify and deploy soldiers with civilian police expertise. These capabilities are traditionally found in the U.S. Army Reserve and Army National Guard, where soldiers often possess unique civilian skills, such as serving in a U.S. law enforcement agency or as a police officer.

10. The Secretary of Defense, in coordination with the Secretary of State and the Attorney General, should staff INL and ICITAP liaison officers within each of the geographic combatant command's policy, plans, and operations staff. This will allow foreign police assistance expertise to become part of initial contingency planning decisions to better prepare the U.S. government for "golden hour" operations and to coordinate when police advisors will need to be deployed.

Before the collapse of the Afghan government, SIGAR drafted several recommendations to the U.S. and Afghan governments aimed at improving Afghan police capabilities. These can be found in Appendix A.


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AFP photo by Shah Marai

CHAPTER 1

INTRODUCTION: THE IMPORTANCE OF POLICE ASSISTANCE IN POST-CONFLICT AND STABILIZATION MISSIONS

One of the most important tasks for peacekeeping and stabilization operations is to establish the rule of law, which includes creating an effective and legitimate police service. Yet this has been a challenging task for the United States and international community for decades.[7] Without an effective police service, criminal activity and lawlessness will flourish, threatening to reignite violence. Most post-conflict nations lack an effective and trusted policing capability to begin with, so employment of police personnel often requires long-term training and reforms.[8] Unfortunately, foreign rule of law and police assistance activities are chronically underresourced and slow to deploy.[9] Military leaders tend to recognize only belatedly that it is not enough to win a war, but it is more important to organize the peace—an adage attributed to the Greek philosopher Aristotle over 2,300 years ago.[10]

Quickly establishing rule of law through police assistance can be done in two ways. The first is to deploy international peacekeepers with executive powers to conduct police activities at the behest of the host nation, which is what happened in Kosovo starting in the late 1990s. The second is to completely defer policing, local security, and enforcing the rule of law to the host nation while the international community provides police training to that nation's newly constructed force, as happened in Afghanistan. In Kosovo, the United States and the international community recognized that a future police service would have to be reconstructed to balance the various ethnic groups that were parties to the conflict.[11] This process would require a long-term commitment

and dedicated international support. In contrast, in Afghanistan, the United States and international community were initially unwilling to engage in long-term capacity building programs. Instead, they deferred policing requirements to the Afghans. As the Afghans and international community attempted to reconstruct a more professional police service from Kabul, large swaths of the country remained lawless.[12] The years-long process of creating a new police service left locals to suffer daily from criminal activities, harassment, and insurgent violence.[13] In some cases, the absence of the rule of law and a credible police service induced the locals to support the Taliban as the lesser of two evils.[14]

The United States' inability to properly support the development of police services overseas is not news; it was recognized at the senior levels of the U.S. government more than 20 years ago. "Contemporary peace operations and other complex contingencies, though aimed at mitigating military conflict, often confront considerable civil disorder, violence and crime," said a 2000 Clinton administration white paper. "Time and again, we have seen that as military conflict ends . . . a security vacuum develops that indigenous law enforcement organizations cannot fill." Re-establishing a local criminal justice system, it added, "is often, and appropriately, a fundamental aspect of a successful peace operation or other complex contingency operation."[15]

THE IMPORTANCE OF POLICE IN EMERGING FROM CONFLICT

The police have a major role in keeping the local population safe and secure, and their function is of utmost importance in the day-to-day life of the population of any nation. When the police in a stable and normally secure country do not carry out their job effectively, the consequences can be dramatic—ranging from looting to rioting, or even the proliferation of organized crime and terrorism. In post-conflict states, the risks of violence, criminal activity, and destabilization are far higher. According to the RAND Corporation, "Since World War II, nearly one-half of societies recovering from one civil war have relapsed [into another civil] war within five years, and nearly one-fifth returned to war within a single year."[16]

"Social stability and security for citizens in post-conflict and even peaceful environments require civil security," writes rule of law scholar Tonita Murray, a former advisor to the U.S. military command in Afghanistan. "Civil security is founded on the rule of law and encompasses law enforcement, the prevention of crime, the protection of human rights in homes and in public places, and the creation and maintenance of orderly communities. Civil security is needed to allow civil society to flourish."[17]

Unfortunately, criminal justice systems in post-conflict states often suffer from limited capacity and a lack of basic infrastructure. In those states that emerge from intrastate conflict, a peace deal brokered between warring parties will usually result in politically biased actors assuming leadership roles for providing justice, policing, and rule of law.[18] Police forces emerging from intrastate conflict often are viewed as a party to the prior conflict—either because of their own actions or because of their close relationship to

the military—and are thus seen as responsible for whatever related violence and human rights abuses occurred. This results in a general mistrust and fear of the police.[19]

An effective, legitimate police service is also needed to combat spoilers to a potential peace deal. All political agreements generate winners and losers, and those individuals or groups who are unhappy with their position in the new system may turn to violence to gain additional political leverage, possibly manifesting as another insurgency or increased insecurity from criminal gangs or networks.[20]

Spoilers are groups that use tactics that seek to hinder, delay, or undermine conflict settlement through a variety of means and for a variety of motives.

Reconstruction of a police service—or at least a substantial retraining and reform—is required to reduce the risk of prolonged insecurity and even the rekindling of armed conflict.

> *"Time and again, we have seen that as military conflict ends . . . a security vacuum develops that indigenous law enforcement organizations cannot fill."*
>
> —Clinton administration white paper

Internal Security: The Challenge in Defining Roles between the Military and Police during Counterinsurgency Operations

During counterinsurgency operations, the roles of the police and military are often blurred. In Afghanistan, the police were excessively militarized for several reasons. First, insurgents are frequently viewed as enemies of the state, not as criminals. Taliban-led operations that resulted in casualties were seldom counted and prosecuted as murder, but as insurgent-initiated violence.[21] Next, the police were asked to operate in high-threat areas where the Taliban-led insurgency was better equipped. To survive, the police were forced to increase their military tactics and defensive posture, which resulted in a police force less engaged with the local population and unable to respond to many of their security needs.[22] Finally, civilian police advisors also faced considerable challenges visiting high-conflict areas to train, mentor, or reform the police on professional policing practices. Instead, that task was often turned over to untrained military officers, who reinforced the teaching of military tactics.

Moreover, host nation police officers themselves may have a natural tendency towards militarization. Using force does not require much training or specialized equipment, and it is often more appealing than community policing, especially in countries like Afghanistan that lack strong traditions of civil security. Often, police commanders in post-conflict states have military backgrounds, which increases the likelihood that they approach policing through a military lens.[23]

A community-oriented police ethos, according to one comprehensive study on police reform, requires a "commitment to increased transparency, cooperation with community representatives, unbiased respect in communication and interaction with citizens,

and a focus on understanding and solving local problems." The goal is to foster "a reliable and mutual flow of information between the public and the police, as well as effective security partnerships with community leaders and organizations."[24] These fundamental beliefs undergird recruitment and training, and are enforced throughout an officer's career.

Instilling an emphasis on community policing will often fail without a significant and sustained exertion of political will and pressure from above. What's more, highly centralized and hierarchical institutions cannot easily adopt the community-oriented model, since lower-level police in such organizations generally lack the autonomy, agility and decision-making authority required for community outreach and problem solving.[25] "Community engagement" can also be a vague concept, and can often devolve into a buzzword with no real efforts toward change.[26] All three factors came into play in Afghanistan, where the Ministry of Interior was highly centralized, hierarchical, and politicized.[27]

To help a country emerge from conflict and sustain the peace, there must be a clear delineation of tasks and responsibilities between the police and military forces within a country. This may seem self-evident, but in practice it is a complex task. The goal, as noted by Cornelius Friesendorf and Jörg Krempel of the Peace Research Institute Frankfurt, is that "the police must be as civilian as possible and as military as necessary—with regard to their equipment, approach, structure, and duties."[28]

There are fundamental differences between the use of military and police forces, especially related to providing internal security. By design, military forces often use a maximum degree of force and have little day-to-day interaction with the local population. They are not constrained by such considerations as preserving the chain of evidence or affording defendants due process, at least not in any civilian sense.[29]

> *"The police must be as civilian as possible and as military as necessary—with regard to their equipment, approach, structure, and duties."*
>
> —Cornelius Friesendorf and Jörg Krempel, Peace Research Institute Frankfurt

A well-developed police force, unlike the military, is typically restricted by criminal justice rules, procedures and laws. In contrast with the military, which uses a maximum degree of force, police are trained to use "only the amount of force necessary to mitigate an incident, make an arrest, or protect themselves or others from harm."[30] Unlike the military, police require witnesses, physical evidence, and coordination with other actors in the criminal justice system.[31] The outcomes of law enforcement investigations, unlike military operations, are usually public knowledge, as are the results of a criminal prosecution—a degree of transparency which improves the legitimacy and credibility of the government's use of force. The foundational concept that an individual is innocent

until proven guilty and is entitled to due process of law circumscribes the relationship between well-functioning police and their "adversaries"—suspected wrongdoers—in ways that simply do not apply to the military.

The goal for all counterinsurgency missions is to have a carefully managed transfer from the law of armed conflict to police-led rule of law.[32] This requires the military to successfully clear insurgent controlled territory and reinforce the police against any resurgent attacks. Meanwhile, civilian police forces should not be responsible for combating an insurgency through military means, but through effective prosecution of core police tasks: law enforcement and evidence-based investigations.

AN EFFECTIVE POLICE FORCE REQUIRES AN EFFECTIVE CRIMINAL JUSTICE SYSTEM

The effectiveness of a nation's criminal justice system relies on the interconnectedness of its various elements: courts, defense attorneys, prosecutors, police, and prisons. According to RAND, "Without a clear legal framework, the police can easily abuse their power; without a functioning court system that ensures due process, suspects cannot get a fair trial; without effective prisons, convicts can escape or suffer abuses at the hands of guards; and without effective anticorruption measures, justice is easily subverted by wealth."[33] Damage to one part damages the whole, but the same does not hold true for repair. As a consortium of legal experts has noted, "Providing a preponderance of resources to [just] one element of the system will not necessarily result in tangible improvements in justice," and may do more damage than good.[34]

Unfortunately, the United States and the international community have not taken that warning to heart. According to a study by the International Peace Academy, "International programs are often cited for their focus on particular institutions at the neglect of others, thus failing to take into account the interdependence of the various institutions that collectively enable a criminal justice system to function." One of the most important lessons from UN peacekeeping missions in the 1990s was "the imperative of paralleling police reform with reform of the judiciary. . . . Without a functioning judiciary, even the most competent and rights-respecting police force will lose credibility."[35]

The UN Office on Drugs and Crime and the U.S. Institute of Peace noted a common trend with international advisors: Advisors deploy to support only one component of the criminal justice system, with limited or no awareness of what other international advisors are doing in the justice sector. A practitioner's guide from both organizations notes the dilemma that most well-intentioned criminal justice advisors face while working overseas: "While focusing on one's own reform project is understandable, such a focus is decidedly detrimental to the prospects of rebuilding an effective criminal justice system. These systems may have many moving parts that do not function in isolation, but rather are elaborately interconnected, with each component affecting all others."[36] The failure to take a holistic approach can result in a criminal justice system

in which various components, each advised by different international advisors, end up working at cross-purposes.

"Without a functioning judiciary, even the most competent and rights-respecting police force will lose credibility."

—Reyko Huang, International Peace Academy

ONE SIZE DOES NOT FIT ALL: POLICE FORCES REFLECT A COUNTRY'S CULTURE AND HISTORY

Although military forces often share similar organizational models, every nation's police force is a reflection of that nation's history and culture, national concepts of rule of law and criminal justice, and levels and type of criminal behavior. Aside from the responsibility to prevent and detect crime, and maintain public order and public safety, the organization of police forces varies greatly, and is tailored to the local context and community needs. Some of the most significant differences include a country's legal traditions (whether they derive from civil, common, religious or customary law), whether there is a centralized or decentralized police command structure, and whether the country uses gendarmerie forces (police forces with military status), which can be found in many European countries.

But most advisors are not experts in police practices in any country besides their own—and many tend to think their country's model is the best one to follow. To be successful in developing and reforming a partner nation's police force, it is important for the donor community involved to understand the framework in which the host nation police force operates.

Important Characteristics of the Former Afghan National Police

The structure of police organizations can range from a single policing body with a centralized top-down structure, such as in the Netherlands, to a complex security structure with a multitude of law enforcement agencies or police departments with complementary or overlapping responsibilities and competences.[37] The United States, with its highly decentralized network of about 18,000 different police organizations at the federal, state, county and local levels, is an example of the latter.[38]

In Afghanistan, the former ANP was a highly centralized police structure that reported directly to the Afghan Ministry of Interior. The Deputy Minister for Security served in a role similar to a national police commissioner, and was responsible for overseeing all law enforcement activities. The Afghan Ministry of Interior was responsible for a wide range of activities besides policing, including human resource management, logistics, acquisition, policy and strategy, and budgets.[39]

Advisors coming from countries like the United States, which do not have such centralized police organizations, will often be at a disadvantage. Many will have no experience in conducting large-scale acquisition programs or overseeing human resource management systems at the national level. At the tactical level, they may seek local solutions—based on their experience—that may result in a lack of standardization of police programs nationwide, or inadvertently provide guidance that runs counter to national strategies or policy guidelines.

Without a basic awareness of such fundamental differences, police advisors risk introducing training and programs that run counter to host nation laws or that conflict with host nation legal frameworks. This can create tensions between the advisors and the host nation forces; at worst, it can create mechanisms that undermine the very laws the police are supposed to uphold.

A Complex Mixture of Various Legal Traditions

At various times in its history, Afghanistan has been a monarchy, a liberal Islamic republic, an extremely conservative Islamic republic, a communist nation, and a democracy. Each of these government systems attempted to rewrite the nation's legal codes and procedures, and several rewrote the constitution. This tumultuous legal history, coexisting uneasily with Afghanistan's Islamic law traditions, has resulted in a complicated legal framework that, in the words of rule of law experts Michael Hartmann and Agnieszka Klonowiecka-Milart, is "a mélange of conflicting and confusing provisions, contained in various legislative pieces of disparate provenance."[40] For ordinary Afghans, this complexity makes it difficult to know exactly what is against the law and what penalties they might receive. It poses challenges for Afghan criminal justice actors, who need to understand their role in the system and which laws they must enforce, and be able to explain their decisions to an often-distrustful public. For international advisors, it presents a steep learning curve.

Defining the Police and Prosecutor Relationship

The relationship between police and prosecutors also differs widely around the world. In the United States, that relationship derives from a common law tradition that came from Great Britain. Common law countries use case law as the major source for interpreting statutes, a bottom-up approach that emphasizes reconciling precedents set forth in prior cases.[41] They also mostly rely on the police to detect crimes, collect evidence, and take a leading role in investigating crimes.

In civil law countries—which include those in Europe, Asia, and South America, as well as the former government of Afghanistan—the job of collecting evidence and pursuing investigations is the job of prosecutors or investigative judges, not the police.[42] Criminal justice in nations that abide by civil law traditions generally believe that legal codes are established by parliaments or other law-making organizations to address all circumstances that require legal disposition. Statutes, not the accumulation of previous legal decisions on similar cases, are the basic guide for applying the law. Judges have

limited flexibility in interpreting the law, and defense attorneys usually do not argue for the judge to modify the standards of existing laws.[43]

In the United States, police enforce federal, state and national laws; in Afghanistan, police worked within a complicated and multi-layered legal framework that included constitutional and statutory laws, presidential decrees, Islamic (Sharia) law, and various informal traditions that are collectively known as customary law (see Appendix B for a thorough examination of the Afghan legal landscape).

Sharia translates to Islamic law or divine guidance, intended to regulate all aspects of human conduct. The primary sources of Sharia include the proscriptions contained in the Koran, which believers regard as the literal word of God, and the Sunnah, the body of precedents attributed to the prophet Mohammed.

For police investigations to culminate in successful prosecutions, their investigative practices must be consistent with the host nation's code of criminal procedure—and the failure to understand can thwart good intentions.[44] One example of that failure involved foreign police officers deployed to Kosovo in the 1990s, who began arresting alleged criminals and conducting investigations without understanding that Kosovo was a civil law country, and that judges, not police, interviewed witnesses and took written statements. As legal scholar Vivienne O'Connor noted, "Unaware of this feature of the civilian law tradition in Kosovo, foreign police officers conducted interviews in several cases, thus making valuable evidence inadmissible in court and jeopardizing ongoing criminal investigations."[45]

The tendency to default to familiar practices as a proposed solution for a host nation's problems seems universal, O'Connor recounted: "At meetings on post-conflict law reform, German practitioners suggested a new legal provision be based on German law, U.S. practitioners suggested it be based on U.S. law; British practitioners suggested it be based on UK law, and so forth."[46]

Another Legal Layer: Customary and Religious Law

In much of rural Afghanistan, far from the reach of the formal legal system, disputes are settled on the basis of longstanding customs of a local society, usually implemented by tribal or village elders. Such customary law is widely understood by the local population, but is not formalized as a written civil or criminal code. Criminal offenses are often settled through mediation and arbitration between perpetrator and victim and their respective families, with a delegated person or group empowered to handle local disputes.[47]

Customary law in Afghanistan draws from, but is by no means synonymous with, Islamic law, or Sharia. The implementation of Islamic law varies by country and even between various groups within a given country. The differences between customary and Islamic law can be stark. Islamic law, for example, gives women the right to inherit property, a right they are often denied under various tribal traditions embedded in customary law.[48]

In an attempt to reconcile varying interpretations of customary law with Sharia law, and reconciling both with formal statutory law, the former Afghan government created a new Afghan constitution in 2004 that represented the latest attempt to come up with a comprehensive framework for criminal justice. During the drafting stage, multiple sources were used as foundational documents, including international human rights standards and Sharia law. Given the complexity of the task, it was inevitable that some points of contention remained. In fact, according to Hartmann and Klonowiecka-Milart, "areas of ambiguity were [purposefully] left in order to gain consensus among conservative Muslims and those who wanted to adopt international human rights standards and norms."[49]

Such ambiguities reveal a basic conundrum facing police advisors in Afghanistan: One of the core principles of international police assistance is to help the host nation's systems align with international human rights standards—but many interpretations of customary or Sharia law do not comply with those standards. Local populations may refuse or violently oppose Western reform efforts that conflict with deeply held religious beliefs. International rule of law advisors have mostly sidestepped this intractable problem by focusing on support for formal legal systems—even though informal justice systems are still the most common outside of large urban areas. Resolving this dilemma lies at the crux of efforts to develop Afghanistan's justice system.

British Library photo by John Burke

CHAPTER 2

SETTING THE SCENE: THE HISTORY OF AFGHANISTAN'S POLICE

Afghanistan's police forces, like those of other nations, reflect the cultural and social traditions of the society from which they emerged. The Afghan National Police was not created in a vacuum or shaped solely by the training and mentorship of foreign advisors. Its character and condition are products of an age-old social system characterized by military pluralism—one that Kabul's ruling elites sought to transform by centralizing and monopolizing the legitimate use of force.[50]

Histories of policing in Afghanistan commonly begin with the Iron Amir, the name given to Abdur Rahman Khan, who ruled from 1880 to 1901. Although his control was initially restricted to Kabul and its immediate environs, Abdur Rahman's influence spread across most of modern-day Afghanistan before his death in 1901.[51] Seeking to centralize power across Afghanistan, and recognizing that he could not rely on traditional tribal militias or levies to enforce taxation and state law, Abdur Rahman created Afghanistan's first national police force. In its roles as tax collector and blunt instrument of state repression, the nascent police quickly acquired a reputation as more predator than protector—a state of affairs exacerbated by allowing police officers to extort revenue on top of what they were supposed to collect for the government in Kabul.[52]

Preventing crime and protecting citizens—the customary functions of civilian police in the modern Western tradition—were never the primary goals of the Afghan police. Instead, Abdur Rahman and those who followed him used the police first and foremost

Military pluralism refers to the coexistence of multiple military institutions within a single social system. In Afghanistan, the state army regularly relied on local tribal militias to crush domestic rebellions and fight foreign invasions. Local military forces were mobilized both in support of, and against, the central government during internal conflicts.

Source: Ali Jalali, "Rebuilding Afghanistan's National Army," *Parameters*, vol. 32, no. 3 (2002), pp. 72–73.

to protect their own regimes, creating a highly politicized institution devoted to serving only a select handful of Afghans.[53] This perception of predatory police officers, tasked with weakening tribal structures and extracting resources from the rural periphery, runs like a dark thread through a century of Afghan history.

A jirga is a traditional gathering of community elders, especially within Pashtun tribes, for resolving disputes and making communal decisions. In non-Pashtun areas, this type of gathering is typically called a shura.

In much of Afghanistan, however, centuries-old traditions of customary law operated via mechanisms such as jirgas. Some communities even have traditions of community police that are mobilized by local elders to enforce jirga decisions or perform specific law enforcement tasks.[54] Faced with the remoteness of vast stretches of Afghanistan, the Afghan state largely ceded control over dispute resolution, petty criminality, and even serious crime in some places, in exchange for society's tolerance of the regime in power.[55] That uneasy détente defined a social contract between the government and its citizens profoundly different from those of Western countries.

Kabul's rulers responded to tribal resistance in diverse ways. Nadir Shah, for example, largely ceded responsibility for security in tribal areas to local chiefs. Other Afghan rulers, such as Muhammad Daud Khan, who served first as prime minister and later as Afghanistan's first president, recruited foreign military trainers to bolster the state security forces.[56] No matter the method, the primary goal of the state police—protecting the state from society—remained unchanged.

Left to right: Abdur Rahman Khan, Amanullah Khan, Muhammad Nadir Shah, Muhammad Zahir Shah, and Muhammad Daud Khan. (Photos 1–4 courtesy of Wikimedia Commons, photo 5 courtesy of the UK National Portrait Gallery)

Arbakai

The *arbakai* ("guardian" in Pashtu) is a temporary, ad hoc community-based tribal police that exists principally in southeastern Afghanistan. Although its exact origin is unknown, the arbakai is likely as old as the Pashtuns' customary law (Pashtunwali—see Appendix B) and governing structures (jirgas). The arbakai differs from a militia or private security organization: It is selected and authorized by the community, and is made up entirely of volunteers. Although arbakai units are only as big as the number of suitable local men available to fight, their combined force is often greater than the government-appointed police in the area. Its survival in remote and mountainous areas is a testimony to the state's failure to provide local security.[57]

Arbakai can be raised only by a jirga/shura, which may do so for three main reasons: to enforce jirga/shura decisions, to maintain law and order, and to protect tribal or communal borders. Maintaining law and order often involves de-escalating internal conflicts and protecting communal resources, such as forests and roads.[58] To this end, arbakai guards patrol day and night, much as U.S. police do in metropolitan areas. The arbakai is also supported by an informal intelligence network of local residents, akin to a neighborhood watch. The arbakai may also serve as a trip wire that warns of trouble, permitting elders to call for the creation of a *lashkar* (tribal army).[59]

The arbakai's strong link to the customary governance and justice system lends it a level of accountability and legitimacy that has largely eluded Afghanistan's national police forces. Arbakai guards faced disciplinary measures for transgressing against the community. In serious cases, this meant the collective punishment of his entire family.[60]

The arbakai reemerged in force in post-2001 Paktia (and neighboring Khost) in response to the security vacuum following the Taliban's ouster, which local strongmen sought to fill. Since 2001, the Afghan government has occasionally co-opted and funded the arbakai to perform certain security functions on its behalf. Notably, the arbakai collaborated with the ANP to secure polling sites during the 2004 and 2005 elections. In the years before the Taliban takeover in August 2021, however, arbakai operations had become rare. This is in part due to rising insurgent violence, since arbakai forces are not designed to have offensive military capabilities.[61]

ORIGINS OF AFGHANISTAN'S FORMAL JUSTICE INSTITUTIONS

Afghanistan's earliest national policing experiment was what scholars refer to as a brutal secret police—police in name only. In practice, they were little more than an armed militia created solely to safeguard Abdur Rahman's rule and, in the long run, weaken the authority of tribal leaders.[62] This repressive approach continued even under progressive rulers like Amanullah Khan, who ruled from 1919 to 1929, as the police were simply too weak and few in number to maintain effective internal control.[63] Instead, at this early stage, the police served more like an early warning system to detect trouble at the subdistrict level and, if necessary, to call in Abdur Rahman's main instrument for control and pacification: his newly established standing army.[64]

Aside from creating a national police and establishing a strong national army, another element of what anthropologist and Afghanistan expert Louis Dupree termed Abdur Rahman's "internal imperialism" was the establishment of a coherent state-based court system.[65] Although this move empowered Afghanistan's clergy (ulema), it simultaneously subordinated them to the amir's executive authority. By this means, Abdur Rahman gradually co-opted the religious class, cloaked his administration in divine right, and increasingly asserted the Afghan state's exclusive right to implement law and administer justice.[66]

The ulema is a body of Muslim scholars recognized as the appropriate interpreters and guardians of Islamic law.

Early Police Impose a Rule of Terror

Until the reign of Abdur Rahman Khan, law enforcement in Afghanistan took the shape of protection rackets run by armed gangs under the control of local notables. The Iron Amir established an entity more closely resembling a national police force, which relied on torture and an extensive spy network to protect the regime.[67] A bureau called the *kotwali*, roughly similar to a ministry of interior, was responsible for the state's policing and intelligence functions. The kotwali helped Abdur Rahman Khan pacify many of Afghanistan's autonomous and frequently rebellious communities by supplementing the army's military campaigns with its own rule of terror. Under the guise of security, it eliminated wealthy or politically influential Afghans that the Iron Amir perceived as potential threats to his regime. During Abdur Rahman's reign, one deputy kotwal had some 60,000 Afghans put to death, "[instituting] a reign of terror previously unheard of in Afghanistan."[68]

To centralize the state's rule, various government functionaries were empowered to carry out policing and judicial functions, usually at the expense of traditional tribal leaders. Governors, and sometimes the armed *khassadars*—militias operating as rural police in the countryside—under them, for instance, were authorized to imprison Afghans suspected of "intending to shoot other people." Government appointees called *muhtasibs* functioned as a kind of Islamic morality police. The head of the kotwali also had a judicial role, deciding lesser cases himself. Cases deemed more serious were presented directly to the amir.[69]

Community elders lost significant influence as state officials took over most of the functions that they had formerly carried out, including the power to jail criminals.

Instead, district governors and, where available, government-appointed Islamic judges (*qazis*) became directly responsible for the administration of rural areas. District governors enforced their authority through the khassadars, whose numbers ranged from 10 to 100, depending on the size and importance of the district. Despite this nominal police presence, community elders and villagers were responsible for ensuring the safety of their roads and handing over criminals to the state. These strict measures reduced murder and robbery to unprecedented levels in Afghanistan. Meanwhile, whatever authority elders retained increasingly derived not from their own communities, but from the government in Kabul.[70]

This expansion of state power did not extend into the ungoverned spaces near the border regions, which more or less retained their traditional autonomy and customary justice. This also meant that frontier regions became safe havens for criminals. Frontier communities that did not hand over criminals to the state typically faced collective punishment until their tribal leaders could persuade the criminals to return.[71]

Early Administration of Justice

In the 1880s, the Iron Amir established a legal code that proclaimed the Hanafi School of (Sunni) Islamic jurisprudence as the basis for Afghanistan's judicial system. The state's co-option of religious leaders expanded in 1896, when Abdur Rahman began controlling private religious endowments, which had for centuries financially supported the ulema and enabled their independence.[72]

Hanafi is the predominant Sunni school of Islamic law interpretation in Afghanistan. It is considered the most liberal school, especially in the area of criminal law. Afghanistan's Shia minority follows the Ja'fari school of jurisprudence.

Abdur Rahman's empowerment of the religious class was intended not only to legitimate his rule, but to suppress crime by extending Sharia justice throughout the country. But Islamic judges were often unwilling to pass harsh sentences unless cases were tried in strict accordance with Sharia's elaborate procedures. Failing in his attempt to get the judges to enforce his preferred quick and harsh style of justice, the amir resorted to settling most criminal cases himself, leaving only civil cases to the Sharia courts—thus limiting the jurisdiction of the formal court system he was attempting to establish. Although Sharia was more extensively applied during Abdur Rahman's rule than at any other time in Afghanistan (until perhaps the Taliban regime), most disputes—both criminal and civil—were still settled in most parts of Afghanistan by jirgas in accordance with customary, rather than Islamic law.[73]

Sharia and Customary Law in Afghanistan

Afghanistan has a pluralist legal system that blends elements of civil and international law, Islamic law (Sharia), and Afghan custom—although the established hierarchy of legal sources virtually precludes any reference to custom in the formal system. Sharia and customary law are distinct legal systems that, while often conflated, conflict in some areas, such as a woman's right to divorce and own property. Many perceptions of justice and guilt derive from local pre-Islamic customs and traditions.[74]

In Islamic jurisprudence, the concept of justice is defined in terms of what benefits society the most, rather than something to which harmed individuals are entitled. Likewise, punishments reflect first and foremost the needs and safety of the community. Offenses that are not mentioned in the Koran or Sunnah are the least serious in Islamic law, and are left to the discretion of a legislator or judge. In reality, the state's penal code also regulates crimes mentioned in the Islamic texts, sometimes creating areas of conflicting jurisdiction.[75]

The best known and most developed of Afghanistan's diverse customary law systems is Pashtunwali, the unwritten rules that regulate the behavior of Pashtuns, Afghanistan's largest ethnic group. The concept of honor lies at the heart of Pashtunwali, serving as a kind of social currency that is preserved through social practices, such as hospitality, sanctuary, consultation, and revenge. The premium placed on defending one's honor sanctions—even compels—victims or their relatives to retaliate against an injury. Informal justice mechanisms, in the form of jirgas and shuras, developed largely as a means to persuade wronged individuals to give up their right of retaliation, which would destabilize communities through an endless cycle of blood feuds.[76]

Attempts to modernize Afghanistan's legal system continued with King Amanullah Khan, who ruled from 1919 to 1929. In 1923, Amanullah issued the country's first constitution, which paved the way for the codification of numerous penal and civil codes, mostly borrowed from Egyptian and Turkish law. This reform largely codified existing Hanafi jurisprudence, which made Islamic law the dominant legal source in Afghan criminal justice (which remains true to this day). By 1936, the formal justice system had 106 primary courts, 19 provincial appeals courts, and a Supreme Court in Kabul, although its reach remained largely restricted to urban areas.[77] The quality of justice rendered in that formal justice system, however, remained poor. Dupree describes the ad hoc nature of formal justice in the years immediately following the Iron Amir's death:

> Before 1919, royal whim often settled administrative matters and legal decisions. All Afghan subjects were entitled by custom to come before a royal durbar [court] to present their cases. The Amir Habibullah [Abdur Rahman's immediate successor], his brother Nasrullah, and Habibullah's three eldest sons all held such durbars. . . . If a petition failed in one court, a man had recourse to the other four. Sometimes, after winning his case in one court, a man would find himself dragged before one of the other royal personages and the previous decision reversed.[78]

Scholars see Abdur Rahman's rule as the beginning of the Afghan state asserting its exclusive right to make and implement law. Successive regimes continued the effort to elevate statutory law above traditional religious and customary law systems. But lacking legitimacy, the necessary infrastructure, and sufficient human resources, neither the Iron Amir nor his successors were fully able to consolidate legal authority in the hands of the state.[79]

Afghan Police Develop under Early Foreign Assistance

As efforts to centralize and consolidate the state's legal authority continued, so did the evolution of a state bureaucracy. The modern Ministry of Interior was officially established in 1920, although it lacked policing authority and its mandate was limited to subnational administration. Instead, urban and rural police operated under the Public Security Ministry. The urban police conducted criminal investigations and executed urban policing functions such as traffic control, while the rural police functioned more like a paramilitary. The Public Security Ministry could also sentence individuals for minor crimes without judiciary involvement, leaving only major crimes to be adjudicated by the courts, following preliminary police investigations.[80]

The end of Afghanistan's status as a British protectorate in 1919 also ended direct British subsidies, aggravating the Afghan state's need for domestic tax revenue. Collecting much-needed taxes from rural areas, however, first required strengthening the state's internal security forces.[81] As the state established and staffed more administrative divisions across the country, the police presence also gradually expanded in the provinces. A kotwali commander was sent to each province to oversee security. Initially, the kotwali relied on village militiamen for security functions—civilians in uniform who were jointly paid by the kotwali and the village. After some time, these were replaced by state-paid security personnel. During Nadir Shah's reign (1929–1933), the Ministry of Interior absorbed the Public Security Ministry as the newly created Department of Security.[82]

International military and police advisors began arriving in significant numbers in the 1920s and 1930s. Kabul recruited principally German and Turkish advisors to transform key state institutions, including the Ministry of Interior and the police. The first German police advisors arrived in 1937, reaching a peak of approximately 200 personnel before their forced departure (due to Allied pressure) in 1941.[83] German advisors later returned in the 1950s to develop Afghan police forces and the Ministry of Interior before being replaced by Soviet advisors following Afghanistan's communist coup in 1978. According to a former Afghan Minister of Interior, Afghans sometimes refer to Germany as "the godfather of the modern police in Afghanistan."[84]

Turkey was also a major supporter of Afghanistan's security sector from the early 1920s to 1960s, although it focused mostly on the Afghan military. Afghanistan benefited from a wave of translation of Turkish police manuals and criminal codes, which hastened the development of judicial regulations and a penal code. The Turks maintained a presence in Afghanistan's military and police academies until the early 1960s, when the Soviets

Amanullah Khan (third from left) with Mustafa Kemal Ataturk (second from left). (Photo courtesy of Wikimedia Commons)

took over as Afghanistan's primary military supporter. Still, Afghanistan continued to lack any official police law defining police roles and the parameters of their powers until 1973.[85]

This influx of foreign trainers created a number of police training institutions across Afghanistan, starting with a police training center in 1936. However, the Ministry of Interior's initial reliance on the army for support—especially against armed smugglers—led to a desire for an autonomous paramilitary capability within the police. This led the ministry to formally establish a gendarmerie in 1938.[86] Afghan gendarmes had both police and military training, were equipped with heavier weapons, and operated primarily outside of Afghanistan's cities. In rural areas, the gendarmerie tackled organized crime, including drug trafficking, while in the border regions it functioned as a border police.[87] Until 1973, the top ranks of the Ministry of Interior were staffed by military officers, and no professional police officer could be promoted above the rank of captain. This system helped maintain discipline among the force, as did the ministry's ability to extend conscripts' period of service as punishment. This military command structure suggests that the ministry prioritized military tasks over civilian policing.[88]

Six Policemen Take W.German Course

SIX Afghan students have been police officer—cadets in the Federal Republic of Germany for a year and a half now. Behsudwal Abdul Wakil, Sardar Heiderchel and Marufshah Shinwari from Jalalabad. Mohammad Eshak Aloko and Khair Mohammad Nurzai from Kandahar and Mohammad Sediq Malekyar from Kabul will be taking the examination to qualify as detective inspectors in Germany after four-years of training.

The six learned the German language in an eight month course at the Arolsen Goethe Institute.

The first stage in their long training was the basic police course in Munster. After that, they learned shooting, car-driving, radio transmitting, teleprinting, photography and the reading of clues with the Wuppertal police force.

Last stop for the six is the Police Institute in Hiltrup near Munster, where the final course begins in November 1966. In Hiltrup, officer-cadets from countries in all continents are given training in detective work. Then in June 1967, after their examinations, the six newly-qualified detective inspectors will return to Afghanistan.

A policeman not only has to be able to drive his car, but also repair it if necessary. In the picture on the right, Sardar Heiderchel is changing a sparking plug in a jeep. From left to right Behsudwal Abdul Wakil, Sediq Malekjar, Sardar Heiderchel, teacher Peter Husler, Kheir Nurzai, Marushah Sehinwari.

A news story in the *Kabul Times* describes German efforts to train Afghan police in the 1960s. (Photo courtesy of University of Nebraska Omaha Digital Commons)

THE GOLDEN AGE OF CIVILIAN POLICING: 1960s–1970s

The 1960s and 1970s are often described as the most progressive and stable period in Afghan history. The Office of the Attorney General was established in 1953, and the 1964 constitution brought independence to Afghanistan's courts and unified the previously separate but overlapping Sharia and state courts into one centralized system.[89]

During these two relatively progressive decades, Afghanistan had a national civilian police force—or as close as it would ever get to one—built on the European policing model. Trainers from both West and East Germany returned in 1953, delivering police training and technical assistance throughout the 1960s and 1970s.[90] Afghan police cadets were also routinely sent abroad, to West Germany and elsewhere, to receive training.[91]

United States, Germany Invest in Afghan Police

In the years immediately following the end of World War II, foreign police assistance became a cornerstone of U.S. Cold War policy, with multiple federal agencies—such as the International Cooperation Administration, the Overseas Internal Security Program, and the U.S. Agency for International Development (USAID)—created to train and equip foreign police.[92]

In the 1950s, State added Afghanistan to the list of countries "threatened by communist subversion." Operating on the theory that a well-run criminal justice system was one way to combat that threat, the Eisenhower administration in 1954 created a top-secret program to aid "police-type forces" in foreign nations. Assistance targeted "honest and competent administration, more adequate pay, [and] better training" for police forces, as well as the revision or reorganization of corrupt or inefficient judicial systems.[93]

Initial efforts were modest: A 1956 National Security Council memorandum notes that $128,000 was obligated to train 15 Afghan police officials for one year.[94] In 1957, the United States signed an agreement with the Afghan government to improve civilian policing through technical assistance and training. Advisors instituted English-language

The motorcade of U.S. President Dwight Eisenhower drives down a Kabul street in his visit to Afghanistan on December 9, 1959. This was the first visit by an American president. (U.S. Library of Congress photo)

training at the National Police Academy in Kabul, and supplied Afghan police with firefighting and laboratory equipment, crime-detection devices, photographic supplies, and vehicles. This assistance ended in 1959, when the United States decided to let the Germans fully manage police training in Afghanistan. Still, this program ostensibly laid the groundwork for a modern civil police department. From the late 1960s, the criminal investigation component accelerated, with the addition of a forensics lab within the police academy, as well as specialized sections on identity verification, chemistry, and police dog training.[95]

In the 1960s, the United States also considered providing justice sector assistance to Afghanistan under Title IX of the Foreign Assistance Act. According to a 1966 telegram from the U.S. embassy in Kabul, this assistance would entail the reorganization of the Ministry of Justice and the overhaul of the Afghan legal code. However, the Afghanistan country team at the embassy expressed concern about going forward with this assistance, citing the Afghan government's lack of political will and internal capacity for reform—as well as the fraught topic of "intertwining Islamic law with the present system."[96]

Despite Improvements, Afghan Police Lack Capacity into the 1970s

During both the monarchy and Daud's republic (1973–1978), there were between 15,000 and 30,000 officers in the police force, in addition to border police. Patrolmen were recruited locally for the most part, but received orders from centrally appointed officers who served in provinces other than their own. Most patrolmen consisted of the army's rejects, although politically well-connected families often sent their sons to join the police as an alternative to compulsory military service. The standard of admission

at the police academy was also high, compared to Afghanistan's overall low level of education.[97]

Despite decades of reform, central control over the periphery remained weak throughout the 1970s—so much so that the government could not complete a proper census. The gendarmerie operated on horseback, and a lack of radios and vehicles hindered police operations in the provinces. The Ministry of Interior received its first wireless communication sets (from West Germany) in 1971. Until 1970, only five provinces had criminal investigation departments. As late as 1978, there were only about 50 patrol cars and 100 motorbikes in all of Afghanistan.[98]

Control over tribal areas was particularly weak and dependent on tribal militiamen. Provincial police chiefs mobilized local tribesmen as auxiliary police as needed, and tribesmen manned police check posts as late as 1966. The tribal areas were also largely left alone to manage local disputes, so long as these did not threaten the regime in Kabul. Most villages encountered a police officer no more than once every few months. Consequently, by the late 1970s, the rule of state law had been established only to a limited degree. A 1964 State document described Afghanistan's police as "illiterate, underpaid and hopeless" and advocated for the creation of an elite unit to handle special situations, such as riots. Poor record-keeping also led to the arbitrary detention of ordinary Afghan citizens, who had no records of their prison term or expected date of release.[99]

Although more professional that their predecessors, the Afghan police of the 1970s still engaged in extortion and bribery, and participated in the growing drug trade. This predatory behavior was largely due to paltry police salaries that often had to be shared with superiors. Local strongmen could secure the release of prisoners—themselves or others—through bribes or political connections, especially in areas like Kandahar where tribal leaders had close government connections. Other forms of corruption existed, but these were limited by a lack of opportunity in a stagnant economy with limited cash use in rural areas.[100]

Despite everything, the thinly stretched and poorly equipped force managed to preserve public order and security—not because rural Afghans expected the police to protect them from crime, but because they knew that any form of social turmoil would be met with the arrival of military troops. "The experience of previous episodes of ferocious repression seems to have left its mark among the population," notes Antonio Giustozzi, to the extent that "a single unarmed policeman appears to have been able to visit most villages and impose his will without any trouble." Afghans therefore worked to keep local conflicts under control, relying on deep-rooted traditional justice mechanisms.[101]

THE SOVIET OCCUPATION (1979–1989)

Afghanistan began receiving military assistance from the Soviet Union as early as 1920, mostly in the form of equipment provision and handling. After the Soviets invaded and

installed Babrak Karmal as President of Afghanistan in 1979, however, this traditional defense assistance shifted to an active train and assist mission, which, the hope went, would enable the Soviets to extricate themselves from their Afghan quagmire.[102]

By 1979, Kabul had replaced its West German advisors in the Ministry of Interior with Soviet and Warsaw Pact counterparts. The USSR dispatched government specialists from various agencies—notably, the KGB and the Soviet Ministry of Internal Affairs—to build up counterpart institutions in Afghanistan. The KGB advised the Afghan secret police, known as the State Information Agency (abbreviated as KhAD). Meanwhile, some 5,000 advisors from the Soviet Ministry of Internal Affairs eventually deployed to support the Ministry of Interior and its internal security forces, called the *Sarandoy*, particularly the Sarandoy's centralized paramilitary component.[103]

The Sarandoy was born as a result of an April 1978 coup led by the People's Democratic Party of Afghanistan. After capturing power, the Marxist government purged former President Daud's West German-trained police and transformed it into a new force loyal to the communist regime.[104] From a residual pool of an estimated 5,000 to 8,500 local police, the Sarandoy grew to about 30,000 personnel in 1981, and within a few years surpassed its initial goal of 75,000 officers.[105] Based on the Soviet model, the Sarandoy consisted of career officers and untrained, short-term conscripts who served for two years as an alternative to military service.[106] The Sarandoy functioned as a gendarmerie, and included traffic police, provincial police, and corrections officers. Their primary responsibility was to fight "counterrevolutionary" elements, secure vital government infrastructure, and enhance government control. Like KhAD, the Sarandoy also worked to identify and arrest Afghans (particularly military personnel) whose loyalty to the regime was suspect.[107]

The Ministry of Interior and the Sarandoy quickly became critical battlegrounds in the power struggle between rival factions of the Marxist governing party. As a result, some of the ministry's responsibilities were carved up. Border affairs went to the Ministry of Defense; subnational government went to an independent department under the President, and the interior ministry's intelligence department was subsumed into the newly created KhAD.[108] In 1985, the head of KhAD (and future President) Mohammad Najibullah attempted to absorb the entire Ministry of Interior within KhAD. He partially succeeded in January 1986, when KhAD was transformed into the Ministry of State Security, and Sarandoy provincial commands were brought under its control.[109] Adding to the turmoil, the Sarandoy and KhAD frequently engaged in armed clashes with each other as part of the aforementioned factional rivalries within the Marxist government.[110]

Militarization of the Afghan Police

Soviet advisors transformed Afghan police into "a kind of militia fighting force," in the words of one former Afghan official, although the traditional policing role was also partially absorbed by Afghanistan's intelligence services, newly authorized to interrogate and make arrests. At the same time, the Soviets assigned military generals to the Attorney General's Office, partially militarizing that institution as well.[111]

At the start of the Soviet occupation, Afghan police and gendarmerie units were trained to carry out a variety of policing and security tasks.[112] In fact, the massive Soviet investment produced a record number of trained investigators in the 1980s, which made criminal investigations possible even at the district level.[113] However, this initial Soviet approach to policing had assumed a successful socialist revolution, and—just as the United States would do two decades later—underestimated the growing unrest in the countryside.[114] By 1981, the growing insurgency forced the rapid expansion and militarization of the Sarandoy. That same year, the Sarandoy formed its first operational battalions equipped with light artillery and armor. By 1985, it had 20 operational and mountain battalions and was in essence a light infantry unit.[115]

Soviet advisory efforts increasingly neglected regular policing in favor of building up the gendarmerie. Their goal was to develop the Sarandoy's combat capabilities as quickly as possible to reduce the operational burden on the Soviet military. By 1986, sustained insecurity led to an even greater emphasis on the Sarandoy's paramilitary role, with the creation of brigades and divisions for this purpose. The Sarandoy became, as one Soviet adviser described it, "something between the Soviet [Ministry of Internal Affairs] and the military." Its gendarmerie units sustained high fatality rates while participating in reconnaissance and combat operations with Afghan and Soviet armed forces. After battles in or near populated areas, the Sarandoy participated in clearing operations, identifying and arresting remaining insurgents, and providing critical intelligence for the Soviet military.[116]

Perceptions of the Sarandoy's effectiveness and loyalty varied among Afghan and Soviet officials, not least due to ever-present tensions between different factions of the Marxist government. But even critics of the regime believed that most of the population—at least those in government-controlled areas—perceived the police as more professional during those years. This was in part due to the effective command and control wielded by Maj. Gen. Sayed Muhammad Gulabzoy, who headed the ministry during the Soviet occupation until 1988. Gulabzoy reportedly helped maintain some degree of professionalism in the police, notably eliminating the old practice—and major source of corruption—of officers distributing their subordinates' salaries.[117]

Nevertheless, as much as 80 percent of Afghanistan remained outside the influence of the Soviet-installed government into the early 1990s, despite the Ministry of Interior's attempt to extend its reach by permitting Sarandoy recruits to serve in their own villages.[118] In the end, although the Marxist regime made some attempts to establish a civilian police force, it ultimately failed. The Sarandoy, the army, KhAD, and other security services were all dissolved after the Soviets left in 1989.[119]

FORMAL JUSTICE INSTITUTIONS COLLAPSE AFTER CIVIL WAR, PAVING THE WAY FOR THE TALIBAN

Following the collapse of the USSR in 1991, the sophisticated infrastructure the Soviets had built up at the Afghan Ministry of Interior could not be sustained.[120] The

police academy in Kabul—which had been restored by the Germans after the Soviet army withdrew in 1989—closed again after mujahedeen forces captured the capital in 1992.[121] The anti-Soviet war and the subsequent Afghan civil war decimated formal justice institutions in many parts of Afghanistan, and from 1992 to 1995, Afghanistan had no organized civilian police force.[122] What police there were acted at the behest of mujahedeen power holders, who used them as a source of patronage jobs and as a way to distribute the spoils of war. The rank structure of the police was top-heavy with officers, and few police operated in areas outside Kabul's control, which was most of the country.[123] In the rural areas, however, the state's withdrawal actually reinvigorated local autonomy, and Afghanistan's strong tradition of customary law expanded to fill legal vacuums left by the state.[124]

Parallel Systems of Justice: Formal and Informal

Before the Taliban takeover in August 2021, Afghanistan's formal state legal system emphasized justice for victims and punishment for perpetrators, based on consistent rules that apply everywhere. In contrast, the focus of the traditional or customary justice system has always been the restoration of communal harmony based on local conceptions of fairness. Focusing on social harmony, rather than individual rights, serves to prevent minor disputes from escalating into politically-charged feuds between larger social groups. This fundamental disconnect of purpose—punishment versus reconciliation—lies at the heart of the clash between the two parallel systems, and is the main reason that local communities often discouraged state intervention in dispute resolution.[125]

On paper, the formal system trumped the informal in the state's legal hierarchy. Yet in rural Afghanistan, the vast majority of disputes have always been resolved via traditional justice mechanisms. Each system has its advantages and limitations. As a U.S. Institute of Peace report puts it, formal justice holds a "comparative advantage . . . in urban areas, in criminal law, and in protecting citizens' rights. The strength of informal mechanisms is in their low cost, physical proximity to citizens, and ability to achieve consensus."[126]

Because the informal system emphasizes social harmony over individual rights, it sometimes sanctions actions that violate human rights (women's rights, in particular), which has made the human rights community wary of informal justice. This, in turn, has intensified donor reluctance to engage with informal institutions as part of judicial reform. This is not to say that the formal state system was markedly better at safeguarding women's rights: Women in Afghanistan were often disenfranchised and abused by both justice systems in many parts of the country. A notable example has been the persistent practice of jailing women for so-called "moral crimes" that lack any basis in statutory law.[127] (See pp. 160–161 for a discussion of "moral crimes.")

Nevertheless, the turbulence of the 1980s drastically transformed tribal structures in rural Afghanistan, as a new class of younger mujahedeen commanders challenged the traditional dominance of tribal elders and large landowners. Mujahedeen groups established Sharia courts in areas under their control, which were largely influenced by their particular interpretations of Islam. While some of these courts curbed abuses by some mujahedeen commanders, the quality of justice varied widely. At the same time, however, writes legal scholar Hamid Khan, "an influx of young clerics trained in Pakistan (of the sort that would later become the Taliban) solidified their brand of *sharia* jurisprudence, crowding out both state and customary law as legal sources." The power and influence of these religious clerics rose sharply during these years and peaked with the Taliban's rise in 1994.[128]

Policing and Justice under the Taliban

After a century of Kabuli urban elites imposing their will on the conservative tribes in the south and east, argues anthropologist Thomas Barfield, the Taliban's reign represented a role reversal in Afghan politics as the "the rural power brokers got their revenge." Instead of elites in Kabul using the police to oppress ordinary Afghans in rural areas, the Taliban now used the police to enforce their harsh interpretation of Islam on urban populations.[129]

The Taliban replaced the bulk of the police force with their own fighters, mainly from Pashtun regions. Taliban fighters operated police stations without uniforms, training, or any rules of criminal procedure; the function of public prosecution was eliminated. The Taliban government did try to relaunch the Kabul Police Academy in 1997, with a Sharia-infused curriculum and the integration of several mullahs into the teacher corps. None of the students managed to graduate before the fall of the Taliban in 2001, but some joined the police force of the post-2001 interim government.[130]

The major policing effort under the Taliban was the Ministry for Promotion of Virtue and Prevention of Vice, or the so-called "Vice and Virtue Police," modeled after Saudi Arabia's religious police. The ministry had directorates in every province to enforce the Taliban's religious decrees, although every Taliban member had the authority to enforce the law himself. These religious police patrolled cities, shutting down stores during daily prayer hours, arresting men who shaved their beards, and punishing women who occupied public spaces without male guardians.[131] Schools for girls were closed, most entertainment was banned, and women were rarely permitted to venture out of their homes.[132]

Because the Taliban did not have enough staffing in the Ministry of Vice and Virtue to enforce its fundamentalist values throughout the country, its religious police force was mainly active in Kabul, where moral attitudes were considered suspect. Even so, the Taliban's policing model succeeded in deeply embedding itself in society, particularly in rural communities.[133]

The Taliban relied on the deterrent power of its eye-for-an-eye punishments that had largely disappeared in Afghanistan in the previous decades. However, in practice, the use of informal justice mechanisms often resulted in alternative solutions, such as the offender's payment of blood money to the victim or victim's family in lieu of punishment. According to Giustozzi, the real strength of the system was its ability to "enlist or coerce the cooperation of the population" in apprehending criminals. Like the earliest police forces under Abdur Rahman and his successors, the Taliban also relied on a vast network of informers—"community policing" in its most oppressive form.[134]

At the same time, formal and informal justice mechanisms continued to coexist under the Taliban. Prosecutors' offices and civil rights offices—administering Sharia-derived law—could be found in districts and provinces. Individuals also had the option to resolve their disputes either in a traditional jirga or in a Sharia court. Because the court process took decidedly longer, most Afghans preferred to resolve civil matters through a jirga, while settling criminal disputes in the courts.[135]

Policing under the Taliban defied neat descriptions. Despite the Taliban's fundamental identity as a clerical movement, policing continued to be heavily influenced by personal loyalties and tribal politics.[136] One thing, however, remained constant: Whether under Taliban control or that of previous regimes, the police were largely hated and feared. While the very concept of civilian or community-based policing remained alien to ordinary Afghans, the ruling elites saw the development of paramilitary policing as instrumental to the survival of their regimes.[137]

AFGHAN POLICE CAPABILITY NONEXISTENT AS U.S. FORCES ENTER THE COUNTRY IN RESPONSE TO 9/11

In the days leading up to 9/11, Afghanistan had no functioning police force or a criminal justice system that adhered to international human rights standards—or any historical experience with the concept that the role of police was to protect and serve the ordinary citizen. In the words of one Afghan National Police captain, "While some Afghans appreciated the quick justice the Taliban brought with them, by the end of the 20th century, police in Afghanistan still had many of the same problems they have always had: corruption, brutality, and a basic disregard for the people they were supposed to protect."[138] Together, as discussed in the next chapter, these factors generated massive insecurity that U.S. and coalition forces largely ignored in the first few months of stabilization efforts. That would have profound effects on international efforts to establish a functional civilian police force in Afghanistan.


اداره سر مفتش ویژه برای بازسازی افغانستان
E PLURIBUS UNUM
د افغانستان د بیا رغاونې لپاره د ځانګړي سټر مفتش اداره

U.S. Air Force photo by Staff Sgt. Sarah Brown

CHAPTER 3

2001–2002: A MISSED OPPORTUNITY TO ESTABLISH RULE OF LAW

The United States' post-9/11 intervention in Afghanistan brought newfound hope among Afghans for the end of decades of violence. Many Afghans believed that the United States and international community would transition the nation from a war-torn and underdeveloped country to one with stability and an improved economy. Afghan refugees from neighboring countries and educated Afghans living abroad returned to Afghanistan in what was the largest refugee repatriation in 30 years, according to the United Nations.[139]

That substantial donor support was not forthcoming. Instead, in 2002, the United States and the UN adopted a "light footprint" approach of deploying only a few thousand international peacekeepers—a strategy that allowed the United States to focus time and resources on the larger Global War on Terrorism.[140] In ignoring what they characterized as "nation-building" in Afghanistan, the United States and UN did not heed the lessons identified in 2000 from the U.S. and international missions in the Balkans: the vital importance of quickly establishing security and rule of law through the deployment of civilian police as soon as hostilities were over.[141] In its 2000 report on its peacekeeping efforts in the Balkans (informally referred to as "the Brahimi report" after its lead author, UN Special Representative to Afghanistan Lakhdar Brahimi), the UN found that the first six to 12 weeks following the signing of a peace agreement or the announcement of a ceasefire was the most critical period for establishing peace and the credibility of a peacekeeping force. It cautioned that "credibility and political

momentum lost during this period can often be difficult to regain."[142] Yet the December 2001 Bonn Accords, an agreement among anti-Taliban factions to recreate an Afghan government, said nothing about the need for the UN or the international community to provide police assistance beyond Kabul.[143]

Instead, the international community deferred all security and rule of law requirements beyond the capital to the newly formed interim Afghan government, which lacked both the physical infrastructure of police facilities and police officers who were literate and trained to serve Afghan communities.[144] (In 2001, roughly three-fourths of the Afghan male population were estimated to be illiterate.[145]) Lawlessness prevailed. Remnants of Al Qaida and the Taliban, militias, and armed Afghan "security" officials exploited the lack of international peacekeepers outside of Kabul, destabilizing much of the country. Armed militias fought each other for control of territory.[146]

This chapter will examine in detail the rationale behind the initial U.S. and UN decision not to provide international assistance to the Afghan criminal justice sector—specifically to the police. It will also detail the ways in which this approach differed from the approach the U.S. and international community took in the Balkans. Finally, it will examine how political factions took advantage of the international community's benign neglect on the subject of civilian policing by re-establishing a police force whose primary goal, in keeping with Afghan history, was protecting government power, not providing effective rule of law to the local population.

INITIAL INTERVENTION MISSES THE "GOLDEN HOUR"

The first days, weeks, and months following the initial foreign intervention into a post-conflict nation can have a disproportionate impact on the trajectory of the mission. In 2020, RAND Corporation produced a thorough examination of the U.S. approach to the initial phase of stability operations since World War II. This early intervention period was described as the "golden hour"—a term originally used to describe the short interval after a traumatic injury in which medical attention can determine life or death for a patient. In the context of foreign intervention, RAND defined the "golden hour" as the phase of military intervention "in which the intervening states attempt to stabilize a traumatized society and support the creation of durable political institutions in the aftermath of conflict."[147]

Maintaining civil order is one of the most critical tasks during the "golden hour," for both the intervening force and host nation—but this has proven difficult, for several reasons. An important component of establishing civil order is the deployment of international police to reform or reconstruct an indigenous police force. But in countries emerging from intrastate conflict, an indigenous police force is usually either nonexistent, or lacks public legitimacy.[148]

The ability to rapidly deploy international police experts is arguably one of the biggest weaknesses of the United States and international community's stabilization portfolio,

for several reasons. First, contributing nations are often unable to quickly free up law enforcement capacity for international missions; their law enforcement professionals are needed at home.[149] Another problem is time. The UN estimates that it takes at least nine to 12 months for it to establish a police force with the required police capabilities. Yet according to the UN's Brahimi report, the window for effectively deploying a civilian police is the first six to 12 weeks after the end of conflict. In practice, then, police assistance usually involves using military personnel, who lack core competencies in civil policing and domestic security tasks.[150]

International "golden hour" operations have also suffered from a lack of strategic direction. As the 2020 RAND report notes, military interventions usually have a singular purpose: "to stop something akin to aggression, civil war, genocide, terrorism, or use or proliferation of weapons of mass destruction."[151] Their purpose, the report continues, is not to make societies "more democratic or prosperous, but to make them more peaceful."[152] Despite efforts from key stakeholders—including then-UN Secretary General Kofi Annan and interim Afghan leader Hamid Karzai—to get the United States to grapple with that question, the RAND report said, "the Bush administration remained singularly opposed" to expanding the international security presence beyond Kabul.[153] By failing to agree to an expanded international presence immediately after the Taliban's ouster in early 2002, the report concluded, it "missed a critical opportunity in the golden hour to shape the mission and policies of this international force—a lesson in and of itself for future joint operations."[154]

"LIGHT FOOTPRINT" IN AFGHANISTAN MEANT INADEQUATE FUNDS, PERSONNEL, AND INTEREST

In April 2002, in a speech at the Virginia Military Institute, President George W. Bush promised a new Marshall Plan for Afghanistan, referring to the $13.3 billion (more than $148 billion in today's dollars) the United States poured over four years into the highly successful effort to rebuild Europe after the devastation of World War II.[155] In practice, the first several years of Afghan reconstruction "would be the most poorly resourced American venture into nation-building in more than 60 years."[156]

In January 2002, the international community pledged some $5 billion in assistance to Afghanistan at a donor conference in Tokyo, $290 million of which was promised by the United States—about 5 percent of the total. In contrast, initial U.S. pledges for Bosnia and Kosovo had amounted to approximately 20 percent of all reconstruction funds raised—even though both countries were richer and far less devastated by war than Afghanistan.[157] On a per capita basis, the difference was stark: Compared to Afghanistan, Bosnia got 16 times more international aid and Kosovo got 8 times more. Moreover, the $290 million the United States pledged to Afghanistan had already been allocated by the Congress for humanitarian assistance to that country. In other words, notes former U.S. Special Representative to Afghanistan James Dobbins, "having liberated Afghanistan, the United States was proposing to provide Afghans the same amount of assistance they would have received had they remained under the Taliban."[158]

The failure to deploy international civilian police to Afghanistan was also a glaring departure from previous reconstruction efforts. In the 1990s, approximately 1,000 international police deployed to Haiti, nearly 2,000 police supplemented 60,000 NATO soldiers in Bosnia, and some 5,000 joined another 50,000 NATO soldiers in Kosovo. By the end of the 1990s, the ratio of one international police officer for every 10 soldiers had become the norm for peacekeeping missions. Yet the Bush administration discouraged a robust peacekeeping effort in Afghanistan, and "if Washington was opposed to sending international soldiers into the countryside," notes Dobbins, "how could the United Nations seriously consider sending lightly armed police?"[159]

In Bosnia and Kosovo, the Clinton Administration surged its diplomatic staff in line with the large number of NATO staff deployed there (although the deaths in 1993 of 18 American soldiers on the streets of Mogadishu had a chastening effect on that administration's willingness to commit to foreign interventions). In contrast, observed Dobbins, the quick ouster of the Taliban in 2001 in Afghanistan "promoted a sense of self-confidence that verged on the reckless" in the Bush administration—as well as in the Congress, the press, and among the U.S. public.[160] The Bush administration faced little pressure, therefore, to show results on Afghan reconstruction, and the country ceased to be a top foreign policy priority almost immediately after the Taliban's collapse.[161]

Consequently, throughout 2002 and 2003, the United States made little effort to extend Kabul's authority beyond the capital. U.S. assistance remained minimal until 2004, and it was not until 2005 that a significant peacekeeping presence was deployed into the countryside. U.S. policy during the Bush years was to regard Afghanistan as a counterterrorism mission, not a peacekeeping or counterinsurgency mission concerned with local security. In this view, the Afghans were responsible for their own security—in particular, the regional warlords who hunted al-Qaeda and Taliban remnants with U.S. forces until a new Afghan army could be established.[162]

UNITED STATES' PRIMARY GOAL WAS COUNTERTERRORISM, NOT STATE STABILIZATION

The ruins of the World Trade Center were still smoking when the Bush administration issued its first policy statement on Afghanistan, stating that "[U.S.] actions in Afghanistan are the beginning of our broad counterterror campaign."[163] On October 7, 2001, the day that marked the commencement of U.S. military operations in Afghanistan, President Bush told the nation, "Today we focus on Afghanistan, but the battle is broader."[164]

Policy documents from that period underscore not only the Bush administration's fixation with hunting down al-Qaeda and other terrorist groups, but its lack of interest in using U.S. military assets to help provide security to a post-Taliban Afghanistan. In October 2001, a circulating draft of the "U.S. Strategy in Afghanistan" stressed that the United States "should not agonize over post-Taliban arrangements to the point that it

A U.S. Army officer fingerprints a detainee in Gavband village in Afghanistan's Helmand Province. (U.S. Air Force photo by Staff Sgt. Christine Jones)

delays success over al-Qaeda and the Taliban."[165] Reflecting the Bush administration's distaste for long-term deployments of military forces, U.S. military engagement in Afghanistan was envisioned as temporary: Defeating the Taliban and al-Qaeda was merely the first step before moving on to the next theater of the war on terror. By 2003, however, the White House had redirected its focus once again—this time to Iraq, which it viewed as the center of gravity for the counterterrorism campaign. The burden of rebuilding Afghanistan would fall on other states: "An international group could be UN-based or an ad hoc collection of volunteer states," said one Bush administration policy draft, "but not the U.S. military. The U.S. military will have a [great] deal of work to do in the rest of the world."[166]

In July 2003, DOD's policy guidelines highlighted Afghanistan's significance as the "first arena of the global war against terrorism."[167] Failure—defined as "a renewed civil war, a narcostate, or a failed state"—was defined as an outcome that would undermine coalition efforts in the Global War on Terror.[168] Likewise, establishing a moderate, capable, representative Afghan government was defined as creating an ally that would be "willing to contribute to a continuing partnership with the coalition in the Global War on Terrorism."[169] The coalition would also "avoid the threat or use of force in purely intra-Afghan conflict that does not (a) obstruct the prosecution of the war on terrorism or (b) threaten the success of the central government."[170]

All in all, as scholars Jonathan Goodhand and Mark Sedra put it, "The priority of the United States to pursue the global 'War on Terror' largely shaped the parameters of the Bonn talks, the choice of Afghan interlocutors, and the architecture of the post-Taliban transition. The Bonn Agreement . . . was not a peace accord between belligerents, but an externally driven division of the spoils among a hand-picked group of stakeholders who were on the right side of the War on Terror."[171]

Although Washington's stated policy claimed that "we do not want to choose who rules Afghanistan," the United States nevertheless empowered "any and all Afghan tribes and factions" willing to fight against al-Qaeda and the Taliban.[172] In funding regional warlords to fight as proxies against terrorist elements, the U.S. military and the Central Intelligence Agency also "[turned] a blind eye to the reinvigorated drug economy in 2002, so as not to compromise relationships with regional power holders."[173] The unintended consequence of this U.S. support to Afghan militias was to, in effect, choose Afghanistan's leaders.[174]

The U.S. recast its mission in Afghanistan towards nation building only after it became clear that U.S. forces were unable to decisively defeat al-Qaeda and the Taliban.[175] By mid-2003, U.S. policy called for "[dissociating] from illegitimate organizations and from individuals who played roles in the destruction of Afghanistan in the civil wars of the 1990s."[176]

The Bush Administration Opposes Peacekeeping Role for U.S. Military

The light footprint approach in Afghanistan stemmed predominately from the Bush administration's aversion to nation building in general, and more specifically, to any peacekeeping role for the U.S. military. In this view, Bosnia and Kosovo were models of what *not* to do in post-conflict reconstruction: These missions had either committed U.S. troops to open-ended peacekeeping or had given allies too much say in decision making. Secretary of Defense Rumsfeld, in particular, wanted to avoid the kind of entanglement in Afghanistan that he failed to prevent in Bosnia in 2001. On a deeper level, the U.S. military had internalized a deep resistance to "mission creep" after its failure in Somalia.[177]

For its part, the Bush administration was skeptical about the UN's nation-building capacity and viewed peacekeeping in general as "a failed concept," according to former Ambassador James Dobbins, a former Bush administration official.[178] According to Dobbins, Condoleezza Rice said that the U.S. military "is not a civilian police force [or] a political referee," in the run-up to the 2000 elections.[179] Its job was to win the nation's wars, not to escort children to school.[180] But the Bush administration's reluctance was also partly based on less ideological considerations. It also believed that the Afghans' oft-cited xenophobia would result in large-scale resistance to any influx of foreign peacekeepers.[181] "Unlike the Soviets, the U.S., as a liberating power, will avoid having a presence that triggers a hostile response from the Afghan people," states DOD policy guidance from July 2003.[182]

Accordingly, the United States wanted to keep the International Security Assistance Force (ISAF) small and restricted to Kabul—a mindset, Dobbins writes, "that excluded local security as a post-conflict mission for U.S. forces."[183] Despite efforts by many of the major Afghan players—including the Northern Alliance leaders, Hamid Karzai, and UN Special Representative for Afghanistan Lakhdar Brahimi—to expand the peacekeeping force to the rest of the country, DOD remained adamantly opposed. It preferred to rely on Afghan warlords and their militias to hunt down remaining

al Qaeda and Taliban fighters. "U.S. troops would be kept to the absolute minimum necessary," writes Dobbins, "to stiffen cooperating Afghan units and go after high-value al Qaeda targets."[184] Peacekeepers, the Pentagon feared, might interfere with U.S. counterterrorism by clashing with U.S.-aligned Afghan warlords, or straining the U.S. military's logistical resources at a time DOD was already looking at additional theaters to fight the Global War on Terror.[185]

In lieu of peacekeeping, Rumsfeld proposed that U.S. soldiers already working with Afghan commanders in the field use their influence to keep peace. DOD also insisted that Bagram Air Base, the main U.S. operating hub in Afghanistan, remain outside ISAF's area of operations. Later, Rumsfeld attempted to deflect Karzai's pleas for more peacekeeping troops by proposing that the United States take the lead in rebuilding the Afghan army. Only in 2004, after security began steadily deteriorating and the U.S. program to rebuild the Afghan army faltered, did Rumsfeld withdraw his opposition to ISAF's expansion.[186]

On December 7, 2005, the Bush administration officially reversed its position on peacekeeping by issuing National Security Presidential Directive 44, entitled "Management of Interagency Efforts Concerning Reconstruction and Stabilization." The directive stated that the United States "has a significant stake in enhancing the capacity to assist in stabilizing and reconstructing countries . . . at risk of, in, or in transition from conflict."[187] The directive authorized State's Coordinator for Reconstruction and Stabilization to lead civilian efforts and to coordinate with DOD in order to "harmonize" civilian activities with U.S. military operations.[188]

THE UN ALSO ADOPTS A "LIGHT FOOTPRINT"

Only a year after then-UN Secretary General Kofi Annan commissioned a panel in 2000 to discuss the importance of rapidly deploying civil police and rule of law experts to stabilize fragile states, the UN adopted guiding principles for Afghanistan that emphasized Afghan ownership and reinforcing Afghan capacity—which translated to deploying only a small staff of UN police advisors.[189]

Although UN Special Representative for Afghanistan Lakhdar Brahimi wanted a large peacekeeping force deployed to all of Afghanistan's major population centers, in addition to the gradual disbandment of the country's warlords and militias, he considered that a task better suited for "heavily armed, well-equipped Western troops under American or NATO command" than a "more lightly equipped UN peacekeeping force."[190]

In his view, a large UN mandate was both unnecessary and impossible. "You know, a lot of people told us that we should do in Afghanistan what was done in Kosovo . . . and it's crazy," he told interviewers from the Journal of International Affairs. In Kosovo, "you are talking about a lot [fewer] people, you are talking about 700,000. . . . So it is an exception, it can't be the rule, it can't be repeated."[191]

Brahimi was acutely aware that the UN risked being seen as a colonial force, and wished to avoid the appearance of neocolonialism.[192] There were also practical considerations. "From his long association with [the UN]," notes Dobbins, Brahimi "had a keen understanding of its limitations. He doubted its ability to adequately oversee either the security or economic aspects of the international community's activities in Afghanistan."[193] Brahimi preferred a lean mission focused on Afghanistan's political development—specifically, the implementation of the Bonn Agreement.[194] As one senior UN development official noted at the time, "We are supporting the creation of the *appearance* of authority in the hope that it leads to the creation of *actual* authority."[195]

Other states, such as France, concurred with the light footprint strategy for their own reasons: They did not want to see Afghanistan "invaded by NGOs, as was the case in Kosovo."[196] Speaking for the United States, Rumsfeld had reflected in 2003 that overly generous international assistance to Bosnia and Kosovo had turned those countries into permanent international wards, excessively dependent on foreign funding and foreign troops, according to a former Bush administration official.[197] Consequently, official DOD policy guidelines for Afghanistan, issued that year, stated, "We do not want to create over-dependence on the U.S. or others."[198]

The Bonn Agreement thus noted that the Afghans bore full responsibility for providing security to their population, and did not specify any role for the UN in the area of policing. In the end, the UN mission deployed only four police advisors to Afghanistan, although the secretary general left open the possibility of an expanded UN police presence once the German-led program had matured (see Chapter 4 for more information on the German-led police assistance program).[199]

WITH LIMITED INTERNATIONAL OVERSIGHT, AFGHAN LEADERS REESTABLISH POLICE FORCE TO PROTECT GOVERNMENT, NOT PEOPLE

With the United States fixated on hunting down al-Qaeda and Taliban members, and the UN focused on forming a coalition government among the various anti-Taliban factions, senior Afghan security officials seized the opportunity to assert control over the police force and fill its ranks with loyalists. Powerful former Northern Alliance commanders were incorporated into the transitional government in senior police positions in an attempt to secure their loyalties. Provincial and district police posts were used as a means to accommodate, legitimize, and eventually pay for their militias.[200]

"The Bush administration wanted to get rid of the Taliban very quickly, [and] they armed men and factions who were war criminals," Kate Clark of the Afghanistan Analysts Network told SIGAR. The warlords who captured the government "had autonomy from the people, weren't dependent on the Afghan economy for staying in power, they took the bulk of the state jobs. . . . The vast majority of governors, district governors, [National Directorate of Security], the army, the police—these positions were grabbed." The result: "Immediately, you were excluding many ordinary Afghans, civilians in

particular, right at the start, and you were funneling resources towards those men in a way that meant that they could escape having to get the support of the people."[201]

By 2003, much of the police force consisted of former mujahedeen. The rest were so-called "professional" officers who had received training more than a decade earlier. An overall military mindset blurred the line between the police and armed militias, as did the lack of a standard police uniform. According to Amnesty International, many police officers—as well as a large percentage of the male population—wore military uniforms, making police and military indistinguishable in the eyes of civilians. In its 2003 report, Amnesty International captured the sorry state of the Afghan National Police when it asserted, "There is currently no police service in Afghanistan. Instead, approximately 50,000 people are working as police."[202]

Instead of expanding Kabul's control over the provinces, the government's attempted co-option of regional warlords did little to shift local loyalties. Most of the police remained loyal to factional commanders, and the central government had little power to remove or even supervise them. The limited control of the Afghanistan Transitional Authority—the interim Afghan government that followed the Bonn Agreement—beyond Kabul was exacerbated by a lack of basic administrative systems for personnel and logistics, especially communications equipment to link the provinces to the center. Without consistent reporting procedures or the ability to pay, equip, and train the police, centrally appointed officials could not wield effective control over their own police forces.[203]

Limited international oversight enabled former military commanders to recapture the government and return to the chaotic environment of the early 1990s, which had led to the Taliban's rise in the first place. In February 2002, *Washington Post* correspondent Doug Struck captured the post-Taliban milieu in Herat after the warlord Ismail Khan, who governed from 1992 to 1995, reclaimed the city. "There is a nightly curfew, strictly enforced by men with automatic weapons. By day, recruits to Khan's private army march in the streets. Men with guns and uncertain loyalties are everywhere."[204] He documented religious police—including some Taliban remnants—roaming the streets and enforcing "a Taliban-like intolerance of alternative politics."[205] Many of Herat's populace questioned whether the new government was much different from the old. In the words of a 23-year old shopkeeper, "The only difference between the Taliban and the new government is they don't wear turbans."[206]

A particular faction's influence over the police increased after the appointment of a prominent Panjsheri Northern Alliance leader, Yunis Qanouni, as Minister of Interior in the interim administration.[207] Not coincidentally, 12 of the 15 police stations in Kabul were soon headed by Panjsheri Tajiks. Panjsheri Tajiks likewise dominated the national intelligence agency, heading all 23 directorates as well as the new Afghan National Army.[208] In June 2002, interim administration leader Hamid Karzai replaced Qanouni—not with another member of the Tajik tribe or a Northern Alliance leader, but with one of Karzai's fellow Pashtuns. It was an effort to diversify the leadership of the Afghan

security sector, which up to then had been dominated by Tajik strongmen, but the transition of power was not smooth. Instead, rumors of a coup spread rapidly across the capital, forcing the U.S. political leadership to intervene via shuttle diplomacy between Karzai and Qanouni. Then-U.S. Ambassador Zalmay Khalilzad wrote that "soldiers armed with grenade launchers and police in full riot gear" were standing by the ministry, preventing Taj Mohammad Wardak, Karzai's new appointee, from assuming office.[209] To ease tensions, Karzai offered Qanouni the position of "special advisor on national security."[210] After assuming his new role as minister of interior, Wardak struggled to gain the loyalties of the police force and to reform the ministry; within a year, he was removed from office.[211]

In March 2003, Amnesty International documented the absence of a clear chain of command within Afghanistan's police infrastructure. Amnesty found that "in practice, within the Ministry of Interior, it is unclear who is responsible for policing," and identified at least five senior ranking Afghan officials claiming authority over the police.[212] The person with the title of General Commander of the National Police, Amnesty's report said, in reality had the least control; two other officials—the head of the Kabul Police and the Ministry of Interior head of Security and Public Controls—each commanded rival police forces numbering in the thousands.[213]

Further complicating matters, Amnesty International reported other state and non-state actors interfering in police work. In particular, the human rights organization warned that National Security Directorate officers were carrying out arrests and detentions without a clear legal basis, as were powerful local armed groups that were "far better organized, equipped, and armed than the police."[214]

POLICE BRUTALITY AND EXTORTION QUICKLY ERODE PUBLIC SUPPORT FOR THE NEW AFGHAN GOVERNMENT

One early incident illustrates the challenges the Afghan government faced in changing the military mindset of former Afghan fighters to a civilian police mentality. In November 2002, Afghan officials lifted a curfew in Kabul that had been in effect since the Soviet invasion in 1978. The increased freedom of movement on the streets actually brought the crime rate *down*. Mark Sedra, a security sector reform scholar who monitored early efforts in Afghanistan, concluded that the police "had [apparently] exploited the curfew, ostensibly in place to protect the citizenry, to engage in criminal activity without public scrutiny and interference."[215]

One factor that contributed to the Afghan police's predatory approach toward the citizenry was the fact that most were not getting paid. Instead, they turned to extortion and bribes for income.[216] Even when they were paid, police salaries were often below subsistence levels.[217] According to the UN Development Programme, money from the UN Law and Order Trust Fund for Afghanistan—an international donor fund (discussed more in Chapter 4)—had been used by the end of 2002 to cover the salaries of only 7,000

police officers in Kabul, which did little to curtail extortion by police in most parts of the country.[218]

Police brutality also resulted from a lack of training, which often led to the use of torture during interrogations to extract confessions, and a lack of basic resources. Insufficient police vehicles inevitably prolonged periods of detention; shattered, insecure facilities encouraged the use of inhumane restraints and excessive force (see Chapter 8).[219]

Police brutality and corruption in turn led to "a widespread lack of public faith in the police," according to a 2003 Amnesty International report.[220] In March 2003, hundreds of protesters demonstrated in Kabul against police who were accused of abducting a local woman. This distrust was all the more dangerous in a country awash in an estimated 8 to 10 million guns and somewhere between 100,000 and 250,000 former combatants trained in how to use them.[221]

This lack of public faith in the police gave the rapidly reconstituting Taliban an opening. Recognizing that they could not outfight the U.S. military and its allies, the Taliban quickly moved to exploit the Afghan state's failure to deter crime or deliver justice.[222] According to rule of law expert Geoffrey Swenson, "Effective legal order constituted the core of the Taliban's political program, underpinned their claim to be Afghanistan's legitimate rulers, and highlighted the state justice system's failures."[223] Consequently, the Taliban reestablished a parallel Sharia-based legal system—part of a larger shadow government—to provide the ostensibly fair, swift and legitimate justice that the state struggled to deliver. The centrality of this rule of law program to the insurgency is evidenced by the Taliban's active advertisement of their judiciary as armed groups traversed the countryside.[224]

The reputed impartiality of the Taliban's shadow court system stems from Taliban's ability to work within the local framework of traditional justice. Taliban judges were usually not local, which facilitated their autonomy and impartiality, and judges accused of corruption were reportedly swiftly dealt with by local Taliban commanders.[225] Although the popularity of Taliban justice was partially influenced by a fear of its judges, as well as the Taliban's ban on using government courts in its territories, there is evidence that the Taliban's justice system was one of the most popular and respected elements of the Taliban insurgency in local communities, especially in the southern Pashtun heartlands.[226]

During the early years of reconstruction, neither Germany nor the United States—the official and de facto leading nations for police assistance—fully appreciated the destabilizing role of these two factors: a corrupt, predatory police and the opportunity it offered the Taliban.

DOD photo by Sandra Arnold

CHAPTER 4

U.S. AND INTERNATIONAL COMMUNITY TACKLE POLICE REFORM—UNDERSTAFFED, UNDERFUNDED, AND WITHOUT A COHERENT STRATEGY

Starting in 2002, the international community agreed to divide the key tasks of reforming the security sector in Afghanistan among various stakeholders. Germany took the lead, based on its historical role as the "godfather" of the modern Afghan police force, with a program focused on the senior police ranks and improvements to police infrastructure in Kabul. As the lead U.S. agency for police assistance, State created an independent program in 2003 targeting the lower ranks of the newly created Afghan National Police.

These civilian actors tried to demonstrate success by focusing on infrastructure projects, training, and equipping, and such efforts did yield some tangible outputs. But they had little impact on broader institutional problems, such as corruption and the lack of accountability. The failure of civilian agencies to deploy the necessary numbers of qualified civilian police also hampered progress, as did their reliance on U.S. and International Security Assistance Force troops for movement and protection.

Just as importantly, the lack of a unified strategic vision for the police and justice sectors meant that additional international donor support did little to alter fundamentally compromised institutions. That lack of direction, combined with the neglect of institutional reform and post-training field advising, created a situation in which newly trained officers returned to an unreformed, corrupt environment—and often reverted to old predatory behaviors. As a result, by the time DOD took the

lead on U.S. police assistance in 2005, the ANP looked little better than it did in 2001 (see Chapter 6).

This chapter analyzes the civilian approach to police assistance during the early years in Afghanistan and the challenges that civilian agencies encounter when operating in a high-threat environment.

INITIAL STATE ASSESSMENTS RECOGNIZED THE NEED FOR ROBUST POLICE ASSISTANCE, YET RESOURCES WERE NOT FORTHCOMING

By early 2002, the international community recognized the need for extensive assistance to a shattered Afghan police force if it was to maintain the positive political momentum that followed the Bonn Agreement. A German fact-finding mission in January 2002 observed a police force "in a deplorable state," critically short on equipment, training, and loyalty to the newly formed interim government in Kabul. "There is a total lack of equipment and supplies," the report said, adding that "at least one entire generation of trained police officers is missing."[227] The German government assessment noted the destruction of approximately 80 percent of police infrastructure, while a separate DOD estimate identified more than 800 police facilities in urgent need of repair or construction.[228]

In early March 2002, Ryan Crocker, then deputy assistant secretary of state for Near Eastern Affairs, warned in a diplomatic cable that "the police are not just in a less than desirable situation, they are at ground zero." He described the apocalyptic wreckage of former police stations: "Burned out, bombed out shells without windows, four walls, roofs in many cases," stripped bare of electric wiring and anything else that could be carried off and sold. Unexploded ordnance lay haphazardly inside.[229] State's Bureau of International Narcotics and Law Enforcement Affairs reported that criminal suspects were sometimes detained in private residences because police stations lacked secure holding cells, reliable electricity, and drinking water.[230]

Crocker's cable also depicted Afghan police officers: unpaid, without pens or paper or personal equipment of any kind, borrowing uniform shirts and pants from one another "to make themselves presentable for patrol with the well-dressed and equipped ISAF." Meanwhile, neither ISAF nor the Afghan Ministry of Interior could pinpoint the numbers, identities, or backgrounds of the police in Kabul—let alone the rest of the country—with whom ISAF troops were patrolling the capital. The United Kingdom contingent estimated that there were approximately 7,000 police officers in Kabul, operating in separate, uncoordinated branches.[231]

Crocker identified the urgent need for reforming the Ministry of Interior's rank structure and associated pay grades (although these reforms would not take root until DOD took control of police assistance in 2005). "Another problem of undefined proportion," he added, "is the assignment to police organizations/units of individuals who were formerly in the service of the Northern Alliance, are politically aligned with various [Afghan Interim Authority] elements, or have other ties to individuals in position to make such

appointments." Taken together, he observed, the factionalism, nepotism, and patronage networks that pervaded the Afghan government created a "dangerous competition for resources, control of jurisdictions, and authority to make decisions."[232]

All the while, the Afghan Interim Authority—"in a state of relative despair, without resources, equipment . . . [or] clearly defined and written applicable laws"—was hardly in a position to rebuild this shell of a police force.[233] A senior U.S. embassy official who worked in Kabul at the time told SIGAR that the Ministry of Interior had to be recreated largely from scratch: "As it stood, [the Afghans] had some centuries-old bureaucratic traditions in place with a little Taliban disorder on top of that."[234]

Nevertheless, the barely functional interim government was already working to expand the police presence in Kabul and the provinces as quickly as possible. According to a July 2002 cable, then-Minister of Interior Taj Mohammad Wardak wanted a "fully professional, well-trained, modern police force within six months"—wishful thinking not based on any reality of the situation in Afghanistan at the time.[235] Crocker reported in a March 2002 cable that despite U.S. concerns, the Ministry of Interior was developing a two-week crash course on basic police skills, with a corresponding train-the-trainer program and a 10-week field training program.[236]

These initial assessments eventually found their way into official strategic documents. State's fiscal year 2006 Mission Performance Plan, published in early 2004, described the state of Afghanistan's police and justice sectors in 2002:

> The Ministry of the Interior is uncertain as to the number of police throughout the country. There is no standardized police identification or personnel system. . . . The [ministry] is unable to communicate with or exercise effective supervision of the Afghan National Police. The police are underpaid and ill equipped. They are subject to corruption and intimidation by well-armed and well-financed warlords.
>
> The Afghan justice system is in almost complete collapse. Court buildings are destroyed. Records are lost. Temporary facilities are in use. Most personnel are untrained in the law. Women legal professionals disappeared from the system during the Taliban period and have largely not yet returned. . . . No formal judicial training takes place. Judges are conservative religious figures. Taliban perpetrate severe human rights abuses. Organized civilian police force does not exist.
>
> The Afghan prison system is nonexistent, apart from one prison in Kabul [which is] far below any international standard of acceptability. Prison buildings are destroyed. Records are lost. Temporary detention facilities are in use, [and] most personnel are untrained.[237]

In short, two decades of conflict had left little to reform in Afghanistan: The entire criminal justice system—from police to courts to prisons—had to be rebuilt, and with the help of a largely illiterate Afghan population. Yet it took roughly a year for the United States to initiate its own police assistance program—a lack of urgency based largely on two shaky assumptions: that the Taliban were decisively defeated, and that only a small Afghan security force was necessary to withstand warlords, who were seen as the main threat to stability and the rule of law.[238] The lead-nation approach, by stove-piping the five pillars of security sector reform, also had the effect of minimizing U.S. involvement

in the police sector: With limited visibility into German-led initiatives, other donors presumed that Germany had everything under control.[239]

Meanwhile, a preliminary needs assessment conducted by the Asia Development Bank, the UN Development Programme, and the World Bank before the January 2002 Tokyo Donors' Conference "grossly understated" the costs of reconstruction, according to a March 2004 Afghan government report. This led the international community to "naively [assume] an improvement in security which has not yet materialized," wrote Mark Sedra. The true cost of addressing Afghanistan's security crisis became apparent only in 2003, the report continues, when security began to deteriorate across the country.[240]

GERMANY LEADS AFGHAN POLICE REFORM—AGAIN

The international police assistance effort officially began in February 2002 with an international conference in Berlin, where Germany presented its findings from its January fact-finding mission and pledged 10 million euros for that year. At a donor conference the following month, the German government presented a comprehensive plan to create a national police service in Afghanistan.[241] It established the German Police Project Office in Kabul and delineated five areas for German action: advising on the structure and organization of an Afghan police force; assisting in the training of police recruits; helping to rehabilitate the Kabul Police Academy; implementing bilateral police funding assistance; and coordinating international donor activities.[242] Germany's role as lead nation for police reform, undertaken at the request of the Afghan interim government, was formalized at the April 2002 G8 conference in Geneva.[243]

From the outset, Germany defined a limited role for itself, focused on coordinating policy making and donor support in its sector—a "consultative and supportive mandate," according to the German Ministry of the Interior.[244] But other donors, notably the United States, interpreted the term "lead donor" to mean that Germany would be the major implementer and funding source for that particular pillar. This fundamental misunderstanding went unnoticed at first because, according to one European official, "Germany was very vocal about its lead role, so others did not think they had to worry about funding. The Germans were very quick to deploy, which also led others to think they did not have to worry about the sector."[245]

On April 3, approximately 10 German police officers began implementing a train-the-trainers course at the still-unfinished Kabul Police Academy. German police trainers were recruited from the German Federal Police, the Federal Criminal Police Office, and the State Police Forces on one-year deployments, or even shorter temporary assignments to implement tailored training on specific policing tasks. On average, the German advising effort employed 40 police officers as long-term experts, with an additional 25 to 30 deploying each year on a short-term basis for specialized training.[246]

GERMANY'S CIVILIAN POLICE CULTURE

Germany's historical experiences and strategic culture heavily shaped the nature of its police assistance mission in Afghanistan. According to security sector analyst Cornelius Friesendorf, "Germany's military and moral collapse after WWII gave rise to a culture in which the use of force was limited to self-defense." Although Germany had created militarized police forces in the early years of the Cold War—such as the Federal Border Police—these units were on the margins of Germany's mainstream police culture, which had an increasingly civilian outlook. As society changed in the 1960s, so did the police—moving from "a militarized police protecting the state to a civilian police protecting citizens' rights," wrote Friesendorf. The country's politicians, security forces, and public audiences have shown little tolerance for German casualties, or foreign civilian casualties, in their so-called "post-heroic" society.[247]

German police culture places a high premium on "close, positive interaction with the population, and more specifically, the avoidance of deaths of and by police officers," especially in foreign operations. A core principle is not involving police in war, and in fact, German law bars placing police under military command. According to one German police officer, "the ministries of interior and defense usually avoid each other." With the exception of special weapons and tactics teams and the elite counterterrorism unit, education and training exclude combat scenarios in which police use lethal force against militarily equipped and organized adversaries. Most resources are invested in local civilian policing, with only a fraction of the total budget funding international missions.[248]

These norms guided the German government's course of action in Afghanistan. Notably, most German soldiers established provincial reconstruction teams in what were then peaceful areas of northern Afghanistan, which effectively restricted German police presence to low-conflict areas.[249] Yet overall, Germany's arms-length relationship between the police and the military was a poor match for Afghanistan, an environment in which police-military cooperation was not only inevitable, but necessary. A 2007 RAND study identified police-military cooperation as "critical to the success of any stability operation, especially if several military, gendarmerie, and international local police forces are involved in establishing security."[250]

Not surprisingly, many German police reportedly felt uncomfortable in Afghanistan's militarized environment, which easily blurred the line between police and military. One officer claimed that "driving around Mazar in armored vehicles puts a wedge between me and the population." This unease was a major reason for Germany's inability to meet its target of deploying 200 police advisers.[251]

Germany's civilian organizational culture most prominently shaped its training of Afghan police recruits. German police officers would not participate in counterinsurgency operations and refused to train Afghan police for such a role. Instead, German officers taught civilian policing skills, emphasizing human rights, literacy, and domestic violence responses. In practice, German-led efforts focused on building up the criminal investigation departments and the Afghan Uniform Police, which according to official doctrine would not be involved in counterinsurgency operations. German support to other ANP units was "merely indirect, by way of training new commissioned and non-commissioned officers," or involved such noncontroversial activities as building police facilities or creating a canine unit within the Afghan Border Police.[252] Germany's commitment to avoid any connection between its police and military operations meant there would be no German trainers for the Afghan National Civil Order Police—the Afghan gendarme force—at the Kabul Police Academy or in provincial reconstruction teams. It also meant that Germany would not supply the Afghan police with weapons. Perhaps most importantly, it meant that the Germans did not engage in executive policing or embedded partnering—both considered best practices by many scholar-practitioners. In fact, German police officers were not even allowed to spend the night outside of their fortified military camps and police training centers.[253]

Germany Targets Infrastructure Needs and Officer Training at the Kabul Police Academy

Although Germany did provide some advice on institutional reform, German assistance on the whole prioritized the infrastructure, training, and equipment needs of the ANP. In particular, the cornerstone of its efforts in Afghanistan involved reestablishing the police academy in Kabul, just as it had in previous decades. During the first two years of police assistance, Germany contributed approximately $33 million; between 2002 and 2006, it spent a total of $80 million.[254]

By December 2005, the German Police Project Office had rebuilt and equipped several police facilities and special police units, mostly in Kabul. These included the interior ministry complex—where the project established a modern command and control center—the Kabul Police Academy, the Provincial Office of the Criminal Police, the headquarters for the Afghan Border Police and the Highway Police, border police facilities at Kabul International Airport, the anti-narcotics and anti-terrorism agencies, and five of the 16 Kabul City police district headquarters. The Germans also gave at least 30 specialized highway police vehicles and upwards of 950 motorized vehicles to all branches of the ANP. In August 2005, German police advisors set up an emergency call dispatch center at Kabul City Police Headquarters, permitting more than 3 million Kabulis to contact the police via an emergency call system for the first time.[255]

The centerpiece of the German police program was the rehabilitation of the National Police Academy in Kabul, to which Germany contributed approximately $3 million dollars.[256] The academy formally reopened in August 2002 with 1,500 cadets enrolled in a three-year course for commissioned officers or a one-year course (later shortened to nine months) for noncommissioned officers.[257] Germany's police training plan was based on the European police academy model, which provided university-level education to officer and non-commissioned officer candidates who had already completed 12th and ninth grade, respectively.[258] This comprehensive academic education qualified graduates to work in several Afghan government disciplines, including the judiciary.[259]

Training included courses in police operations and tactics, traffic policing, management, counternarcotics, and criminology. The academy also provided shorter specialized training for the Border Police and Standby Police.[260] Although German police advisors developed the academy's curriculum, other donor nations designed and implemented specialized courses. For example, Norwegian instructors taught modules on human rights, management, and gender issues; the UK administered courses in narcotics and crime scene investigations; Turkey sent experts to teach a course in police tactical operations.[261] In general, German trainers "promoted the idea of multiple donors giving the same course, in order to provide varying points of view and approaches."[262]

The academy's three-year program graduated its first class of 251 commissioned officers in August 2005.[263] According to police expert Robert Perito, every graduate received a job in Kabul, meaning that the German training program had virtually no influence on policing outside of the capital.[264] By December, a total of 3,302 officers, including 2,299

noncommissioned officers and 752 border police, had graduated from the academy.[265] Approximately 4,500 police officers graduated before Germany handed the running of the academy over to the European Union Police Mission in Afghanistan in mid-2007.[266]

The German Police Project Office's emphasis on university-level training for the senior and middle ranks of the ANP rested on the assumption that increased professionalism at the top would trickle down to the rank and file. Germany's objective, according to the senior German representative for police reform, was "to start with the backbone"—with the leaders. This approach would take years to train the necessary numbers of officers and even longer for the effects to trickle down to the vast majority of policemen, who would continue to serve, untrained, under former mujahedeen commanders.[267] Tonita Murray, a rule of law expert who has deployed as an advisor in Afghanistan, argued that "there was no evidence of strategic thinking in choosing rehabilitation of the police academy, and training officer and non-commissioned ranks, while initially ignoring the mainly illiterate and conscripted soldiers who have more contact with ordinary Afghans."[268]

Whether or not Germany's training approach was suitable for the Afghan environment, it is clear that Germany's resource constraints shaped the size and scope of its police program. Despite Germany's considerable efforts to rehabilitate the so-called "hardware" of policing—infrastructure, training, and equipment—many fundamental needs remained unaddressed.[269] The German Police Project Office, for example, supported some Ministry of Interior reform efforts, but overall, failed to adequately address the need to reorganize and reform the ministry's bureaucracy, which lacked even basic systems to manage the police. In fact, Germany only had one senior advisor embedded in the Ministry of Interior in 2003.[270] The following year, German advisors introduced a plan to embed a German-led task force to restructure the ministry, train its senior management, develop a budgeting capacity, and establish a transparent and accountable payment system, at an estimated cost of $382,725.271 Overall, the Germans spent $460,000 on ministry reform, a relatively small sum compared to its $3 million investment in the police academy.[272] Meanwhile, the United States commenced a parallel institutional reform program, committing some $20 million to the effort.[273]

Notably, Germany's approach failed to ensure fair ethnic representation within the ANP—a goal espoused by Afghanistan's leaders and public alike.[274] In June 2005, a U.S. Government Accountability Office (GAO) report found that "Germany and the United States do not track the ethnicity of police trainees."[275] Despite a declared objective to recruit and field an ethnically balanced police force, Tajiks—estimated at a quarter of the population—were consistently overrepresented at the academy through at least 2007. In 2003, Tajiks made up as much as 90 percent of the student body; in July 2007, 210 of the 376 officer graduates, and 167 of the 223 non-commissioned officer graduates, were Tajiks.[276]

Ultimately, Germany lacked the capacity to fully resource even the training and equipping of the Afghan police, let alone take steps toward comprehensive institutional

reform. From 2005 to 2007, for instance, the United States contributed another $1 billion for police facilities.[277]

Germany Struggles to Coordinate International Training

More than 25 countries and international organizations supported police development from 2002 to 2005, either channeling funds through the Law and Order Trust Fund for Afghanistan (LOTFA), donating police equipment, or deploying personnel to directly implement projects. Most donor support also had a geographic focus, based on where the donor country's provincial reconstruction team or ISAF contingent was located.[278]

Germany appointed a special ambassador from the German embassy to coordinate this international police cooperation, and established the Interagency Police Coordinated Action Group to act as the main political and diplomatic body for police reform matters.[279] According to a State cable, Germany handled international coordination of police assistance, and all police issues within Kabul. Police matters outside Kabul fell within the purview of the UN Assistance Mission to Afghanistan (UNAMA).[280]

In mid-2002, the U.S. embassy described Germany's coordination of international training efforts as "somewhat catch-as-catch-can and definitely in need of a more systematic approach"—in other words, an improvisational approach using any means available. For example, the German police office arranged for 255 Afghan cadets to travel to India, where Indian police trainers offered one- to three-week courses.[281]

Although Germany held donor coordination conferences in May 2004 and in February 2006, coordinating bodies, such as the International Police Coordination Board, established in 2007, did not have executive authorities. Police coordination during this time amounted to little more than information sharing.[282]

Germany's coordination of international training efforts was "somewhat catch-as-catch-can, and definitely in need of a more systematic approach."

—U.S. State Department diplomatic cable

In 2002, ISAF in Kabul also considered local police training to be a core task. But lacking policing expertise, ISAF primarily conducted on-the-job security training during its joint patrols with the ANP. Following ISAF's geographic expansion in 2004, several countries included a few civilian police in their civilian-military provincial reconstruction teams to advise and train local police. "Given the small number of police attached to the [provincial reconstruction teams], however, and the tactical nature of their activities," writes Tonita Murray, "their impact [was] largely local and unlikely to affect the overall reform of the ANP."[283]

Although police sector coordination steadily improved in Kabul, communication and coordination challenges persisted between police programs in Kabul and those at the regional and provincial levels. Even coordination among the various provincial reconstruction teams and regional training centers was largely nonexistent in the early years. For example, it was common for personnel from DynCorp, the lead contractor for U.S. police assistance programs, and German police advisors based in adjacent provincial reconstruction teams to be completely unaware of each other's activities. "In the absence of a common national police reform strategy, each [provincial reconstruction team] is running its own police program based on its own national guidelines," observed analyst Andrew Wilder of the Kabul-based Afghanistan Research and Evaluation Unit.[284]

The Ministry of Interior's inability to properly manage and oversee the police further complicated the task of coordination. In 2002, for example, the highly influential Chief of Police General Din Mohammad Jurat organized military-type police training by the Iranians, apparently without the knowledge of the Minister of Interior. Throughout the country, local warlords were independently training and equipping their own forces. According to German Ambassador Rainer Eberle, "Leadership in the provinces [was] not satisfied with just sending their people to the academy. [They wanted] ISAF or reassurance by an international police presence." As a result, the Germans began to consider expanding their training activities to the provinces, where, at the time, "nothing [was] happening with the police."[285]

UNITED STATES CRITICIZES GERMANY'S APPROACH

On the ground, German efforts at police training were dwarfed by the sheer size of the task. According to leading police expert Robert Perito, "The timelines and numbers of the [German] program were never consistent with the need and the physical realities on the ground from the very beginning. When [the Germans] started in 2002, they were going to train a class of 1,500 senior police officers in the European model, but at that point, we needed 70,000 police serving right [then]. The German system did nothing to train rank and file policemen."[286]

In the absence of a training program for the ANP's lower ranks, the Ministry of Interior began developing crash courses to teach basic police skills in order to provide a police presence in Kabul and the provinces as quickly as possible. That prompted concern back in the United States: In a March 2002 cable, U.S. officials expressed concern that the two-week crash course approach "falls far short of even minimum requirements for police service."[287]

U.S. criticism also targeted Germany's financial contributions to police reform: A March 2002 cable notes that "the present level of assistance is less than a drop in the proverbial bucket."[288] While U.S. concern over the police sector was evident by mid-2002, substantial assistance was delayed, in part, due to "the difficulty U.S. officials [were]

having in getting straight, consistent answers and a clear picture of what is really going on in police reform, what still must be done, and how to do it."[289]

By mid-2003, however, the United States could no longer remain on the sidelines of police reform in Afghanistan. According to one diplomatic cable from 2003, a year into Germany's lead-nation efforts, the country was falling "woefully short of the mark on moving police training programs forward in a manner with any significant impact on overarching security sector reform issues. Moreover, it appears the [German government's] way of running the police lead will remain, for the most part, status quo for the foreseeable future."[290]

It was also becoming increasingly clear that Germany's financial contributions would remain limited. By June 2003, German Ambassador Eberle declared that the German government "would not be putting forth additional funds for police assistance but would instead reach out to donors for help."[291] Although Germany did contribute more money in the following years, its $80 million total contribution from 2002 to 2006 was still only a small fraction of the $2.1 billion that the United States contributed to police development during that period, and the additional $2.5 billion that it committed to spend by September 2008.[292]

Adding to these concerns among U.S. policymakers was the upcoming 2004 Afghan presidential election, and the urgent need to establish a national police presence to prevent election day violence.[293] In short, State concluded, "practical, immediate police reform will only be achieved if the [U.S. government] forges ahead bilaterally" with its own police training efforts. A separate training program would also offer "shared infrastructure for conducting regional training," which some U.S. officials believed might "[compel Germany] to commit additional resources and adapt a more rapid approach to overall police training and reform."[294]

STATE INL STRUGGLES TO LEAD U.S. POLICE PROGRAM

Rather than challenge Germany's approach to policing as inappropriate for Afghanistan, the United States attempted a more diplomatic approach: initiating a separate, bilateral program of police reform. As early as July 2002, the United States had identified the training of "existing police and the conscripts [new recruits]" as a "possible niche" for State INL-funded training, as this would fit within the existing German framework.[295] In 2003, State contracted with DynCorp International—a commercial contractor that had played a similar role in the Balkans—to train new recruits and those already serving in police roles. DynCorp contractors built training centers, recruited police instructors, and handled the various tasks of project management.[296] A RAND study on security force assistance in Afghanistan notes that "the DynCorp contract was led by the United States unilaterally, without coordination with Germany"—representative of the "lack of unity of effort that characterized coalition efforts from the very outset."[297]

State Mismanagement of DynCorp Police Contract

Because INL lacks in-house law enforcement expertise, it relied on commercial contractors—in this case, DynCorp—to recruit advisors with the expertise to train Afghan police recruits. Reports on the quality of DynCorp trainers and mentors varied. For instance, in November 2006, a joint report from State and DOD inspectors general noted that "virtually all of the police trainers have extensive training backgrounds in a variety of police subjects," and that "it is evident that INL and DynCorp have deliberately placed instructors with appropriate disciplines in the right positions."[298] But other observers saw indications that DynCorp faced the same kind of talent recruitment problems the German Police Project Office experienced in Afghanistan. A German representative noted that some U.S. mentors hired by DynCorp were private security or prison guards who lacked formal police training. In 2004, for instance, then-Interior Minister Ali Jalali rejected 100 of the 150 trainers proposed by DynCorp for police training.[299]

INL experienced similar problems elsewhere: In Iraq, its handling of the DynCorp police training contract was "hideously bureaucratic and slow," according to one former U.S. advisor. The advisor told SIGAR that the police contract required only that mentors know how to run a police station. When the Multi-National Security Transition Command-Iraq determined in 2007 that INL was implementing an inappropriate reform model for Iraq, it took INL eight months to make the necessary contractual changes.[300]

INL Speeds Up Training of Afghan Police to Meet Security Demands of 2004 Presidential Election

U.S. interest in the police sector started to grow in 2004, when the threat of a resurgent Taliban became indisputable, threatening the presidential elections in October 2004 and the parliamentary elections in September 2005. The Taliban's growing influence demanded stricter security requirements, creating pressure to build and field police and military units at a faster pace.[301]

With the Ministry of Interior estimating that a national police presence of approximately 20,000 officers was needed to properly secure the 2004 election, State rolled out the "Accelerating Success" plan in September 2003, increasing funding and expediting reconstruction efforts in the months before the election. Of the $1.76 billion allocated for reconstruction, around $700 million was earmarked for security sector reform, including building the Afghan National Army, training and equipping the police, expanding the counternarcotics program, and creating programs establishing rule of law.[302]

To meet the target of 20,000 trained Afghan civilian police by June 2004, the United States committed $24.6 million to establish a training center to rapidly train rank and file police officers in Kabul.[303] By 2005, more than 800 Afghans had completed the instructor development course and were conducting training with DynCorp advisors.[304] The Central Training Center was capable of turning out classes of 750 officers every eight weeks,

A translator talks to Afghan police trainees about the exercise they just completed at a facility in Musa Qala. (Resolute Support photo by Staff Sgt. Will Craig)

with a goal of 7,000 trained officers over a one-year period: 3,000 at the basic level and 4,000 classified as already in service.[305]

In addition to the instructor development course, the Central Training Center offered three core courses: a nine-week entry course in basic police skills for literate recruits, a five-week course for illiterate recruits, and a 15-day Transitional Integration Program course for in-service policemen. Transitional Integration Program courses were more advanced, designed as follow-on training to graduates of the basic course and for officers already in service. In practice, however, many students in the course lacked training in even basic police skills.[306]

Overall, the Central Training Center curriculum, which had been developed by the U.S. Department of Justice's (DOJ) International Criminal Investigative Training Assistance Program for use at the Police Service School in Kosovo, emphasized instruction on human rights, basic democratic policing principles, and international policing standards.[307] It also provided two weeks of additional specialized training for highway and border police.[308] Advanced training included a criminal investigation course, a field training officer program, and courses in police driving, record-keeping, and combating corruption.[309]

Although the U.S.-led program vastly accelerated police training, by mid-2003 it was clear that the Central Training Center and the Kabul Police Academy were still falling short of their election day target. In mid-2003, the United States committed an additional $160 million to establish seven provincial regional training centers in Jalalabad, Gardez, Kandahar, Herat, Bamyan, Mazar-i-Sharif, and Kunduz. Staffed by two international and two Afghan instructors (graduates of the Central Training Center), each regional center could train 350 to 400 students at once.[310]

A police instructor with the UK Royal Military Police teaches Afghan police trainees in policing tactics in a facility in Musa Qala. (Resolute Support photo by Staff Sgt. Will Craig)

With the September 2005 parliamentary elections looming, Afghan government officials and their coalition partners determined that they would need roughly 62,000 police officers, including 12,000 border police, to ensure public order. According to a former Afghan Minister of Interior, this figure was ostensibly based on the ratio of police to citizens in Germany—an international standard of one officer for every 500 citizens. According to a 2006 State and DOD joint assessment, 62,000 was "the minimum number that could function effectively and be supported and financed by the Afghan government over the long term."[311] To achieve this goal, the Germans would be responsible for training 25 percent of the total force, or 12,500 Afghan Uniform Police and 3,000 Afghan Border Police commissioned officers and noncommissioned officers. DynCorp would train the remaining 37,500 Afghan Uniform Police and 9,000 Afghan Border Patrol rank and file officers.[312] By May 2004, a total of 16,908 Afghan police officers had been trained, 74 percent in the U.S. program.[313]

The United States' entry into police reform infused the sector with much-needed resources. As of May 2006, reported a joint State and DOD assessment, INL committed approximately $1.1 billion from fiscal year 2004 to 2007, and "almost all of that funding has gone to the contract with DynCorp International."[314] This influx of funds, however, strained the U.S.-German relationship and complicated coordination since, as Andrew Wilder points out, "a lead donor [was] trying to manage another donor that contributes 50 to 100 times more financial resources and more than 10 times more personnel."[315] More importantly, INL, like its German counterpart, focused almost exclusively on training. Without corresponding ministerial reforms to ensure transparency and accountability, the influx of unconditioned aid enabled growing corruption in the Ministry of Interior and the ANP.

DOJ OFFICE THAT TRAINS FOREIGN POLICE NOTABLY ABSENT FROM AFGHANISTAN

One agency in the federal government was deemed ideally suited for a prominent role in helping Afghanistan build a civilian police force. In an addendum to a 2005 report by the Government Accountability Office on U.S. progress in establishing security in Afghanistan, the DOJ International Criminal Investigative Training Assistance Program (ICITAP) was "uniquely qualified to develop, implement, and manage" large-scale police programs such as those underway in Afghanistan and Iraq.[316] ICITAP has over 30 years of post-conflict experience, having been deployed at the beginning of every major U.S. post-conflict and failed-state mission since 1989. ICITAP's experience includes the creation of national police forces from scratch in Panama, Haiti, and Kosovo, as well as leading U.S. post-conflict efforts in Guatemala, El Salvador, Somalia, Bosnia, Macedonia, and Iraq.[317] A senior ICITAP official told SIGAR in 2019 that ICITAP is uniquely situated for international training and advisory missions because it has no operational responsibilities and, thus, over the last three decades, it has been able to singularly focus on becoming the leading U.S. government expert in the development of effective and professional foreign law enforcement institutions.[318]

Yet ICITAP had almost no role in assisting the Afghan national police, except for the initial police assessment and basic training it was asked to carry out in 2002. Because of its history managing police development programs in post-conflict missions, in 2002, at the request of State INL, ICITAP assembled and led an advance international team into Afghanistan for only a few weeks.[319] While ICITAP offered to provide further assistance to State, it was not engaged after this initial effort in 2002. The reasons for its limited role is known only to State, but what is known is that ICITAP's lack of participation was not by DOJ's choice, as ICITAP cannot participate without its assistance being requested and funded. ICITAP's program monies come exclusively from funding from State, DOD, and USAID—and as such it serves as a resource and partner for the interagency.[320]

In 2003, ICITAP was first into Iraq after again being asked to lead the U.S. law enforcement advance team. ICITAP would eventually deploy over 330 international police trainers to assist in the Iraqi police development program until 2008.[321] From 2004 to 2008, ICITAP operated under DOD's Civilian Police Assistance Training Team (CPATT), which was commanded by a General-level military officer. ICITAP assisted CPATT's mission, which included responsibility for the Iraqi police mentoring program staffed by some 500 U.S. police liaison officers deployed by State.[322]

In 2008, State and DOD determined that ICITAP assistance was no longer required in Iraq, and many of the police advisory positions would be assumed by U.S. military personnel. Whatever the reasons may have been for State's and DOD's limited use of ICITAP in Afghanistan and Iraq, it is clear that while ICITAP had the institutional experience to provide significant assistance and expertise, turning to contractors for police training was State's standard modus operandi.[323]

An Afghan National Police officer salutes as the Afghanistan flag is raised at the Training Sustainment Site at Forward Operating Base Ghazni. (U.S. Air Force photo by Tech Sgt. J.T. May)

Eventually, in 2009, DOD would ask ICITAP to manage a program to develop a portion of the Counter Narcotics Police of Afghanistan (CNPA), which it would lead until 2015. The same year, ICITAP personnel would deploy as part of the Civilian Response Corps to serve in Joint Task Force-435 Reintegration Directorate, which was tasked with working to fully transition detention operations into an Afghan-led and owned detention system that peacefully reintegrates detainees into Afghan society.[324]

Other DOJ entities, however, played larger roles. Beginning in 2004, the U.S. Drug Enforcement Administration (DEA) partnered with several specialized units of the Counter Narcotics Police of Afghanistan. These units, which consisted of a paramilitary enforcement arm and several investigative units, received extensive training, mentoring, and financial and operational support from DEA to arrest specific drug traffickers. But DEA had little interest in providing broader assistance and played essentially no role in U.S. programs designed to build the Afghan counternarcotics police force as a whole (see Chapter 9).

The U.S. Marshals Service, a component of DOJ, also provided judicial security assistance to Afghanistan from 2007 to 2014. Specifically, U.S. Marshals Service advisors trained and mentored the Counter Narcotics Police's Judicial Security Unit—sometimes referred to as the Judicial and Witness Security Protection Unit, the Court Security Unit, or the Afghan Marshals Service—which provided security for judges and witnesses. According to a 2009 SIGAR audit, several U.S. agencies, including DOD and INL, were also involved in judicial security assistance, but a lack of interagency coordination hindered U.S. efforts.[325]

U.S. Training Program Sacrifices Professionalism for High Number of Graduates

The United States' focus on the deadlines posed by the 2004 and 2005 elections meant there was more pressure than ever to quickly produce police.[326] In early 2020, former ambassador Ronald Neumann described to SIGAR how U.S. regional training centers might "clean up" individual patrolmen a little, but these were then returned to a corrupt force after a few weeks of training—compared with months or years of training for a U.S. patrolman, who already starts with *at least* a high school education. He said it was unrealistic to believe that training individuals would reduce corruption on this timeline.[327]

The results speak for themselves: By June 2006, more than 40 percent of Afghan police graduates had completed only the 15-day Transitional Integration Program.[328] Neither the Central Training Center nor the regional centers offered firearms training before 2006, because donors had failed to provide the necessary weapons and ammunition. Even by June 2006, most ANP units had less than 50 percent of their authorized equipment.[329]

High Illiteracy Rates Undermine Police Reform Efforts

Between 70 and 90 percent of the graduates of U.S. police training centers were illiterate—illustrative of both Afghanistan's high illiteracy rate and the underrepresentation of the country's educated middle and upper classes in the security forces.[330] According to DOJ statistics, as of June 2006, only 10 percent of police graduates had completed the nine-week program for literate recruits.[331]

Many observers have questioned the value of training illiterate Afghan recruits in civilian policing skills. Illiterate cadets are unable to take notes on more advanced concepts, such as criminal investigation procedures and international policing standards; once on the job, they would be incapable of reading warrants, writing down license plates, or engaging in any civilian policing tasks beyond basic patrolling and guard duty.[332] Literate and illiterate graduates nonetheless received the same salary, likely contributing to resentment and low morale among the former.[333]

After 2005, the Central Training Center and regional training centers implemented a five-week literacy course for illiterate recruits, who would then begin the nine-week basic course previously taught only to literate students. At best, this literacy training brought students up to a first grade reading level, making them unable to perform anything but ancillary police duties, such as checkpoint security.[334] Robert Perito described the lack of literacy training as "absolutely one of the greatest missed opportunities in the history of our involvement there. . . . Had we started literacy programs when we arrived there in 2002, and kept at it, we would have changed the whole nature of the country."[335]

Lack of Ministerial Reform

In early 2004, the Afghan government (assisted by international advisors) released a planning document that emphasized the need for a common strategic vision and accelerated ministry restructuring: "Regardless of the scale and nature of donor support,

Afghan Uniform Police graduates wait to receive their diplomas at the Central Training Center. (U.S. Air Force photo by Staff Sgt. Matt Davis)

the reform will have little impact if the Ministry does not show the political will to change."[336] In June 2004, DOD identified significant challenges with "the supervision of deployed police, providing adequate equipment and infrastructure, and building the managerial capacity of the Ministry of Interior."[337] Briefs by the Joint Staff on the police program in Afghanistan added that INL was "just beginning" to address ministry capacity and was "in the process of contracting a [Ministry of Interior] reform package." At that point, State's major achievement had been the installation of radio systems in all provinces to link provincial police chiefs to the Ministry of Interior.[338]

Ministerial advisory efforts began only towards the end of 2004, when INL assigned 30 DynCorp advisors to serve within the Ministry of Interior. The advisors "developed a comprehensive reform package that would start to address the problems of rampant corruption, pay and rank disparities, and lack of professionalism that plagued the ministry."[339] The $20 million U.S. reform program was more comprehensive than the parallel German reform plan initiated in 2003, but the two overlapped, creating considerable confusion.[340]

Reform efforts within the Ministry of Interior did not pick up significantly until DOD took over the police mission in 2005. Even then, divided responsibilities between State and Combined Security Transition Command – Afghanistan created bureaucratic inertia that slowed reform.[341]

Lax Recruitment and Vetting Standards

Rapid training at the expense of professionalization, compounded by the absence of ministerial reform, also translated into poor vetting. Although a vetting process existed on paper, it was rarely followed—and since trainees were vetted by a corrupt Ministry

of Interior, political and factional loyalties carried more weight than individual merit. According to one DynCorp trainer, "We train who we can get."[342] Very often, this was a militia fighter who returned, wearing a new uniform and wielding a better gun, to serve his local strongman.[343] Until 2006, ANP recruitment was also ad hoc, with the Kabul Police Academy, the Central Training Center, and the regional training centers each applying their own idiosyncratic selection criteria; only the academy systematically screened for the MOI's basic criteria of age, height, health, and literacy.[344]

Lack of Field Advising Means Little Oversight for Police Trainees

From 2002 to 2005, neither Germany nor INL provided follow-on training, mentoring, or evaluation in the field—a departure from police programs in Panama, Haiti, and the Balkans, where field advising had been an integral feature. DynCorp police trainers were sent to the field for the first time in early 2005 to work directly with ANP units and evaluate performance, though in limited numbers: 12 outside of Kabul, and four more at a district headquarters in Kabul. INL rejected the option of expanding field advising nationwide, citing "the high costs, the security threat to training personnel stationed in the field, and the difficulty of recruiting sufficient numbers of international police." The military command in Afghanistan responsible for security assistance estimated that a field advising program would cost $160 million in its first year.[345] In contrast, the advisory effort for the Afghan military began in late 2002, when U.S. Special Forces started advising the first Afghan National Army battalion to be deployed outside Kabul.[346]

The lack of field advising meant that neither German nor U.S. advisors knew what happened to their trainees after graduation. A RAND study found that "no mechanisms existed to track the personnel who had received training, so it was impossible to determine how many trained personnel remained in service or how [well] they performed."[347] According to one UN official interviewed in November 2006, "There are 1,900 police [in Kandahar Province], of whom only 200 have received training. Yet the [Regional Training Center] in Kandahar has trained 6,000 [for the southern region]. Where have they all gone?"[348] It is likely that some of these trainees were killed, while others went AWOL, never reported for duty, or were reassigned, with no one tracking their whereabouts. The attrition rate was about 15 percent per year, according to Combined Security Transition Command – Afghanistan (CSTC-A) reporting, but may have been as high as 30 percent.[349]

Without post-training advising, INL failed to appreciate that newly trained police officers were returning to an unstructured, corrupt, and abusive standing police. Many Afghan officers reverted to their previous predatory behavior; others were simply assigned to static guard duty instead of community-oriented policing.[350] "In the beginning, we thought a good police sector would radiate into other sections of [the Ministry of Interior] and have a positive influence," noted Ambassador Helmut Frick, the head of the German police reform effort. "But the reverse is happening—the police [are] infected by the civilian part of the [Ministry of Interior]."[351]

The lack of any mechanism for observing this phenomenon, however, meant that police programs were evaluated primarily on numbers trained and equipped, not actual outcomes. U.S. and German officials disregarded field advising as an immediate priority even though Afghan officials had specifically requested such assistance as early as July 2002. According to one U.S. embassy cable, General Razeq Baig, the Ministry of Interior's director general of education, proposed a two-step training program for the lower ranks: a three-month basic training course, followed by 15 to 30 days of on-the-job training for some 40,000 to 45,000 Afghan police trainees.[352] But according to a March 2004 Afghan government report, field monitoring was not planned until after December 2005, when the full 62,000-man police force was expected to be trained. International trainers were expected to remain in Afghanistan in a monitoring capacity until 2010, while provincial reconstruction teams would continue to provide security, maintenance support, and training assistance to the regional police training centers.[353]

"In the beginning we thought a good police sector would radiate into other sections of [the Ministry of Interior] and have a positive influence. But the reverse is happening—the police [are] infected by the civilian part of the [Ministry of Interior]."

—German Ambassador Helmut Frick

By mid-2006, the Central Training Center and some regional training centers had begun offering a five-week Field Training Officer course to experienced Afghan police officers who would, in turn, conduct follow-up mentoring and evaluation of basic training graduates at their local police stations. Still, no formal field officer training program had been implemented yet at the local level.[354] DOD also expanded international police mentoring programs after 2005.[355] Nevertheless, police mentoring teams were persistently understaffed, with most resources going to the Ministry of Interior and the ANP regional commands. (As detailed in Chapter 6, few mentoring teams were available at the provincial and district levels.) In any event, Andrew Wilder noted, mentoring of individual police officers was unlikely to accomplish much without "top-level government commitment to police reform, and without significant progress on institutional reform" of the Ministry of Interior.[356]

CIVILIAN-LED EFFORT MISSES THE MARK: KEY CHALLENGES FROM 2002 TO 2005

Ultimately, the civilian-led efforts were not scaled to meet Afghanistan's needs—a failure rooted in the international community's failure to appreciate the importance of policing and police reform in post-conflict peacebuilding. In the view of former Ministry of Interior advisor Tonita Murray, this "led to a confusion of purpose and a dissipation of effort."[357] The low priority given to police development in Afghanistan reflects a broader neglect of the role of police in security sector reform efforts around the world.

As a result, police assistance today continues to focus on military structures and state security, not civilian security.[358]

Most critically, the police and justice pillars were never integrated into a holistic rule of law strategy, as neither Germany nor State fully appreciated that a civilian police service cannot ensure the rule of law without a functioning judiciary.[359] If a comprehensive rule of law strategy had existed in 2002, argues Andrew Wilder, the international community would have avoided some of the biggest shortcomings with police reform during the civilian-led era. These included "the initial focus on advanced police training but not basic training, or on rapidly training large numbers of police but not on reforming the institutional environment in which they operated, or of donating vast quantities of police equipment prior to developing internal controls or accountability systems to control their use."[360]

Both the German and U.S. police programs seemed to operate under the mistaken assumption that reform in one area of police reform would percolate into other sections of the Ministry of Interior and ANP. In targeting the senior and mid-level police cadre, German advisors expected professionalism to trickle down to the rank and file. Similarly, the U.S. program assumed that Afghan police officers fresh from training centers would professionalize the local police stations that they rejoined, when instead the opposite happened.[361] Without a plan to integrate reforms in all the various components of the Ministry of Interior, the police, and the justice sector, this "percolation strategy" had little impact on reforming the entire Afghan police architecture.

Police Sector Reform Lacked a Unified Vision

The failure to appreciate how important civilian police were to peacebuilding contributed to the lack of a unified vision for the ANP. Without a shared vision, police development suffered from a lack of strategic planning and poor synchronization of the various security sector reforms.

From the beginning, there were competing visions for police development. The German vision emphasized a steady buildup of civilian policing capability in the higher ranks; the U.S. vision was heavily influenced by immediate security needs.[362] One observer told the International Crisis Group: "The Germans are creating high quality—but too few. . . . The U.S. churn out a conveyor belt where quality is not an issue . . . there is nothing in the middle."[363]

As a result, little coordination existed between the U.S. and German programs, which operated under a strict division of labor. This lack of coordination became a serious issue when both countries expanded into ministerial reform. In 2003 and 2004, Germany and the United States launched separate but duplicative ministerial reform initiatives, and for roughly one year, the Ministry of Interior had both a German and U.S. advisor giving separate recommendations on identical topics.[364] In general, the lack of coordination ensured that some senior Afghan police had multiple international mentors, while others had none.[365]

An Afghan Uniform Police instructor (right) shows an officer where in a vehicle to search for weapons or explosives during training at Combat Outpost Matun Hill in Khost Province, Afghanistan. (DOD photo by Sgt. Kimberly Trumbull)

At the same time, the Afghan government itself offered no vision of its own for the Afghan police. According to analyst Andrew Wilder, the resistance to both police and broader institutional reform at the Ministry of Interior suggested an unspoken strategy to maintain the status quo—maintaining an ANP loyal to factional leaders while also protecting Afghanistan's burgeoning narcotics trade. International donors thus struggled to work with what they viewed as a weak, corrupt, and factional Ministry of Interior. "Developing and implementing police reform programs in partnership with a ministry that is largely unreformed—and that has shown little interest in reforming—has often proven to be a largely futile exercise," observed Wilder. Still, government ownership of the reform process was considered necessary for meaningful and sustainable reform—and a central tenet of the "light footprint" approach.[366]

Security Sector Pillars Reformed in Isolation

The lack of strategic vision and planning owed much to the lead nation approach, which, note Mark Sedra and Cyrus Hodes, made nations territorial, and "did not adequately factor in differences between donors in competencies or resources."[367] As Ronald Neumann put it, lead nations were supposed to coordinate specific pillars, not take problems on in isolation. But in reality, everyone ignored activities outside of those they were responsible for.[368]

This division of labor facilitated a grossly unequal allocation of resources. From 2003 to 2005, Italian-led justice sector reform received only 3 percent of security sector spending (excluding counternarcotics), compared to 28 percent spent on the ANP and 60 percent on the Afghan National Army.[369] The disparity led the Afghan government to declare that "almost nothing has been accomplished to provide resources for the justice

system," and the results reflected just that: By early 2005, for example, the Afghan court system had not convicted a single high-level drug trafficker, pushing the international community to establish an entirely separate justice system to complement the high-priority counternarcotics effort.[370]

Within the justice sector, the court system absorbed the majority of international attention and resources, leaving the Attorney General's Office and the country's prison system critically underresourced.[371] Justice reform during this civilian-led era also largely excluded the informal justice system, despite the fact that it was the primary justice provider for some 80 percent of Afghans.[372] Security sector reform expert Mark Sedra described justice sector reform through 2005 as consisting primarily of "band-aid solutions meant to cover gaping holes in a decrepit system."[373] More than five years after the Taliban regime's collapse, the sector lacked even a basic framework for reform: The Rome Conference on the Rule of Law in 2007 urged the Afghan government and international community to "agree on the priorities for the justice sector reform" with a "comprehensive and credible [program] that links the Supreme Court, Ministry of Justice, and the Attorney General's Office."[374]

United States and Germany Focused on Police Hardware

Lacking a shared vision for Afghanistan's police, international donors ended up emphasizing the hardware of police-building—equipment, infrastructure, organizational restructuring—over less tangible goals.[375] Training became "by default a false panacea," in Tonita Murray's words, and police assistance increasingly resembled Cold War-era train and equip programs, which focused on making foreign police forces stronger, not more accountable.[376] Training, equipping, and stationing police officers in newly refurbished facilities did little to solve fundamental institutional defects; on the contrary, a singular concentration on technical capacity-building at times helped entrench corrupt and abusive structures.[377]

Several factors contributed to this emphasis on hardware or technical solutions to largely political problems. Improving the quality of a police force is not only a long-term endeavor, it is also difficult to measure, especially when there are no broadly accepted metrics for police development. It is much easier to build buildings, donate equipment, and lecture on human rights than it is, for example, "to devise policies, procedures, and disciplinary rules that ensure police observe human rights in action."[378] Political pressure and the need to justify financial and human resource expenditures, on the other hand, create incentives to show tangible, short-term results.[379]

From 2002 to 2005, ministerial reform efforts were "relatively ad hoc and piecemeal . . . mostly in the form of mentors for senior [Ministry of Interior] officials," notes Andrew Wilder.[380] Even after the U.S. program expanded its ministerial reform activities in 2006, these efforts still focused too narrowly on the police.[381] Many of these shortcomings stemmed from the international community's inability to recruit and deploy large numbers of active or retired police officers with experience in comprehensive institutional reform. Day-to-day policing expertise is not the same as

Afghan National Police train in search and apprehension techniques with Italian Carabineri advisors from NATO Training Mission - Afghanistan at the Central Training Center. (DOD photo by Chief Petty Officer Brian Brannon)

expertise in organizational change, human resource management, policy development, and monitoring and evaluation. In addition, advisors who lacked previous experience as trainers or advisors often used methods and materials that were familiar to them but unsuitable to the Afghan cultural, social, or political context.[382]

The international community's failure to ensure transparency and accountability in the Ministry of Interior and the national police also undercut police development efforts. During the initial civilian-led years, especially, the international community provided aid without conditions and did little to pressure the Afghan government to adopt such accountability measures as civilian oversight bodies, public complaints systems, or videotaped recordings of interrogations. Although some steps were taken between 2002 and 2005—including the 2005 Afghan police law, which defined the scope and limits of police powers—corrupt and abusive police officers and senior leaders were rarely held accountable. International advisors either lacked the expertise to adapt accountability mechanisms to the Afghan context, or lacked the willpower to challenge resistant Afghan power holders.[383]

Although corruption and a culture of impunity threatened to undermine hard-won gains, international advisors continued to neglect this component of police-building. In 2005, U.S. training centers offered only one course in professional standards or internal affairs, and graduated only 28 students. A joint State and DOD inspectors general report stated that few, if any, of these graduates were given assignments in internal affairs, and no subsequent courses were ever requested by the Ministry of Interior.[384] The Ministry of Interior's internal affairs department, instituted only in 2005, also had a shortage of qualified officers and resources.[385]

Meanwhile, in the field, the rampant misuse and theft of donated equipment had become so severe that one provincial reconstruction team "adopted a policy of not giving anything that could be moved."[386] U.S. training centers also stopped issuing uniforms and nonlethal equipment to ANP graduates after 2004 because, according to one assessment, "after graduation, many students sold their equipment before they reached their duty station."[387]

By late 2006, U.S. officials acknowledged the limitations of the approach taken toward police training so far. As the joint State and DOD interagency assessment put it, police assistance "has to include much more than training and equipping police 'soldiers.' It requires a transformation of the structure and culture of the police—and even that may not be enough, if the larger security situation and culture in Afghanistan do not also change and become more hospitable to a professionally competent and honest national police force."[388]

Police Funding Fell Short

Police sector funding was not prioritized by the United States or the broader international community until deteriorating security refocused international attention and funding toward the ANP in 2006. "Before the insurgency, there was very little serious interest in the police," recounted Ambassador Helmut Frick, the German special ambassador for police reform. "We periodically tried to brief [European Union] and NATO ambassadors but there was no interest. Now, since May [2006], there is a lot of interest."[389]

From 2002 to 2005, U.S. investment in the Afghan National Army was double that of the police, and this gap narrowed only after army and police reform were unified under a single military command in 2005.[390] From 2002 to the end of 2004, the ANP received approximately $500 million (about half from the United States), compared to some $1.3 billion for the Afghan National Army. In 2005, these numbers grew to $837.9 million and $1.73 billion, respectively, but retained the same massive discrepancy.[391]

Likewise, international contributions—the majority of which were channeled through the Law and Order Trust Fund for Afghanistan—continually fell short. In July 2003, for instance, LOTFA donors had committed only $44.4 million of the $117.8 million that the Afghan Ministry of Finance had identified as the minimum requirement.[392] Between 2002 and 2006, approximately $330 million (in U.S. and international funds) had been contributed, nearly all of which went to fund police salaries—only the first of several LOTFA priorities.[393] One reason for this lay in donors' preoccupation with counternarcotics. Donor resources and attention were often diverted from police reform in general to specific counternarcotics initiatives, which—at least in the eyes of donors—were more urgent.[394]

EARLY POLICE ASSISTANCE PROGRAMS WERE BUILT ON A FALSE BELIEF THAT AFGHANISTAN WAS A POST-CONFLICT ENVIRONMENT

In the end, the U.S.-led coalition based its state-building efforts in Afghanistan on the outcome of security sector reform—an approach, according to Mark Sedra, predicated on the dubious assumption that Afghanistan was an environment in which a base level of security and stability had been achieved.[395] That underlying *ideé fixe* goes far in explaining the lack of urgency given to police reform in the early civilian-led years.

In retrospect, it is clear that the Taliban's ouster in December 2001 marked only a brief pause in the overall levels of violence. By late 2002, Afghanistan was once again the world's top producer of heroin, warlords ruled mini-fiefdoms, and rival factions routinely clashed in bitter turf wars, killing scores of combatants and civilians alike. The interim Afghan government held little authority outside Kabul.[396]

In his March and July 2002 reports on Afghanistan, then-UN Secretary General Kofi Annan cautioned that, "an ongoing lack of security presents a serious threat to the Bonn process," and echoed the calls of prominent Afghans—including President Hamid Karzai and powerful regional figures such as General Rashid Dostum and Abdul Karim Khalili—for ISAF's expansion beyond Kabul.[397] "Without security today, the billions of dollars pledged for Afghanistan's reconstruction will be of little use tomorrow," he warned.[398] Despite requests from the UN, Karzai and even some regional warlords, international peacekeepers resisted expanding their presence outside of Kabul until October 2003.[399]

> *"Without security today, the billions of dollars pledged for Afghanistan's reconstruction will be of little use tomorrow."*
>
> —Former UN Secretary General Kofi Annan

All the while, this growing insecurity—in particular, the increased targeting of international aid workers—led UN relief agencies and NGOs to curtail reconstruction and relief operations in some of Afghanistan's most impoverished areas. The Government Accountability Office documented numerous security incidents throughout 2002 and 2003, including attacks on contractors and humanitarian aid workers, attempted assassinations of senior Afghan government officials, and bombings of UN compounds. "The increase in violence against aid organizations forced suspensions of assistance activities," the Government Accountability Office reported. "For example, attacks against deminers forced the UN to suspend all humanitarian demining activities in 10 provinces in May 2003," while the killings of several aid workers led to the curtailment of humanitarian assistance in various areas.[400]

U.S. Central Command (CENTCOM) reports reveal that the U.S. military was aware of the "generally deteriorating security situation" by late 2002—but stuck to the official view that Afghanistan was a post-conflict environment. In an October 2002 memorandum to then-Secretary of Defense Donald Rumsfeld, CENTCOM Commander General Tommy

Franks declared that al-Qaeda and Taliban remnants were positioning themselves for insurgency operations against U.S. and coalition forces. Franks' memorandum noted that security issues—or at least the perception of security issues—were affecting the work of NGO and humanitarian efforts in several areas, and that "ethnic clashes, crime, narcotics trafficking and anti-[Afghan Transitional Authority] and [anti-]coalition activities remain a concern."[401]

All of these the CENTCOM commander dismissed as limited threats, "misperceptions" or overreactions. "Episodes of criminal activity, absence of rule of law, and political instability are typical in a post-civil war environment, and Afghanistan is no different," his report said. Clashes between rival warlords were downplayed: "Despite sporadic ethnic clashes, there has been relative peace between ethnic groups and among factional leaders," while the perceived "fractious nature of various opposition groups" and their "lack of sufficient external support" diminished the threat of a successful Taliban-led insurgency. Hinting at interagency disagreement, General Franks also dismissed an assessment by the Central Intelligence Agency as "[overstating] the immediate risks to stability and security."[402]

AS THE CIVILIAN-LED ERA ENDED, THE ANP REMAINED CORRUPT AND UNDERDEVELOPED

By 2006, the Afghan National Police was a corrupt, underdeveloped force that lacked basic core policing capabilities. Basic training was short, and focused on coercive or tactical elements instead of core policing skills. Policing jobs had low status and salaries to match: In 2005, the average patrolman earned the equivalent of $25 per month, which did not cover the cost of living in most parts of Afghanistan. Even after pay and rank reforms increased the average salary to $70 per month—still not a livable wage in major urban areas—many police were not receiving their full pay on time or at all, due to the lack of an efficient banking infrastructure and corruption among senior officers and within the interior ministry.[403] An international observer in early 2007 compared many of the graduates from U.S. training centers to "barely qualified mall guards."[404]

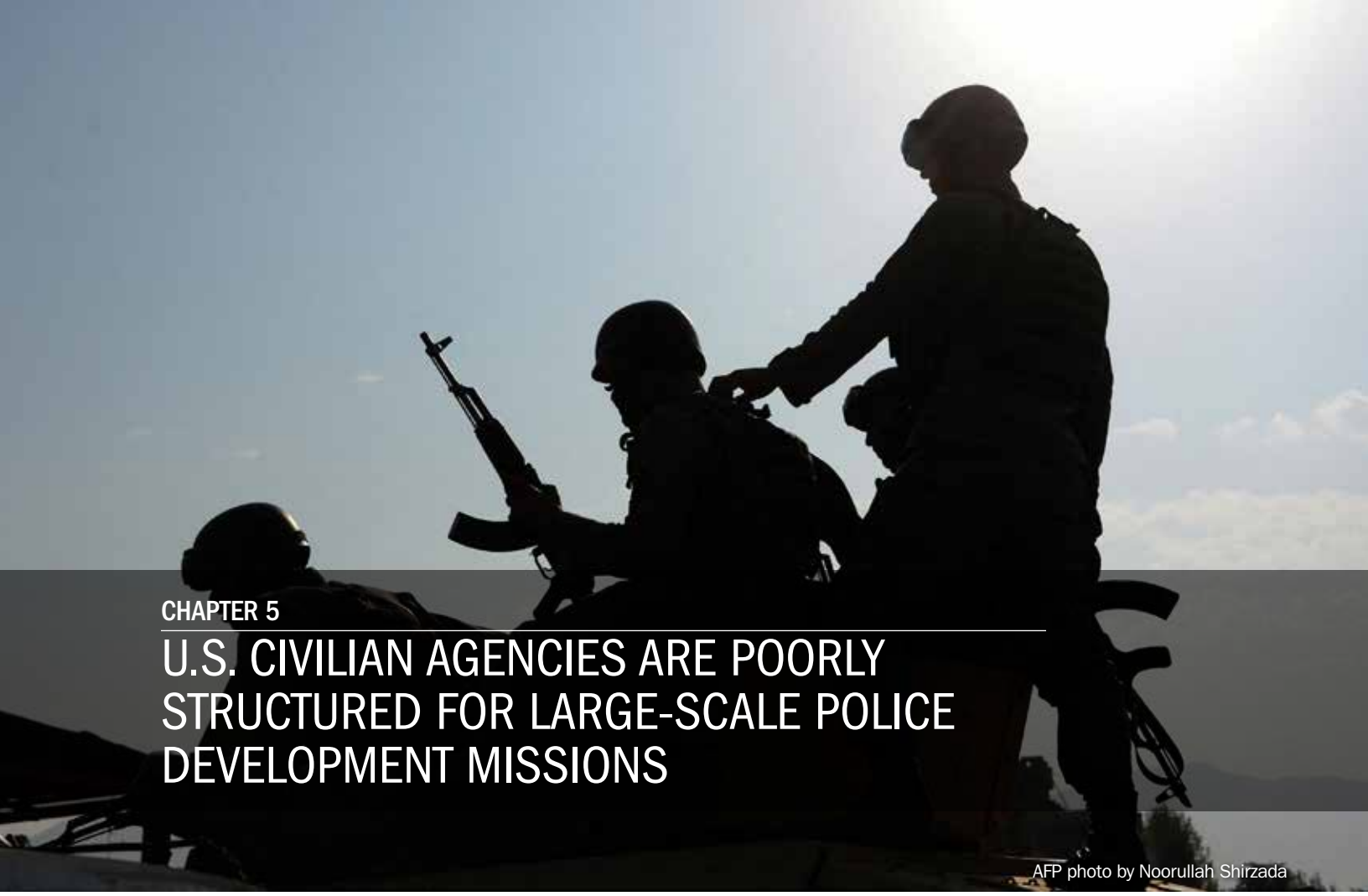
The profession's low status and the inherently dangerous nature of the job led to high attrition rates—estimated at 15 to 30 percent in 2006. Recruitment and retention were significant challenges, especially when private security companies, by contrast, paid up to $200 a month. Female ANP members were particularly difficult to recruit, given a combination of cultural factors and the poor reputation and martial character of the police force. At a more basic level, no one even knew how many police were actually on duty in Afghanistan.[405]

Corruption was even more corrosive at the higher echelons of the ANP and the Ministry of Interior. By 2006, the Ministry of Interior was well known as a "shop for selling jobs."[406] Lucrative police chief posts along major drug transit routes were auctioned for as much as $300,000, allowing commanders to recoup as much as $400,000 a month.[407] A November 2006 joint report by the World Bank and the UN Office on Drugs and Crime

asserted that the Ministry of Interior appointed chiefs of police "to both protect and promote criminal interests," and that a "complex pyramid of protection and patronage effectively [provides] state protection to criminal trafficking activities."[408] In 2007, the International Crisis Group reported that the Ministry of Interior, which was responsible for compliance with the disbandment of illegal armed groups program, "employs the largest number of government officials with links to militias of any ministry."[409]

By mid-2006, then-President Hamid Karzai, apparently frustrated with the slow pace of police reform, introduced the first of several so-called community policing initiatives, which would arm tribal fighters to defend their local communities. Entities such as the Afghanistan National Auxiliary Police and its successors, however, further undermined the minimal, fragile progress of police reform by giving militiamen with only 10 days of training (and no accountability structures in place) the same policing privileges as the official ANP. (see pp. 114–119)[410]

Overall, the story of the international community's police assistance efforts in Afghanistan is one of missed opportunities, poorly coordinated and underfunded programs, and a basic failure to act on the knowledge that a trained civilian police force would be an essential element of protecting the democratic institutions the United States was investing so much time and money in building. The bureaucratic dysfunction behind that failure—which continues to hamper police assistance efforts to this day—is the subject of the next chapter.



AFP photo by Noorullah Shirzada

CHAPTER 5

U.S. CIVILIAN AGENCIES ARE POORLY STRUCTURED FOR LARGE-SCALE POLICE DEVELOPMENT MISSIONS

Congressional actions have shaped the current U.S. approach to police assistance. From 1962 to 1974, the U.S. government had a department devoted solely to foreign nation-building, including police assistance. Starting in 1963, USAID's International Police Academy, housed within the agency's Office of Public Safety, provided more than $300 million in training to police forces in 52 countries. That program came to an abrupt end in 1974, when evidence emerged that U.S. training and equipment had supported South Vietnamese police units accused of human rights violations. In response, the Congress enacted Section 660 of the Foreign Assistance Act, prohibiting police training abroad.[411]

In short, Vietnam broke the U.S. police training assistance model. Today, despite the well-documented critical role of police forces in post-conflict countries and stabilization operations, the United States lacks an institutionalized capability—criminal justice expertise, a developmental perspective, and experience in foreign management—with the required capacities to support the development of police forces in high-threat environments.[412] Instead, the United States has tried to accomplish this goal via a piecemeal system of legal waivers to Section 660 and by parceling out responsibilities to various departments in different agencies, none of which has the staff or the money to be effective.[413]

Capability refers to the ability of an individual or organization to achieve a specific objective—for example, deploying trained experts in law enforcement.

Capacity denotes how much of a resource—police advisors, Army brigades, U.S. dollars—can be applied toward an objective.

The large number of agencies engaged in police assistance creates inefficiencies, conflicting priorities, and turf wars. As far back as 1992, GAO cited "a lot of disparate police training and some interagency competition, but without anyone in charge."[414] Nearly two decades later, in 2009, the Special Inspector General for Iraq Reconstruction concluded that the lack of interagency coordination, rooted in the absence of executive authority below the President, "lies at the heart of the failures in the Iraq reconstruction."[415] Proposed solutions to interagency gridlock and limited expeditionary capacity, such as the creation of a civilian response corps, have failed to make headway among U.S. policymakers (see callout box on p. 71).

This chapter describes the capabilities, capacities, and limitations of the U.S. civilian agencies that play a role in developing foreign police and criminal justice systems. It focuses on State's Bureau of International Narcotics and Law Enforcement Affairs, the authorized lead agency for police development, and Justice's International Criminal Investigative Training Assistance Program, which houses the bulk of police expertise within the federal government.[416]

ICITAP does not have enough funding to lead large-scale police assistance missions; it lacks an independent budget and receives no direct foreign assistance funds. Without dedicated congressional appropriations, it must rely on funding provided by other interagency partners, and then only when they choose to engage with ICITAP.[417]

State INL is staffed primarily with program managers responsible for overseeing contracts and monitoring specific INL-funded programs. Without the necessary in-house police development capabilities, INL relies on private contractors, such as DynCorp, which leads to oversight and accountability issues—or it can turn to DOJ's ICITAP office, which has law enforcement expertise but no independent funding.[418] Based on SIGAR meetings with State INL, it is unclear how or if they weigh the cost and benefits of State's implementation options.[419]

In high-threat environments, all three—State INL, DOJ ICITAP, and private contractors—depend on DOD for security. It is via this patchwork system that the United States has attempted to help reestablish functioning police systems in Afghanistan and other post-conflict environments.

State's Bureau of Conflict Stabilization Operations Was Unable to Address Staffing Issues or Deficiencies in Police Assistance

U.S. policymakers have taken steps to enhance U.S. civilian agencies' expeditionary capability and capacity. In July 2004, then-Secretary of State Colin Powell created the Office of the Coordinator for Reconstruction and Stability Operations, giving it responsibility for monitoring and planning for potential conflicts, developing a civilian surge capability, and improving interagency and international coordination.[420] DOD supported the office's creation as "an important step" for post-conflict stabilization missions, according to General Richard B. Myers, then chairman of the Joint Chiefs of Staff.[421] Even so, the Congress did not provide any funding until October 2008, via the 2009 National Defense Authorization Act. The creation of an expeditionary civilian reserve corps, according to a Congressional Research Service report, "expanded [State's] mission from that of an institution devotedly solely to diplomacy to one that also has a role in effecting change through 'on-the-ground' personnel and programs."[422]

Both the Bush and Obama administrations envisaged a three-tiered capacity to rapidly deploy police and other critical civilian elements. The first two tiers—the Active Response Component and Standby Response Component—would consist of federal personnel who could deploy within 24 hours and 30 days, respectively. The third tier, the Civilian Reserve Corps, would resemble the U.S. Army Reserve or the National Guard, and would be composed of contracted civilian specialists from state and local governments, as well as the private sector. The eventual plan was for the Civilian Reserve Corps to have a cadre of roughly 2,000 qualified specialists capable of deploying within 60 days.[423]

By 2010, however, there was a general perception that the Office of the Coordinator for Reconstruction and Stability was not fulfilling its mission, due to a lack of funding from the Congress, bureaucratic resistance from State's regional bureaus, the failure by higher-ups at State to give it enough staff, and State's "anti-operational" culture (detailed on pp. 74–76). In response, the Obama administration in 2010 announced the creation at State of a new Bureau of Conflict and Stabilization Operations, which would subsume the Office of the Coordinator for Reconstruction and Stability. In theory, the new office's elevated status within State would enhance its authority to lead interagency coordination.[424]

As SIGAR has previously noted in its 2018 lessons learned report on stabilization, these efforts to create a civilian surge capacity suffered problems almost from the onset. That report noted that "there was no appetite in Congress to fund the civilian reserve component, as it would require the same kind of legislative framework as the reserve component of the armed forces to ensure jobs would be available when personnel returned from active duty. For this and other reasons, Congress refused to create another reserve corps for civilians, and the reserve concept was postponed indefinitely."[425] State was also unable to secure enough people with the right skills to fill the standby and active components, which made the entire endeavor difficult to justify: By 2011, State "defunded the active component and adopted a bullpen model instead, where dozens of international affairs and development professionals would be available on call, but not paid unless deployed, and not necessarily willing to deploy if asked."[426]

IN THE UNITED STATES, LEGISLATIVE RESTRICTIONS AND NO UNIFIED APPROACH

Section 660 of the Foreign Assistance Act, which bans police training abroad, remains in effect today, but over the ensuing years the Congress has created exemptions and waivers to it in response to global events. One of these exemptions was the creation of the International Criminal Investigative Training Assistance Program at DOJ in 1986. Following the U.S. intervention in the Balkans, the Congress approved police assistance in countries emerging from internal conflict. Section 614 of the Foreign Assistance Act granted the president discretionary authority to waive the Section 660 provision if the president determined police assistance was in the interest of U.S. national security—a loophole so wide that it effectively handed over decisions about foreign police assistance programs to the executive branch.[427]

Under U.S. law, State is the lead agency responsible for foreign police development—but State is not staffed appropriately to meet mission requirements. That means it must heavily rely on contractors. INL, for instance, is not staffed with law enforcement experts, but with program managers who oversee and monitor contracts for specific INL-funded programs.[428] With its dual responsibility for developing law enforcement and counternarcotics forces, it often prioritizes the latter over the former.[429] State's Counterterrorism and Diplomatic Security bureaus also jointly manage the Antiterrorism Assistance Program, which has provided counterterrorism training to foreign law enforcement personnel around the world since its creation by the Congress in 1983.[430]

But the job of training foreign police forces on the fundamentals of community-based policing and law enforcement falls, at least in theory, to ICITAP—which must rely on budget requests and policy guidance from State and DOD.[431] In early 2001, then-Secretary of State Colin Powell attempted to gain control over the ICITAP office, since State was the lead agency for police assistance, yet lacked a cadre of experts. Then-Attorney General John Ashcroft rejected the request, and the ICITAP office remained with DOJ.[432]

Like State, ICITAP uses contractors to provide logistical support, but it does not outsource the management, design, implementation, or oversight of its missions. ICITAP is staffed with law enforcement professionals experienced in the design, delivery, and management of foreign police development programs and security sector contractors.[433]

Like State employees and contractors, ICITAP relies on protection from DOD (although ICITAP did operate in parts of Iraq without DOD protection).[434] In practice, then, DOD will often be asked to take a larger role in police assistance missions when the environment is unstable and freedom of movement is limited, even though it lacks the doctrine, authorities, or trained cadre of experts. Ideally, DOD should serve in a support role, with the management of police assistance and training as the responsibility of federal civilian law enforcement experts.

A long list of U.S. agencies with overlapping authorities have also been involved in developing judicial and corrections systems abroad. Justice sector assistance became a staple of U.S. development policy beginning in the 1980s, when the United States began assisting countries undergoing democratic transitions in Latin America and Central and Eastern Europe. In the 1990s, it did so in post-conflict countries such as Bosnia and Kosovo. USAID was the lead U.S. agency involved in justice sector development in the 1980s and 1990s, after which INL played a larger role. From the mid-1990s, Justice began implementing State and USAID programs, while DOD became an important player in Afghanistan and Iraq.[435]

THE UNITED STATES IS ILL-SUITED TO MANAGE NATIONAL POLICING INSTITUTIONS

Unlike some of its European counterparts, the United States has no national police force. No U.S. adviser has worked in an interior ministry-like structure responsible for managing such a force in the United States. That fact, combined with "the constitutional separation of powers between executive and judicial branches of government and the delegation of most judicial and law enforcement functions to state and local government," Bayley and Perito write, creates a "bureaucratic black hole" when it comes to oversight and implementation of international police assistance programs.[436]

At the national level, U.S. law enforcement is parcelled out to various agencies, including the Federal Bureau of Investigation, the Drug Enforcement Administration, the U.S. Marshals Service, and the Bureau of Alcohol, Tobacco, Firearms, and Explosives—none of which have the staff or the capability to build comprehensive justice systems in environments like Afghanistan.[437] By virtue of its very makeup as a union of states, the United States has no national doctrine on policing practices, experienced trainers for national police, or even a consensus on the type of police force it should be developing, argues former ambassador Ronald Neumann—nor, he believes, should it be training foreign paramilitary forces when it lacks a paramilitary-type force (such as the Italian Carabinieri) of its own.[438] The closest equivalent to a federal militarized police force is the U.S. Coast Guard, but its mandate and capabilities are exclusively focused on maritime security and law enforcement.[439]

At best, private contractors such as DynCorp International recruit some state and local law enforcement professionals who have held senior executive management positions. But most U.S. civilian police deployed to Afghanistan and Iraq have been junior patrol officers, deputy sheriffs, and others who served in small, rural police departments.[440] "Just as doctors do not build hospitals, or lawyers build courts . . . police alone do not—and cannot—build police institutions," Commander Grant Edwards, head of the police development program in Timor-Leste, told an Australian policing magazine in 2009. "The practicalities of police building involve an understanding of much more: of politics, of history, of culture, of identity, of past efforts, of resistance, and the emotions and actions they arouse."[441]

In Afghanistan, some U.S. advisors were younger and less experienced than the Afghans they were assigned to advise—a significant handicap in a society that places substantial weight on seniority, rank, and status. As Bayley and Perito write, "Senior ANP generals . . . had more than 30 years of experience and had attended training programs in Russia and Central European countries. It was difficult for them to accept advice from U.S. advisors who might have had, say, less than a decade of experience as a highway patrolman."[442]

"Just as doctors do not build hospitals, or lawyers build courts . . . police alone do not—and cannot—build police institutions."

—Commander Grant Edwards, head of the police development program in Timor-Leste

STATE ILL-EQUIPPED TO EXECUTE LARGE-SCALE POLICE ASSISTANCE MISSIONS

State has long been criticized for lacking the capability to translate strategic policy into concrete action. According to a study by Lewis Irwin, a retired U.S. Army colonel who is now an associate professor of political science and public policy at Duquesne University, "State's expertise in governance resides primarily at the strategic level, and the organization often falters when asked to participate in or shape U.S. governmental actions at the operational or tactical levels." This institutional culture, the study continues, is "clearly evident in products that are typically long on policy and broadly worded goals, but short on specific action plans and comprehensive metrics for measuring success." It was not until September 2009, for instance, that supplemental appropriations required State to develop better metrics to evaluate progress in Afghanistan, including "the performance and legitimacy of the Afghan government and its efforts to curb official corruption." Unable to shift easily from strategy to operations, State often holds unrealistic expectations about what can and cannot be done in a combat theater, as well as overly optimistic timelines for complex tasks. Its dominant cultural norms also favor communication skills over administrative and operational tasks. That might be expected in the field of diplomacy, but it has also gained the agency a reputation for inefficiency in administrative tasks.[443]

Leading stabilization and reconstruction operations requires a well-developed planning and operating capability—specifically, the ability to quickly identify concrete ways and means that various civilian and military agencies can help achieve specific policy goals. As might be expected, DOD is an action-oriented agency, and has the most developed planning and operating culture. But it applies its skillset much more effectively to military and security operations than to non-military components of counterinsurgency. The military's contingency planning is conducted by geographic combatant commands—COCOMs, as they are known in the military. COCOMs have no direct counterparts at State or other civilian agencies, which employ a more ad hoc approach. According to

a RAND study, "the typical process at State [when an emergency is identified] is for senior officials to bid for the position of crisis manager, and thus lead the U.S. civilian agency response. . . . Political calculations [thus] dictate who will be chosen to lead the response."[444] As one senior USAID official told SIGAR, "the military is pretty good at thinking about second- and third-order effects, but they were not the decision-makers in Afghanistan" during the crucial early years. By contrast, State does not conduct a similar level of analysis.[445]

State's insufficient planning was readily apparent in Afghanistan. In 2004, GAO criticized the absence of "a complete and integrated [U.S.] assistance strategy" for Afghanistan, arguing that most U.S. strategies published in 2002 and 2003 "lacked details on funding and other resources, measurable goals, time frames, as well as means to measure progress."[446] In 2005, GAO again reported that "neither State nor Germany have developed an overall plan specifying how or when construction tasks and equipment purchases will be completed, how much the buildup of the police will cost, and when the overall effort to reconstitute the police will be finished."[447]

State has also been criticized for an organizational culture of caution and resistance to change, rooted in the agency's desire for consensus.[448] This risk-averse culture leads to a pattern of defending the department's programs and actions instead of admitting failure when necessary—a portrait painted by more than one agency veteran. James Dobbins, who served as special envoy for Afghanistan in the early 2000s, described State's operations in Afghanistan as having a "bureaucratic inertia," while one U.S. military intelligence officer who participated in the Country Team's working meetings depicted "an atmosphere of bloated bureaucracy and convoluted funding and support arrangements."[449] Ronald Neumann, the Bush administration's ambassador from 2005 to 2007, has told SIGAR that it would require an entire cultural shift within State before any police training authorities should be transferred back from DOD.[450]

State's poor planning capacity is exacerbated by its limited personnel resources. Testifying before the Senate Foreign Relations Committee in February 2008, then-Secretary of State Condoleezza Rice noted, "We have roughly 6,500 professionals worldwide. I believe there are twice as many lawyers in the Defense Department as Foreign Service Officers."[451] Those 6,500 State employees working at the time of Rice's remarks were responsible for both emergency response functions and longer-term planning. In contrast, the Pentagon had some 23,000 people working on planning and strategy development alone.[452] In lieu of maintaining permanent in-house expertise, State uses contractors to "right-size" for missions.[453]

State cannot compare to DOD in terms of money, either. In 2007, the DOD budget exceeded $700 billion per year, compared to the combined State and USAID budgets of only $25 billion. DOD's bigger budget gives it greater freedom of action. For example, military commanders were permitted to use Commanders Emergency Response Program funds for projects costing as much as $100,000 in Afghanistan. That gave them

more spending latitude than the U.S. Ambassador in Kabul, who could only disburse a maximum of $50,000 at any one time—and then only in emergencies.[454]

For all of these reasons—unrealistic expectations and overly optimistic timelines for on-the-ground operations, a lack of institution-building capacity, a comparably low budget (which can, but rarely does, use Military Interdepartmental Purchase Requests), and restricted freedom of movement in high-threat environments—civilian coordination with the military is necessary for effective police (and other security sector) assistance missions.[455]

A Military Interdepartmental Purchase Request, or MIPR, is a mechanism used to transfer funds from one military department to another military or non-DOD agency for the purchase of goods or services.

STATE INL LACKS POLICE EXPERTISE, PERSONNEL

In terms of core capabilities, State INL assesses, funds, and manages foreign law enforcement assistance; it is not an operational agency that can implement its own programs. As a 2011 RAND study puts it, "INL's capabilities are essentially those of a funder and manager. It plans programs and budgets, engages implementers, and oversees program implementation," but actual operational capabilities reside with private contractors and smaller, specialized government agencies.[456] INL therefore "does not actually own or [even] directly supervise the police forces it deploys;" private contractors recruit mostly retired former police and military officers, which they train at their own sites, using their own curricula.[457] One of the leading experts on police in war, Robert Perito, put it bluntly: INL has no police expertise. Expertise resides in ICITAP and commercial contractors.[458]

According to the 2011 RAND study, INL's implementing agencies are selected on a case-by-case basis, depending on the type of specialized skills desired, the agency's prior in-country experience, and the size of the mission.[459] In November 2019, however, INL officials told SIGAR they were unaware of any policy or process for how State decides whether to choose a government agency or a commercial contractor as the lead implementing partner.[460]

INL's shortage of law enforcement experts has hindered its performance as the leading agency for international police assistance. In a 2005 inspection report, State's inspector general's office described INL as an "embattled" bureau struggling to meet the pressing demands of its new high-priority programs in Afghanistan and Iraq.[461] Before the United States embarked on its latest wars, INL managed a more modest portfolio largely focused on counternarcotics initiatives in Latin America.[462] In 1996, the bureau had 75 permanent staff managing programs totaling $115 million dollars. By 2004, its 125 permanent staff were now responsible for $2.2 billion dollars—an almost 19-fold increase.[463]

The State inspector general's report also noted that staffing shortages impaired INL's ability to manage its major programs. INL's management of police assistance to Afghanistan suffered particularly when Washington's attention and resources were directed to Iraq in 2003.[464] That year, the GAO reported that the U.S. embassy in Kabul

had only one full-time staffer assigned to manage the police program. From 2004 to 2005, a series of temporary-duty employees managed INL's programs. During this period, one official managed both the police and counternarcotics programs for more than six months, a workload that prevented her from properly overseeing and monitoring either program.[465] In contrast, DOD—not yet in charge of U.S. police assistance to Afghanistan—had already assigned up to 10 personnel to a law enforcement planning cell to prepare for a possible role in police development.[466] INL tried to mitigate its personnel shortfalls in January 2005 by creating a Narcotics Affairs Section in Kabul to oversee its police and counternarcotics program. Still, this expansion added only one direct hire and one personal services contractor.[467]

Temporary duty assignments and vacant posts within INL were common during these early years. During an interview with SIGAR officials, former ambassador Neumann empathized that there was a need for a civilian reserve at State. Unlike the military, State is a "fully deployed force," and therefore has no civilian reserve to draw from to address a national security crisis.[468] Funding issues and insufficient permanent staff positions contributed to INL's increasing reliance on contractors and ad hoc organizational adjustments. But these were merely stopgaps that further contributed to the loss of in-house capacity.[469] Meanwhile, its overworked staff have been unable to provide proper oversight of its contractors. And there are legal constraints on how much they can do so: Federal regulations limit State's ability to closely supervise the selection, training, and performance of contractors—a problem that has been noted across the government for years.[470]

INL is also partly to blame for its own misfortunes, according to the State inspector general's report: "Bureau leadership had been perceived as preoccupied with defending its turf, too ready to embroil itself in sterile interagency strife, and as ineffective in presenting its positions in interagency forums." As a result of its strained relationships with other State offices and U.S. agencies, INL "increasingly found itself isolated and marginalized," and often "excluded from interagency discussions on its own issues and programs." INL's relationship with the Bureau of Western Hemisphere Affairs, in contrast, remained close and constructive, likely contributing to its failure to redirect its priorities from Latin America to Afghanistan and Iraq.[471]

State's Bureau of Diplomatic Security Develops Foreign Law Enforcement's Counterterrorism Capabilities through its Antiterrorism Assistance Program

Created by the Congress in 1983 following the terrorist bombings of U.S. diplomatic and military facilities in Lebanon, State's Antiterrorism Assistance Program (ATA) is the U.S. government's primary mechanism for helping partner countries enhance their counterterrorism capabilities. Another example of a Section 660 exception, the ATA program has trained more than 150,000 law enforcement personnel from more than 150 countries since 1983. The program provides equipment, training in areas such as bomb detection and disposal, cyberterrorism, crisis response, and mentorship through embedded advisors. The program receives funding from multiple sources, including two

programs at State—the Counterterrorism Partnership Fund and the Nonproliferation, Antiterrorism, Demining & Related Programs—as well as DOD appropriations.[472]

The ATA program is jointly managed by State's Bureau of Diplomatic Security's Office of Antiterrorism Assistance and the Bureau of Counterterrorism and Countering Violent Extremism. The Counterterrorism Bureau provides policy and strategic guidance, program funding, and oversight for ATA activities, including the selection of participating countries. The bureau also coordinates with the Bureau of Democracy, Human Rights, and Labor to ensure that the countries and individuals selected to receive assistance have not committed human rights violations, as required by the Leahy Law.[473]

Diplomatic Security's Antiterrorism Assistance Office is the primary implementer of ATA activities. The office develops the training curricula, selects trainers, and implements the training. Like other State bureaus, Diplomatic Security contracts out program management personnel, instructors, and maintenance support to overseas training sites. The two bureaus jointly develop annual country implementation plans, which must be approved by the U.S. embassy in the partner country.[474]

Diplomatic Security was on the ground in Afghanistan starting in 2002, first staffing the protective detail for then-President Karzai and developing the presidential protection force, and later providing training to Afghanistan's specialized counterterrorism units.[475] In 2018, for example, ATA staff and ATA-certified Afghan instructors trained more than 1,100 Special Police Unit personnel in behavioral observations, suicide bomber prevention, and facility protection.[476]

United States Agency for International Development

USAID promotes rule of law and justice sector development abroad, but, like State, lacks in-house justice and law enforcement expertise. Although USAID played a leading role in foreign police assistance through its Office of Public Safety in the 1960s, this expertise degenerated following the office's abolition in 1974, and the agency has been reluctant to reengage in foreign police training as one of its core missions. According to Bayley and Perito, USAID restricts its police training to cases where "responsiveness to civil authority and relations with civil society are involved."[477]

Yet USAID has been active in justice sector development since the 1980s, when it led U.S. justice sector reform in Latin America. In Afghanistan and elsewhere, USAID programs support the training and advising of justice personnel, the drafting of new laws, legal education, and other technical assistance to criminal justice systems.[478]

Like INL, USAID is a funder and manager only, and does not implement its own programs. Instead, it funds contractors, grantees, other U.S. agencies (such as ICITAP), and international organizations to execute its programs. As one RAND study notes, "The scale and nature of [its] capabilities can be expanded to the extent permitted by USAID's program budget and its staffing levels for contract, grant and agreement management." USAID's expertise lies in assessments, program planning and budgeting, contract management, and program evaluation.[479]

DOJ HOUSES CRIMINAL JUSTICE EXPERTISE, BUT HAS LIMITED EXPEDITIONARY CAPACITY

Developing other countries' criminal justice institutions is not a core mission of the Department of Justice, which has a primarily domestic focus.[480] Yet most, if not all, DOJ agencies routinely deploy abroad with foreign law enforcement organizations that can act as effective partners against terrorism and transnational crime. The unprecedented scale of the Afghanistan and Iraq missions led to the involvement of various DOJ components, including ICITAP, the Office of Overseas Prosecutorial Development, Assistance, and Training, the FBI, the Drug Enforcement Administration, the U.S. Marshals Service, and the Bureau of Alcohol, Tobacco, Firearms and Explosives—as well as other U.S. executive agencies housed in the Department of Homeland Security. But even though DOJ houses the bulk of the U.S. government's police expertise, it lacks the congressional authority and internal capacity to lead police assistance abroad.

ICITAP Houses Comprehensive Police Training Capability

The mission and core capability of the ICITAP program is to develop foreign police and law enforcement institutions in order to reduce terrorism and transnational crime threats before they reach U.S. borders. Established in 1986 to provide training in criminal investigations to police forces in Latin America, ICITAP has since evolved into a "full-service criminal justice development agency" and has provided assistance to over 100 countries.[481] ICITAP is involved in developing foreign corrections systems, while its sister agency, the Office of Overseas Prosecutorial Development, Assistance, and Training, is responsible for the last pillar of criminal justice: the judiciary (see callout box on p. 81).[482]

Unlike the FBI or DEA, ICITAP does not participate in law enforcement operations.[483] It focuses exclusively on institution building abroad with a two-track approach: immediately standing up basic law enforcement capacity by reestablishing basic policing and corrections structures and providing basic training—and in parallel, initiating long-term institutional development programs that address recruitment and vetting, academy and instructor development, financial and human resource management, leadership training, internal affairs, and other areas that ensure long-term sustainability.[484]

ICITAP expertise includes technical assistance and training in basic and specialized law enforcement services, such as criminal investigations, forensics, and border security; police academy and curriculum development; community policing assistance; corrections assistance; and anticorruption. Beyond classroom training and seminars, ICITAP trainers and advisors provide needs assessments and equipment donations, rebuild police infrastructure, coordinate donor assistance, and provide on-the-job training and mentoring.[485] ICITAP also routinely partners with other DOJ agencies to design and execute its programs.[486]

In addition to setting up, training, and equipping police forces, ICITAP emphasizes institutional reform, including helping to draft law enforcement legislation and establishing professional standards for human resource management. In Iraq, for

example, ICITAP set up, equipped, and trained investigative units charged with preventing and investigating government corruption. In Panama, ICITAP set up an office responsible for internal investigations related to police misconduct or abuse. In Kosovo, ICITAP created a "Policing Across Ethnic Boundaries" program to promote an ethnically representative police force—an effort that found less success in Afghanistan.[487]

ICITAP programs are funded by State, DOD, and USAID, although the bulk of its funds come from State INL. For example, ICITAP receives funding for equipment provision through interagency agreements, but its advisors ensure that host nation law enforcement personnel are trained to use and maintain all donated equipment. Without its own budget or authorities, ICITAP has very little control over the duration or scope of its own programs. In Iraq, for example, ICITAP conducted a needs assessment for Iraqi police forces two months after the U.S. invasion, recommending the deployment of 6,600 international police advisors and 2,500 constabulary forces. This recommendation was not implemented, and significant numbers of police advisors (still far fewer than 6,600) were not deployed until 2006.[488]

Beyond its primary focus on police development, ICITAP also plays a role in building foreign corrections systems. In Iraq, ICITAP used INL funds to help reestablish the country's national corrections system. ICITAP established training academies throughout the country and deployed some 80 advisors to train and mentor Iraqi prison staff and Ministry of Justice officials.[489]

In addition to its extensive expertise, ICITAP has a rapid deployment capability: ICITAP was the first civilian law enforcement development organization on the ground in Iraq. The agency led an international advance team into Afghanistan in 2002, and ICITAP advisors arrived in Haiti in 1994 only two days after U.S. troops.[490] Nevertheless, ICITAP is a small agency with limited expeditionary capacity—precisely because developing foreign justice institutions is not one of DOJ's primary missions. Like INL, ICITAP relies on outside contractors for large-scale missions. But unlike INL, ICITAP's federal employees have responsibility for the development, management, and supervision of its programs.[491]

Office of Overseas Prosecutorial Development, Assistance, and Training

Also housed in DOJ's criminal division, ICITAP's sister agency, the Office of Overseas Prosecutorial Development, Assistance, and Training, is responsible for developing foreign justice sector institutions. It deploys experienced federal and state prosecutors for at least a year, during which they conduct assessments, provide technical assistance and advice on organizational and management issues, revise inadequate laws, and mentor foreign prosecutors, investigators, and judges. Short-term advisors also conduct one-week to six-month assistance programs. In Iraq, for instance, the office's advisors developed training courses for Iraqi justice personnel on human rights, investigative techniques, and the prosecution of insurgency- and terrorism-related cases.[492]

Like ICITAP, the Office of Overseas Prosecutorial Development, Assistance, and Training houses extensive expertise but lacks an independent budget and the requisite capacity to develop foreign judicial institutions on a large scale. INL provides the bulk of the agency's funding as well as its policy guidance, which limits how long or comprehensive its programs may be. In fiscal year 2009, for instance, the office had only 56 full-time legal advisors stationed in 33 countries, and a total budget of $75.9 million.[493]

Other DOJ Components Get Involved

Other DOJ components, such as the Drug Enforcement Administration, the U.S. Marshals Service, and the Bureau of Alcohol, Tobacco, Firearms and Explosives have a primarily domestic focus, but routinely engage in capacity-building abroad. All of these agencies, however, have a narrow specialized focus and limited international capacity to develop comprehensive criminal justice systems abroad.

DEA has an International Training Section that provides counternarcotics training to U.S. partner countries, to include assisting foreign units with narcotics-related investigations and eradication and interdiction operations. DEA's judicial wire intercept program also trains foreign police to use wiretapping in drug-related investigations. However, DEA expertise is limited to counternarcotics, and its limited capacity makes it difficult to simultaneously conduct law enforcement operations and mentor foreign units, even in a single country.[494] (See Chapter 9 for a comprehensive analysis of DEA's role in Afghanistan.)

The U.S. Marshals Service, specifically its Judicial Security Division, is the U.S. government expert in protecting courts, judiciary personnel, witnesses, and dignitaries. State and DOJ rely on the U.S. Marshals Service for judicial security expertise at both the policy and implementation levels. Like other DOJ components, the Marshals Service lacks the capacity to fully support international missions, and relies on State or DOJ to fund and sponsor any international request for judicial security assistance. It also lacks an official overseas mandate and therefore does not have the dedicated personnel and resources to fully support the high number of requests from State and DOJ. The

U.S. Marshals Service at one point had only one full-time liaison to coordinate all international requests, which recently numbered over a dozen.[495]

Although the Judicial Security Division is the lead for judicial security missions, another division of the Marshals Service—the Special Operations Group—deploys abroad to train foreign units in emergency response, crowd control, and responding to civil disorders. Special Operations Group personnel also protect foreign judges and judiciary facilities until local law enforcement develop the necessary capability. The Special Operations Group has the operational structure to deploy into potentially hostile areas, and has deployed to both Iraq and Afghanistan. But it, too, depends on State and, to a lesser extent, USAID and DOD to fund its foreign activities. With a total of 80 to 100 deployable marshals, the scope of its international activities is limited. (At the height of U.S. Marshals Service operations in Iraq, only 16 marshals were in country).[496]

According to U. S. Marshals Service officials, the Special Operations Group also lacks the dedicated expertise and skillsets to handle in-depth judicial security training, policy, or capacity-building needs. Officials recommend that the Judicial Security Division's arm that oversees judicial security assistance requests partner with the Special Operations Group when deploying to higher risk areas to better support judicial security efforts.[497]

Lastly, the Bureau of Alcohol, Tobacco, Firearms and Explosives trains foreign law enforcement officers in explosives and firearms, which includes explosives investigations and countering IEDs. Like other DOJ entities, the bureau has very little capacity and no autonomous funding for international missions. While abroad, bureau agents work at the direction of State—or DOD, in the case of a military-led mission—and often support other implementing agencies, such as ICITAP.[498]

Department of Homeland Security

Several Department of Homeland Security (DHS) components participate in foreign law enforcement development under State or DOD policy guidance—notably, U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection, the U.S. Coast Guard, and the Federal Law Enforcement Training Centers (FLETC). DHS capacity-building programs target homeland security-related security sector assistance, which includes counterterrorism; aviation, border and maritime security; cybersecurity; and law enforcement and criminal investigations against terrorist and transnational criminal organizations.[499]

DHS Federal Law Enforcement Training Centers

FLETC is an interagency law enforcement training organization that provides basic and advanced training to more than 95 U.S. partner agencies, such as the U.S. Marshals Service and the U.S. Secret Service. As the largest civilian law enforcement academy in the United States, FLETC trains the majority of U.S. federal officers. FLETC also provides training to state, local, territorial, and international law enforcement partners, delivered at U.S.-based training sites, through bilateral exchanges, or at International Law Enforcement Academies (ILEA)—five regional training academies funded and

An Afghanistan National Police officer helps a U.S. soldier out of a stream during a patrol of Balik in Nuristan Province. (U.S. Army photo by Staff Sgt. Michael Bracken)

administered by State INL and staffed by instructors from U.S. government law enforcement agencies.[500]

In partnership with State and federal law enforcement agencies, FLETC trains foreign law enforcement officers and assists partner nations in developing law enforcement training institutions.[501] In 2013, for instance, FLETC partnered with the U. S. Immigration and Customs Enforcement Academy and its Homeland Security Investigations office in Kabul to deliver a tailored curriculum for the newly created Transnational Criminal Investigative Unit within the Afghan Ministry of Interior (see pp. 218–221).[502]

Two new international capacity-building initiatives—the Capabilities, Analysis, and Assessment Team (CAAT) program and the Law Enforcement Academy Development (LEAD) program—will further expand FLETC's international footprint. Working through U.S. Embassy partners and other stakeholders, FLETC designed CAAT to provide "a whole-of-government approach to security assessments." The program aims to assess the law enforcement training and capacity needs in a particular country or region, and to develop a process for ongoing assessing, monitoring, and evaluation of those capabilities. LEAD—the product of a strategic partnership with State INL—is a capacity-building program that aims to improve basic academy instructional skills and methodologies so that foreign partners can "self-generate" improvements in their law enforcement cadre.[503]

FLETC-ICITAP Memorandum of Understanding

In its international capacity-building role, FLETC's mission overlaps with that of ICITAP—in part, because much of existing security sector assistance legislation precedes the creation of DHS, which was established only in the aftermath of 9/11.[504]

DHS and DOJ's Criminal Division signed a memorandum of understanding in an effort to institutionalize a cooperative partnership in international security sector assistance. "Working together, [FLETC and ICITAP] are uniquely qualified to lead capacity building of foreign law enforcement counterparts," the memorandum says.[505] It supported greater unity of effort—allowing, for instance, FLETC to leverage ICITAP attachés in 62 countries to support FLETC's initiatives like CAAT and LEAD.[506] Under the terms of the memorandum, DOJ's criminal division would assume project management responsibilities, such as the design, delivery, and administration of DHS capacity-building programs, at DHS's request.[507]

Nonetheless, the memorandum of understanding was an ad hoc mechanism that only encouraged coordination.[508] Unlike congressional legislation consolidating or clarifying duplicative authorities, the memorandum did not mandate cooperation of the kind that develops a professional rapport between the agencies. According to DHS officials, "Legislation is needed to improve DHS ability to support foreign police capacity building, including through consolidation or expansion of existing authorities."[509]

A MULTITUDE OF U.S. GOVERNMENT CAPABILITIES, BUT TOO LITTLE INTERAGENCY INTEGRATION

As the long list of agencies and acronyms above illustrate, a number of U.S. civilian agencies have considerable specialized capabilities—but without proper integration, they often work at cross-purposes. According to a police assistance expert Karen Finkenbinder, "Interagency coordination has to be interagency limitations too," because not every organization that wants to play a role should be allowed to do so. (In Haiti, for example, the New York Police Department worked at cross-purposes with the UN, and hampered the UN's police development efforts.)[510] In Afghanistan, civilian-led police training efforts worked with agonizing slowness, if at all. Eventually, as the next chapter recounts, the U.S. military stepped in.

CIVILIAN-LED MISSIONS IN HIGH-THREAT ENVIRONMENTS: A HOST OF RISKS

Embassy-led missions face significant challenges when operating in a high-threat environment without robust military support. Militaries provide critical support functions, including surveillance, intelligence, convoy security, explosive ordnance disposal, personnel and equipment recovery, communications support, rapid response, and medical evacuation. Without this military backbone, civilian agencies must augment its security posture with paid contractors to provide basic security, transportation, and life support services.[511]

The U.S. government's experience in Iraq is one example. A Senate Foreign Relations Committee report on the Iraq transition, for example, warned that the planned consulates in Basra and Erbil would require roughly 1,300 security and life support staff to sustain 120 personnel, a "tooth to tail" ratio of almost 11 support staff for every diplomatic branch employee. The branch offices in Kirkuk and Mosul would require more than 600 staff to support 30 personnel—a ratio of 20 to 1.[512]

Large "tooth-to-tail" ratios mean that security and life support costs (the "tooth") consume the majority of program funding. According to an October 2011 report by the Special Inspector General for Iraq Reconstruction (SIGIR), State INL estimated that only 12 percent of funds allocated to the police development program in fiscal year 2012 would be used to hire, train, and deploy police advisors. The other 88 percent would be used for security and life support, with the annual cost per advisor averaging as much as $6 million.[513] In a July 2012 audit, SIGIR reported that, in fact, INL obligated 94 percent of those funds for security and life and mission support costs.[514]

Civilian agencies lack the capacity to manage the security needs of large-scale programs, as demonstrated by State after the departure of U.S. military forces from Iraq in December 2011. INL's initial plan was to have 350 police advisors traveling to 50 sites across Iraq, but the program was hastily scaled back by 90 percent because of poor planning and unsustainable costs. Unable to afford the costs of transporting U.S. personnel and contractors between the embassy compound and the new Baghdad Police College Annex, State decided to turn over the $108 million complex to the Iraqis within its first year. INL had planned for the Baghdad Police College Annex to be the police program's primary training and advisor housing site; in a 2012 interview with the *Cable*, Stuart Bowen, the Special Inspector General for Iraq Reconstruction, remarked that the Iraqis "may use the fields there for sports."[515]

Expensive as they are, U.S. government personnel and contractors must operate under stricter security standards than the U.S. military, which restricts their freedom of movement and their on-the-ground capacity to implement programs. In July 2012, SIGIR reported that the embassy had restricted police training in Baghdad to the high-security areas of Baghdad International Airport, the U.S.-secured Baghdad Police College Annex, and the International Zone. Between January and March 2012, moreover, police advisors averaged one engagement

at the Ministry of Interior per week, and visits to the Baghdad Police College were restricted to mission-critical meetings.[516] In 2012, State's inspector general's office also reported that private security contractors in Baghdad faced serious impediments: "Iraqi Security Forces are routinely delaying and detaining private security forces at checkpoints throughout the region, and the government of Iraq is restricting airspace for smaller helicopters, limiting travel within the country and jeopardizing potential evacuation measures necessary in the event of a medical emergency or large-scale incident."[517] Restricted freedom of movement also undermined U.S. government oversight. According to the deputy inspector general for USAID, between November 2011 and May 2012, three of the seven movements requested by the inspector general's office were denied due to insufficient security.[518]

If insecurity exceeds a certain threshold, civilian agencies may suspend programs and operations or relocate to neighboring countries. After security deteriorated in Syria, Libya, Yemen, and Venezuela, U.S. embassies chose to operate remote missions. The closure of the U.S. embassy in Damascus in February 2012, for example, led U.S. agencies to coordinate stabilization assistance from Turkey and Jordan. The U.S. embassy in Tripoli similarly relocated to a temporary external office in Tunisia in July 2015.[519]

The lack of an in-country team and embassy makes it harder to implement, coordinate, and oversee programs in a high-threat security environment. State and USAID officials operating out of the Libya External Office in Tunisia, for example, were generally unable to travel to Libya to monitor their foreign assistance programs.[520] In northwest Syria, State's Bureau of Near Eastern Affairs had to suspend programs that could not be adequately monitored due to the high risk of inadvertently funding a U.S.-designated terrorist organization.[521]

Freedom of movement in high-threat, difficult terrain environments often requires air transportation, quick reaction force movement, search and rescue capabilities, medical and casualty evacuation services, route reconnaissance, and convoy escort.[522] At times, the U.S. military provides air transportation and security to chief of mission personnel as part of its overall logistical support to a military mission. In Afghanistan, for instance, air assets were "the object of competing demands from the different agencies in charge of police training and mentoring."[523] Without military aircraft, civilian agencies must operate their own air operations, which may require developing an independent logistics operation for maintenance and refueling.[524]

At other times, civilian agencies use commercial flights to shuttle their diplomatic personnel. In Iraq, State rejected this option due to "security, logistical, and operational control concerns." Instead, State decided to expand its own air operations and INL's Office of Aviation managed the contract needed to support the department's Iraq air requirements.[525] Its flights between Amman and Baghdad cost $2,400, roughly three times the cost of a commercial fare. Internally, fixed-wing flights from Baghdad to and from the consulates in Erbil and Basra cost $1,000 and $1,400, respectively.[526]

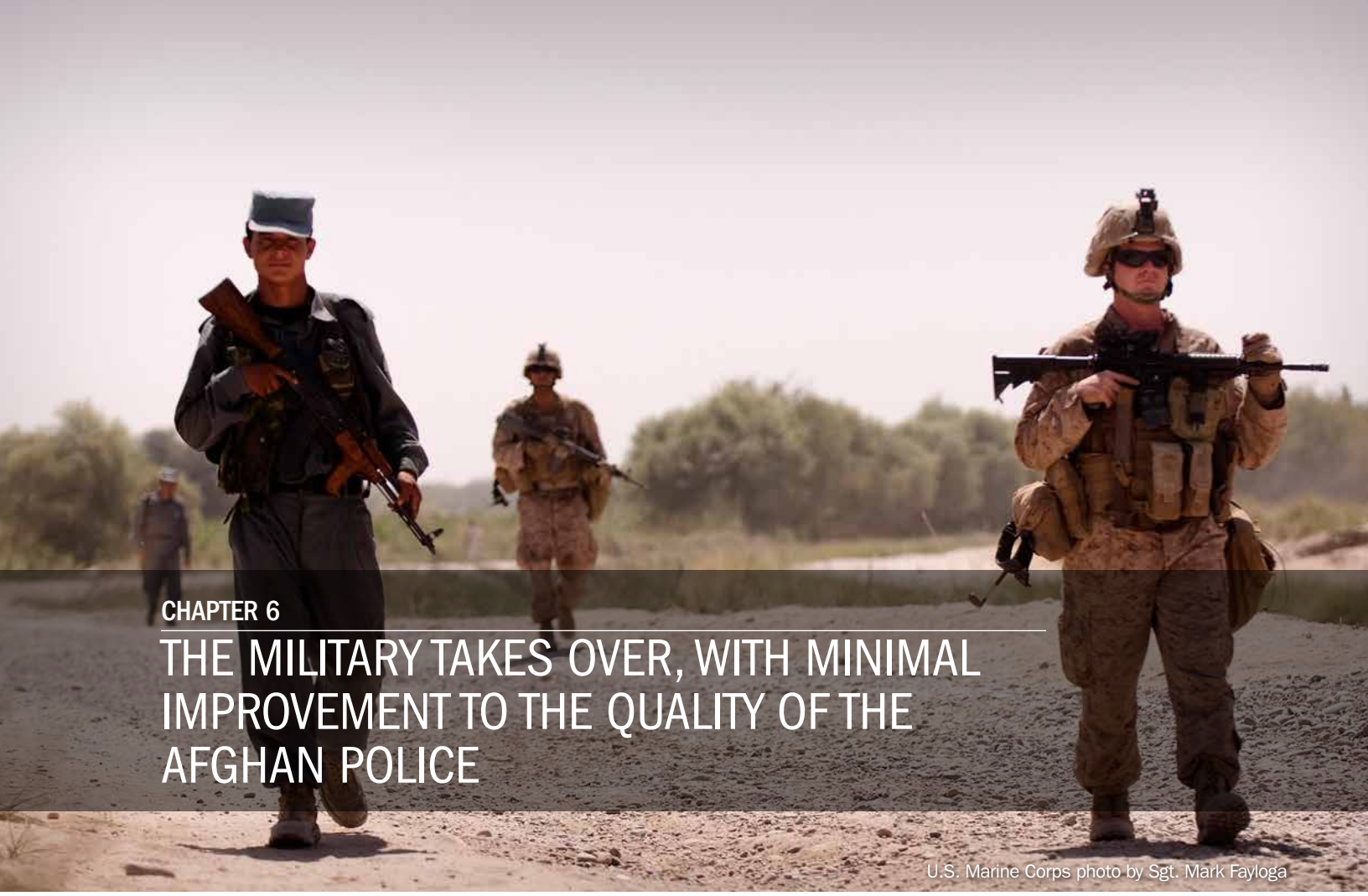
State's efforts to expand its air operations in Iraq faced logistics and oversight challenges as well. State formally requested 24 UH-60 Blackhawk helicopters from DOD, which were not only faster and carried more passengers than INL's available aircraft, but were already

in theater. DOD declined the request, citing pressing needs for air assets in Afghanistan and elsewhere.[527]

Even if the helicopters had been available, a variety of bureaucratic hurdles make it easier, in practice, for DOD to transfer military equipment to another country than to State. Such interoperability challenges between civilian and military organizations, arising from inadequate legal authorities and differing security and operating standards, routinely affect interagency equipment transfers, information-sharing, and a host of other interagency operations.[528] State's stabilization mission in Syria, for example, was hamstrung by DOD legal authorities that prevented the assignment of State stabilization officers to geographic combatant commands for security purposes. Without an embassy platform from which to stand up its field office in Libya, State had to "negotiate security and logistics arrangements through an exchange of memoranda." The process took 10 months, delayed by different security standards between State's Bureau of Diplomatic Security Standards and DOD, the initial incompatibility between State and DOD communications equipment, medical clearances that were not mutually recognized, and DOD procedures that required negotiating and establishing a support position in Kuwait to facilitate supply movements. The inspector general's office at State warned in 2018 that without a permanent interagency mechanism to ease interagency personnel assignments—via legislative changes or a global interagency agreement with DOD—State "remained at risk of delays in establishing expeditionary platforms in high-threat environments."[529]

Still another obstacle in civilian-led missions is that civilian agencies generally do not have the capacity to monitor and evaluate the level of contract activity involved with large-scale stabilization and reconstruction operations, according to a 2011 RAND study.[530] Despite having two years to plan for the October 2011 transition in Iraq, State ultimately requested that DOD extend its equipment loans and contracts while State built up its own capacity. In November 2011, then-Secretary of Defense Leon Panetta approved State's request to have DOD personnel support critical capabilities under Chief of Mission authority, including security, base life support, vehicle and equipment maintenance, food and fuel distribution, and contract oversight. State would continue to rely on U.S. Army Logistics Civil Augmentation Program support, as well as services from the Defense Logistics Agency and Army Sustainment Command through 2013. State would also continue to use two DOD information technology systems for its personnel management, and requested contract oversight support from the Defense Contract Management Agency and Defense Contract Audit Agency through 2014.[531]

The withdrawal of military forces from Afghanistan seemed certain to present State with many of the same problems that it would have faced in Iraq had the United States kept its embassy open there. A feature of any future U.S. embassy may include U.S. support to Afghan police, criminal justice, and rule of law. Based on this probability, it would be prudent to understand the capabilities and restrictions associated with a civilian-led assistance mission focused on these issues.



U.S. Marine Corps photo by Sgt. Mark Fayloga

CHAPTER 6

THE MILITARY TAKES OVER, WITH MINIMAL IMPROVEMENT TO THE QUALITY OF THE AFGHAN POLICE

In February 2005, U.S Secretary of Defense Donald Rumsfeld wrote a memo to National Security Advisor Condoleeza Rice. "Please take a look at the attached . . . Afghanistan Security Update," Rumsfeld wrote. "This is the Afghan National Police situation. It is a serious problem." The attachment, titled "ANP Horror Stories," described a civilian police force in which "current basic training . . . is insufficient to produce quality police officer[s]." There was no formal field mentor program, the attachment noted, the force had only 15 percent of the communications equipment and weapons it needed, and it lacked such basics as cold weather gear, boots, and sleeping bags. It was estimated that the ANP needed 3.4 million items of equipment.[532]

Rumsfeld's concern had grown increasingly urgent over the last year. With the Taliban resurgent, any hope of holding territory taken from the enemy rested largely on the presence of a trained corps of civilian police that could support the rule of law and provide security to residents after the fighting was over. Rumsfeld was increasingly frustrated by the overall lack of progress in the civilian police training program run by State. "It is costing the U.S. taxpayers a fortune as long as the [U.S. government], instead of the Afghans, continues to provide for Afghan security," Rumsfeld wrote a few weeks later to Stephen J. Hadley, then the assistant to the President for national security affairs. "We need a way forward."[533]

In April 2005, DOD finally assumed the lead for police assistance through an interagency agreement, the first of a series of agreements between State and DOD. Going forward, DOD, not State, would handle civilian police training in Afghanistan—despite the fact that the U.S. military had no doctrine on how to reconstruct a foreign civilian police force.[534]

This chapter details the results of that important policy decision. In some respects, DOD was best positioned for the task: It had the manpower and the force protection to finally implement a program of advising and mentoring police units in the field, and it quickly took many of the necessary organizational steps to assume that role. But that promising start almost immediately ran into fundamental problems. DOD lacked in-house expertise on civilian police training, and often deployed soldiers who lacked any knowledge in community policing, law enforcement, or rule of law. Most training teams deployed to support the Afghan police were understaffed; many advisors were unaware that they would be even training police prior to their deployment. DOD's takeover of a contract State had with DynCorp to provide civilian police assistance experts encountered legal problems and took several years to take effect—and, like State, DOD was to discover that not even private contractors were able to provide enough people with the required expertise to fill mission requirements.

In 2009, NATO formally joined the police assistance mission with the establishment of NATO Training Mission – Afghanistan (NTM-A).[535] NATO's involvement helped synchronize and improve coordination among the international military services. But its police training effort, combined with that of the United States and the long-running German program, created organizational problems and conflicting approaches. An International Police Coordination Board (IPCB) was created to coordinate police training efforts, but lacked any power to enforce its recommendations. Fifteen years after DOD's takeover of the civilian police training mission, civilian law enforcement in Afghanistan was still plagued by widespread corruption, inadequate training, and a militarized approach. Unable to perform its basic policing tasks, the police lost the public's trust in many parts of the country.

DOD TAKEOVER CAME AFTER A YEAR OF LOBBYING BY RUMSFELD

One year before Rumsfeld sent his "ANP Horror Stories" memo to Condoleezza Rice, he had already concluded that DOD should wrest control of the police training mission from State. In an April 2004 memo to General Richard Myers, then chairman of the Joint Chiefs of Staff, Deputy Secretary of Defense Paul Wolfowitz, and Under Secretary of Defense Douglas Feith, Rumsfeld wrote. "I think we ought to propose that [U.S. Central Command] take over all Afghan security and be responsible for seeing that the Germans get the police done and all of that other stuff," Rumsfeld wrote. "It just isn't happening fast enough there."[536]

In June 2004, Rumsfeld received an internal memo outlining the current state of police assistance efforts in Afghanistan and Iraq. The memo noted that although State was

slow to begin training police forces in Afghanistan, some positive steps had been taken, and that DOD was already providing assistance in the form of equipment and infrastructure support. But it concluded that State was facing significant challenges with supervising deployed police forces, providing adequate equipment and infrastructure, and developing managerial capacity within the Ministry of Interior.[537]

Rumsfeld sent a memo to then-Secretary of State Colin Powell, offering to provide more DOD assistance in the form of adapting lessons learned from DOD's training and mentoring of the Afghan army, assisting in ministerial-level reforms and placing embedded technical experts in Afghan police units. Rumsfeld concluded the memo by noting that "a professional, disciplined national police force is essential for stability in Afghanistan."[538] In September 2004, Rumsfeld followed up with Powell, sending him an internal Joint Chiefs of Staff assessment of the State-led program, noting that he hoped that the attachment would be "helpful in beginning to sort out what is and what is not happening." The report noted the same three primary areas of concern: ministerial development, equipment, and field mentoring. In response to the last item, the U.S. military command in Afghanistan deployed mobile assistance teams to assess Afghan police capabilities and capacities in addition to training plans. Rumsfeld pointedly added that DOD was offering more help "with the goal of energizing [State] programs."[539]

> *"A professional, disciplined national police force is essential for stability in Afghanistan."*
>
> —U.S. Secretary of Defense Donald Rumsfeld

In February 2005, still dissatisfied with progress on police training, Rumsfeld sent the "ANP Horror Stories" memo to Rice, and followed up a month later with the memo to Hadley. In the Hadley memo, Rumsfeld noted that on several occasions he thought he and Powell had reached an agreement that DOD would take over responsibility for the Afghan police mission—but "for whatever reasons, my agreement with Colin [Powell] unraveled several times. Now I don't know what is causing it, but it has just unraveled again." Impatient to resolve this issue, Rumsfeld wrote "the only solution I can see is to fashion an old-time decision memo and have the President decide."[540]

At the same time, Rumsfeld correctly recognized that DOD did not have the dedicated budget that would be required, and began lobbying for an emergency supplemental funding.[541] The result was the creation by the Congress of the Afghan Security Forces Fund (ASFF), dedicated to developing the Afghan National Army, the Afghan National Police, and the ministries of interior and defense. Since fiscal year 2005, the Congress has appropriated over $21 billion in ASFF specifically to support the ANP, out of a total of $88 billion for Afghan security forces overall.[542]

MOVING A POLICE TRAINING CONTRACT FROM STATE TO DOD: A MESSY PROCESS THAT TOOK YEARS

An important step in transferring responsibility for police assistance activities from State to DOD was moving State's preexisting contract with DynCorp to provide trainers for the Afghan civilian police forces. Under the 2005 interagency agreement between State and DOD, State continued to provide management and contract oversight, while DOD was responsible for overseeing the day-to-day activities of DynCorp contractors in the field.[543] DOD eventually gained administrative control of the contract, but the process was hampered by administrative missteps, legal delays, and a failure to examine alternatives. From the beginning, interagency contract management proved to be clumsy and inflexible. Payments to DynCorp were made by DOD via funds transferred to State under the authority of the Economy Act, which allows the transfer of services to other U.S. government agencies for the purpose of building a partner nation's capabilities. But DOD could determine police training program requirements only under policy guidance from the U.S. Chief of Mission at the U.S. embassy—a process that, at least in military terms, was so slow and cumbersome that it prevented timely action on pressing issues.[544] Combined Security Transition Command—Afghanistan, the command responsible for police development, had to submit new training requirements through memoranda to State INL.[545] CSTC-A complained that this process did not allow DOD and the ANP to respond quickly to the deteriorating security situation.[546] A joint report from the inspectors general at DOD and State attempted to split the difference between military speed and civilian oversight, noting:

> [State] is focused on training the police to be an effective civilian police force after security in Afghanistan has stabilized. DOD is focused on survival and tactical training of ANP to counter the growing insurgency. . . . In an ever-changing environment, efficiency is necessary in order to rapidly respond to the current, more volatile security situation. The training that CSTC-A will assume will be based on survivability and tactical maneuvering, while INL will continue training the ANP in traditional community policing tactics.[547]

In 2009 with the DynCorp contract coming up for renewal, DOD took steps to move all contract oversight responsibility from INL to DOD. DOD relied on an existing contract already in use for training the Afghan Border Police.[548] This contract limited the competition to the five contractors already awarded a position on the contract—a list that did not include DynCorp.[549] DynCorp promptly lodged a legal protest, arguing that police training services were outside the scope of DOD's preexisting contract.[550] While the legal case was pending, DynCorp's contract remained under State control, was then extended, and then renewed for a two-year base period with a one-year option period.[551] The legal dispute meant that DOD did not assume the majority of oversight responsibilities over the contractor responsible for day-to-day police training until April 30, 2011—almost six years after it had assumed lead responsibility for the mission.[552]

A 2012 congressionally-mandated audit conducted by the Government Accountability Office found that DOD assumed responsibility for the DynCorp contract without any attempt to "assess the advantages or disadvantages of using [U.S. government] or contractor personnel for the ANP training program."[553] DOD officials told GAO auditors

that was because they did not consider the role of training foreign police forces as an inherently governmental function, and that DOD did not examine the option to use U.S. government employees because U.S. government agencies "do not have sufficient personnel with the needed skills in civilian policing available to provide all the trainers and mentors needed by the ANP training program." Therefore, using contractors was seen as a way to fill skills and resource gaps.[554]

DOD REORGANIZES; LACK OF EXPERTISE HINDERS MISSION

DOD's initial approach to the police assistance mission was to simply replicate what it was doing to train the Afghan National Army. At the tactical and operational level, the U.S. military created police mentoring teams, which were assigned to partner with Afghan police units in the field and provide them with direct access to U.S. military assets, such as close air support, medical support, and intelligence.[555] Since many of the police mentoring teams were not staffed with soldiers with any sort of police background, the U.S. military used contractors deployed with these units around Afghanistan to provide law enforcement expertise.

Police Mentoring Teams

One of the most important functions of the police mentoring teams was to fill the role of legal mentors who "work with their Afghan counterparts to help develop the institutions, systems, processes, and ethics necessary for the government to function in accordance with the Rule of Law," according to CSTC-A guidance.[556]

However, the trainers and advisors DOD deployed did not have relevant expertise. At best, that hindered the development of critical Afghan police capabilities; at other

U.S. soldiers meet with Afghan Highway Police at a checkpoint along Highway 4, Spin Boldak, Afghanistan. (U.S. Air Force photo by Tech. Sgt. Francisco V. Govea II)

times, it resulted in training that ran counter to Afghan police units' objectives. The latter was often the indirect result of U.S. soldiers training Afghan police not in civilian police functions, which they did not know, but in what they *did* know—core military functions.[557]

Police mentoring teams suffered from inadequate predeployment training. Most predeployment training was focused on weapons training and other military tasks.[558] This meant that most advisors assigned to a police mentoring team lacked the understanding of the various legal traditions engrained in Afghanistan's criminal code or the role of informal justice systems—concepts they learned on the job, if at all. (For more on Afghan's complex layers of legal traditions, see Chapter 2 and Appendix B.)

Police Mentoring Teams Were Chronically Short-Staffed

The U.S. military designed police mentoring teams in 16-member district teams, or 9-member provincial teams. But of the 16-member district mentoring teams, only 6 personnel were actually mentors (4 military and 2 civilian); the rest were interpreters and the security force, assigned to protect the mentors during their engagements with Afghan personnel. The 9-member provincial police mentoring teams also had 6 mentors (2 military and 4 civilian).[559] Provincial teams had fewer security personnel, since they were presumed to be operating from a base that had a larger U.S. or coalition presence.

The police mentoring teams were chronically short on personnel. As one former police advisor told the Joint Center for International Security Force Assistance, "We don't have enough troops to effectively mentor the ANP, like we're doing with the [Afghan National Army]. And the coalition folks and everybody else above us has this glossy thing that we've got a U.S. presence in all of our districts and we're keeping an eye on everybody, which isn't a reality."[560] In 2007, a report from Combined Joint Task Force Phoenix, the command organization for the police mentoring teams, noted that only 36 percent of the teams were fully staffed.[561] As a result, commanders were frequently forced to cut down on their police training and mentoring missions.

As a way to increase staffing for police mentoring teams, CSTC-A was forced to transfer personnel from U.S. Embedded Training Teams assigned to train Afghan army units—which didn't alleviate staffing issues, since those teams were also short-staffed.[562] But these shortfalls were not addressed by higher-ups. In June 2008, Maj. Gen. Robert Cone, Jr., CSTC-A commander, reported that Central Command was aware that CSTC-A was scrambling to make up for the shortage of advisors, but that staff rotations meant that his concerns were not addressed. Cone later said that he reallocated troops from Embedded Training Teams to police mentoring teams "with the full knowledge of the CENTCOM chain of command and I clearly articulated what had been done," Cone said. "But when a new cycle of service members came in, ultimately, visibility on this information had been lost."[563] This lack of bureaucratic continuity meant that police advisors and those overseeing the mission often lacked any knowledge of what had been done before their deployment.

One of the unintended consequences of having short-staffed police mentoring teams was that the U.S. military unit was unable to maintain the required balance between securing their bases, providing security during engagements with Afghan officials, and mentoring Afghan police. Understaffed police mentoring teams limited the frequency with which the teams could go on advisory missions off base. One former police advisor noted that because they were short-staffed, "we [would] have to pull from other teams, but when you pull from another team, that restricts [the other police mentoring team] to the [base]." Another advisor explained: "If we went outside of the wire, who's going to protect the fort? You need 30 [U.S. soldiers] to do it."[564]

Since police mentoring team soldiers had to take on additional responsibilities, such as security and maintenance tasks, even an advisor with the required police background was hard pressed to carry out the advising mission effectively. One former police advisor noted, "I'm a police officer in real life. And in the nine months we were there, maybe 15 days I spent training cops." The rest of the time, he said, he was focused on other tasks.[565]

Reassignments Undercut the Size and Capabilities of the Advising Mission

One reason police mentoring teams were so chronically short-staffed was that the higher headquarters would siphon off senior officers assigned as mentors and reassign them to staff positions. According to a former police advisor, Task Force Phoenix was "sucking people off of these mentoring teams and putting them in staff jobs. . . . They may be in somebody's database as being a police mentor, but they weren't mentoring anybody. . . . So this is getting reported up the chain that we have X many thousand number of mentors, but it's not really true."[566]

Short-staffing not only limited resources available for the mission, but undermined unit cohesiveness and the value of collective training. Under the police mentoring team model, teams were supposed to be formed before deployment and trained together to create team cohesion. But many police mentoring team advisors noted that when they were deployed to Afghanistan, their teams were disbanded and different advisors were deployed to different parts of the country.[567]

> *"They may be in somebody's database as being a police mentor, but they weren't mentoring anybody. . . . So this is getting reported up the chain that we have X many thousand number of mentors, but it's not really true."*
>
> —Unnamed U.S. soldier assigned to police mentoring team

The issue with reassignments also occurred within the police mentoring team itself. U.S. military personnel assigned to be advisors were often reassigned to become part of the security team. One police advisor noted that "instead of doing our primary job of mentoring or doing what we needed to do, we were basically a security detail."[568]

A former police advisor told the Joint Center for International Security Force Assistance that during their deployment, advisors were often assigned to different teams based on requirements of the moment, which undermined continuity in mentoring Afghan partners. During his nine-month tour in Afghanistan, one former advisor said, "I was on three different teams [in] two districts. . . . We're also having to share people because the teams don't have the sufficient number of personnel based on mission constraints."[569] An advisor assigned as an intelligence mentor recounted spending less than 1 percent of his time on that task. Even when mentoring, the advisor was responsible for human resources and not intelligence. When asked what he was responsible for most of the time, his response was "security and maintenance."[570] Another former police advisor told SIGAR in 2019 that he was initially assigned to be a military intelligence mentor for a mechanized Afghan National Army unit, but after three days in country he was reassigned to be an advisor for an Afghan police unit.[571] Jason Dempsey, a senior fellow at the Center for a New American Security, told SIGAR that this type of haphazard method of assignment for advisors was the rule, not the exception.[572]

Since the reassignment of advisors was a regular issue for the military, one senior officer in the Iowa National Guard was so frustrated that he recommended that his state's adjutant general decline future mobilization requests for training and mentoring missions. "Once in theater, we are shuffled around as the mission dictates," he said.[573]

Predeployment Training Did Not Prepare Police Mentors for Their Mission

Since the U.S. military adopted a similar model for training police as they did for the army, it is not surprising that most police mentoring personnel went through the same training as military Embedded Training Teams. With few exceptions, such as the predeployment training course at the U.S. Army Military Police School, training was not tailored to the police assistance mission. Many police advisors received little or no training on the Afghan criminal justice system, penal codes, or policy and strategy guidelines for the Afghan police forces.

Courses often did not adequately strengthen core advisor skills, either. Although the 72-day program of instruction at Fort Riley, Kansas, was intended to prepare personnel for an advising mission, in fact it focused primarily on combat skills, force protection, and tactical training. (Some focus on basic combat skills may have been necessary, since National Guard soldiers may not have received refresher training before mobilization.)[574]

Only 12 of 105 of the course's tasks covered mentoring and advising skills, and only three days were devoted to culture, language, and counterinsurgency training.[575] While some advisors found the cultural training helpful, many complained that the course did not teach adequate advising skills.[576] The training was also strongly focused on Iraq, not Afghanistan, and even Afghan language training was often not in the appropriate language for their eventual area of operation. (Afghanistan has two official languages, Dari and Pashto.)[577] It was not until March 2009 that Fort Riley's program of instruction was modified to increase the amount of advisor and counterinsurgency training from three days to 12.[578]

Some soldiers also reported that their training gave them no instruction on ANP tactics, equipment, systems, or logistics.[579] A former police advisor who deployed in 2008 told SIGAR that he and other advisors received no training in Afghan law, its justice system, or ANP procedures.[580] Another advisor commented in an end-of-tour survey that predeployment training "did not teach [U.S. advisors] anything about the systems that [the ANP] use for personnel, intelligence, operations or supply. Ninety percent of mentoring is spent working with [their] systems."[581] Another major shortfall was in foreign weapons training—a particularly important topic for police advisors because, unlike the ANA, the ANP were equipped with Warsaw Pact weapons unfamiliar to U.S. troops.[582]

Some soldiers were not assigned to be an advisor on police mentoring teams until they were deployed to Afghanistan, and therefore received no advisor training at all. Some U.S. soldiers were shifted from security duty to police mentoring teams. Others were moved from ANA mentoring duty—so even if training was offered, the advisor would not have received police-oriented training. Maj. Gen. Cone noted: "We melted down a lot of [security force] units and used them to form mentor teams. In doing that . . . we were not able to get them police mentor trained."[583] When Afghan National Army mentors were redirected to the ANP, he said, "I [would] get asked questions such as, 'Sir, you knew a year ago we were going to be police trainers. We received mentor training, but we weren't police mentor trained. How could this happen?'"[584]

Military Leaders Attempted to Mine the Ranks for Soldiers with Law Enforcement Experience

Given such problems, senior military officials and police mentoring team leadership tried whenever possible to take advantage of soldiers who had civilian law enforcement experience.[585] The branches of the military most likely to have personnel with such experience are Army reservists and National Guard units, in addition to military police units. Civilian law enforcement expertise in these units ranges from patrol officers to criminal investigators, and can even include senior law enforcement management. That background is particularly useful for providing more tailored training to Afghan police forces.[586]

"That is what saves us, quite frankly," Maj. Gen. Cone told the Center for Army Lessons Learned. "Many of them have very diverse backgrounds. Some percentage, under 20 percent, but it may be upwards of 15 percent, of the [National] Guardsmen who come through here have some background in corrections, law enforcement, or probation. Their skill sets tie in very nicely to the mission here."[587]

Unfortunately, assigning police experts from these units was haphazard, since DOD personnel data systems do not track soldiers' civilian experience, and their backgrounds are not considered in the force-generation process.[588]

Learning Lessons in Iraq, Ignoring Them in Afghanistan

More than 15 years after the Iraq Study Group concluded that the U.S. military was ill-suited to training police forces, the United States continued to rely on military units to lead police training and advisory activities in Afghanistan.[589]

At the urging of the Congress, in 2006 the U.S. Institute of Peace partnered with the Center for Strategic and International Studies, the Center for the Study of the Presidency, and the James A. Baker III Institute for Public Policy at Rice University to conduct an independent, bipartisan assessment of the situation in Iraq and the implications for U.S. policy.[590] It concluded that the Iraqi Police Service—uniformed police that patrolled Iraq's cities and responded to incidents—had "neither the training nor legal authority to conduct criminal investigations, nor the firepower to take on organized crime, insurgents, or militias." The Iraqi National Police—a paramilitary organization designed to bridge the gap between the police and the army—"have been trained in counterinsurgency operations, not police work," the report said.[591] These assessments of the Iraqi forces share several similarities with DOD, State, and international community assessments of Afghan police capabilities.

The Iraq Study Group provided several recommendations to improve Iraqi police capabilities. It also suggested a realignment of the U.S. advisory mission to ensure that the United States was matching the right advisors with the right positions. The first police-focused recommendation discussed the consolidation of police forces with a militarized mission to fight the insurgency under the Ministry of Defense, while keeping the police forces responsible for law enforcement and criminal justice under the Ministry of Interior.[592]

Police training in Iraq was hamstrung by the lack of clarity over who in the United States had the primary role. The Iraq Study Group recommended that the U.S. military should continue to train the Iraqi Army and Border Police, but that the U.S. Department of Justice should direct the training of the police who would remain under the Ministry of Interior. According to the study's recommendations, police trainers "should be obtained from among experienced civilian police executives and supervisors from around the world. These officers would replace the military police personnel currently assigned to training teams."[593]

Mixed Reviews of DynCorp Police Training Contractors

Under the management of State and, later, DOD, the private contractor DynCorp was the main vehicle for providing civilian police expertise. Most of the DynCorp trainers had police experience at the local, county, or state level; few had experience working with a national police force or working in a war zone.

Assessments of DynCorp's performance were mixed. While some police advisors viewed DynCorp trainers as contributing valuable police experience that military advisors lacked, others questioned whether the trainers made any valuable contribution.[594] The contractors' experiences also varied. Some said that the U.S. military command understood their specific role to support the mission, while others said they felt ignored or dismissed by U.S. military leadership who did not value their police training role.

The DynCorp advisors conducted thorough, albeit basic, training for the ANP, but were limited by the Afghans' low education rates.[595] One police advisor reported that although some DynCorp advisors were motivated to help the Afghans, many avoided leaving their base to patrol with their ANP counterparts, and some were actively forbidden to do so by their supervisors.[596]

Some personnel involved in police mentoring felt that DynCorp advisors were not sufficiently supervised or supported, and did not receive enough security from the U.S. military.[597] A former high-ranking official with the Ministry of Interior also found that many contractors had limited knowledge of police administration, and therefore limited ability to advise the Afghans on such topics.[598]

NATO ESTABLISHES PARALLEL SYSTEM TO MENTOR AND TRAIN AFGHAN POLICE FORCES

On April 4, 2009, President Barack Obama met with his NATO counterparts at the Strasbourg-Kehl Summit, at which NATO agreed to assist the United States in professionalizing the Afghan police. To support this objective, NATO created the NATO Training Mission–Afghanistan, which would oversee training and mentoring of the ANP in addition to the Afghan National Army. To improve coordination and synchronization with the U.S.-led CSTC-A, a U.S. commander would be in charge of both CSTC-A and NTM-A.[599]

NATO defense ministers endorsed a gradual implementation of NTM-A tasks, including a phased provision of police mentoring teams and support to the ANP institutional training base.[600] NTM-A efforts focused on the district level and below to develop operational capabilities and survivability; they were not intended at first to address ministerial development, higher-level police management, and civilian policing, which were to remain the focus of the European Union Police Mission in Afghanistan.[601] Eventually this approach would change, and NTM-A would provide over 200 advisors to the Ministry of Interior.[602]

NATO Deploys Its Version of Police Mentoring Teams

Starting in late 2007, NATO created police mentoring teams called Police Operational and Mentoring Liaison Teams (POMLT), to distinguish them from the U.S. military's police mentoring teams.[603] POMLTs consisted of 15 to 20 personnel, and were modeled on the U.S. police mentoring teams.[604] POMLT personnel were drawn from military police or ground forces, or from gendarmerie units like the Spanish Guardia Civil, French Gendarmerie National, or Italian Carabinieri.[605] From 2007, the European Union member states coordinated their contribution to the POMLTs through the European Gendarmerie Force initiative based in Vicenza, Italy. Through this initiative, member states contributed more than 400 gendarmerie officers to the Afghanistan mission.[606]

Countries that do not have gendarmeries, including the United States, employed different strategies to give POMLTs a mix of law enforcement expertise and military capability. Canadian POMLTs included a mix of active-duty military police with law enforcement training and also reserve personnel who were not all military police officers.[607] Since the United States is part of NATO, even U.S. personnel could serve on a POMLT in some circumstances. In one instance, Pennsylvania National Guardsmen were part of a POMLT with Lithuanian troops, commanded by a Lithuanian officer—possibly due to the National Guard's close relationship with the Lithuanian military through the National Guard's State Partnership Program.[608]

POMLTs taught, mentored, provided the conduit for liaison, and when necessary, supported the operational planning and employment of the ANP for a deployment of six months with a specific Afghan unit.[609]

ISAF Joint Command is the headquarters which, after 2009, was responsible for NATO operations in Afghanistan, including field advising of the ANP.

But POMLTs, too, often suffered from a shortage of manpower, however targeted numbers for POMLTs changed over time.[610] By March 2010, the ISAF Joint Command was reporting a shortage of 163 POMLTs, or 6,520 personnel (40 members per team). In April 2010, DOD stated that there were 108 unfilled POMLTs.[611] In November 2010, there were only 38 POMLTs operating in Afghanistan, and NATO member nations failed to provide any of the 227 additional teams that had been requested by the military command in Afghanistan.[612]

As with the U.S. military's police mentoring teams, not all members of POMLTs received training specific to their advising role. Specialized training existed at multiple sites, including in France, Italy, and Germany, supported by former POMLT members as well as ANP officers. But many POMLT members did not attend this training and received no equivalent training in their home nations.[613]

Gendarmes: Unique Expertise for High-Threat Environments

Gendarmes from Italy, France, Spain, the Netherlands, Turkey, Georgia and other countries advised the ANP.[614] As police with military organization and status, gendarmes are particularly well suited to conduct police assistance in high-threat environments. The Italian gendarme, for example, had mentoring experience from previous conflicts in Bosnia, Kosovo, and Iraq. As they had done in Iraq, the Italians would devote time to discuss the role of police in a democratic society, highlighting the importance of values over skills in their interactions with Afghan trainees.[615] The professionalism and disciplined approach to ANP training of some gendarmes contrasted with the inconsistent quality of contracted trainers, who were recruited from a variety of law enforcement backgrounds.[616]

Gendarmeries are also well-suited to lead training efforts of other gendarme forces, such as the Afghan National Civil Order Police. NATO gendarmes may have a mentorship advantage simply by virtue of being national police forces, centrally organized with coherent national standards and doctrine—something that the United States, with no national police to draw on, lacks.[617]

A corporal with the Italian Carabinieri at a ceremony held in honor of all fallen comrades of all wars and all nations held at Camp Eggers, Kabul, Afghanistan. (NATO photo by Mass Communications Spec. 1st Class Christopher Mobley)

INTERNATIONAL MECHANISMS ESTABLISHED TO COORDINATE POLICE TRAINING PROGRAMS LACKED AUTHORITY

Although the inclusion of NATO in the police assistance mission unified international military support, it did not improve coordination with civilian agencies. Civilian and military police assistance elements often worked at cross-purposes and failed to seek local buy-in. Issues with unity of effort affected the mission at the strategy, planning, and financial level; at the tactical level, teams often were unaware of efforts by other organizations, and sometimes wound up undermining them. Formal bodies established to de-conflict international efforts were primarily focused on the strategic level. At the field level, there was no mechanism to organize the various efforts underway in some areas; advisors had to negotiate with their Afghan counterparts as best they could. One former police advisor described a chaotic situation:

> It was very difficult to ever synchronize or coordinate. Most of the time we would be at the police station, doing our mentoring, and the German [military police] would show up, the [European Union Police Mission] guys would show up, even our [DynCorp personnel]. State Department people would just show up. And it was just frustrating on the Afghan side as well, because an Afghan police chief told me, "You know, I've got Americans trying to tell me what to do, I've got Germans showing up telling me what to do, I've got German civilians showing up telling me what to do. I've got [DynCorp] telling me what to do, and they're all telling me different things. Who do I listen to and what do I do?" . . . You listen to us, of course. And since we could live there for three, four, five, six days at a time, we were basically able to elbow everybody else out. But it was not easy. The minute we would leave to refit for a couple, three days, the Germans would start to show up again.[618]

The advisor went on to describe the various separate efforts in Kunduz Province, with separate facilities for the provincial reconstruction team, DynCorp contractors, INL, the U.S. military and the Afghan National Army. "So we're all pretty close together, but we're not together," the former advisor said. "We're all in separate little fiefdoms."[619]

Another former police advisor described the counterproductive effect of various drop-in visits from other units. "The thing that would frustrate you . . . is you're trying to get something accomplished with your ANP and all of a sudden the [provincial reconstruction team] drops in and goes, 'We're here.' They do a whirlwind tour, the coalition guys come in and do a whirlwind named operation for four or five days and stamp a 'success' at the end of it, and they've undone 5 or 10 things that you're trying to accomplish."[620]

The International Police Coordination Board Lacked Member Buy-in and Had No Way of Enforcing Decisions

To synchronize efforts among international stakeholders, the International Police Coordination Board was created "to act as the main organizational body to coordinate, prioritize, and guide international police reform efforts in Afghanistan."[621] Board members included the Ministry of Interior; organizations such as the European Union, the European Union Police Mission, the German Police Project Team, ISAF, UNAMA, the UN Development Programme, and representatives from 14 donor nations. Chaired by the Afghan Minister of Interior, the full board met three or four times a year, but

it had a permanent secretariat. The secretariat was headed by an ambassador-level donor-nation diplomat who supported communication and coordination among member nations and organizations. A senior police advisory group provided expert input, and ad hoc working groups addressed specific issues.[622] The European Union Police Mission in Afghanistan provided administrative and other support. As an organization composed of experienced police rather than military or other personnel, the European Union Police Mission provided professional expertise, and, in the words of a former police advisor to the NATO Training Mission in Afghanistan, "punched above their weight in terms of influence."[623]

The board focused on support to the Ministry of Interior in developing policies and plans for reform, and the coordination of international police reform efforts–in particular, building ministry capacity to internally manage donor assistance.[624] The effort would have benefited from access to Afghan police activities at the subnational level. Without this, the IPCB's reforms were focused strictly in the capital and at the ministerial level, and had little effect on rank and file police.

Despite its extensive administrative setup, the board had no authority to enforce its recommendations, and buy-in varied among its members. A European Union audit found the board's coordination efforts largely ineffective, citing among other things a perception among those international stakeholders that support for the IPCB from the European Police Mission in Afghanistan represented an attempt by the European Union to take the lead in police development.[625] In the end, although the IPCB provided police expertise and a potential clearinghouse for all international assistance, donor nations instead chose to follow their own priorities.[626] The secretariat was not active in coordinating assistance, and required coordination meetings did not always take place.[627]

In 2012, U.S. concerns about the financial sustainability of the ANP after a U.S. withdrawal from Afghanistan resulted in a revitalization of the IPCB, according to a senior European diplomat.[628] The 2012 international donor conference directed the IPCB to assist the Ministry of Interior in developing a long-term plan for ministerial development.[629] The IPCB set about addressing planning and policy issues, such as police professionalization and recruiting. Much of its work involved practical questions, such as police job descriptions that could drive recruiting and training requirements; another involved preparing the Ministry of Interior to manage its own international donor relationships.[630] In 2015, the duties of the board were transferred to the Ministry of Interior.[631]

FOCUSED DISTRICT DEVELOPMENT: DOD'S FIRST ATTEMPT AT COMPREHENSIVE POLICE ASSISTANCE

DOD's first attempt to overhaul the United States' approach to training the Afghan police began in earnest in 2007 with an ambitious police and justice sector reform program known as Focused District Development (FDD).[632] When DOD assumed responsibility for police development, 60 to 70 percent of Afghan police had received no professional training, and many recruits got no training at all before assignment to a district police unit. Although DOD's goal was for each ANP officer to undergo initial entry training at the Central Training Center in Kabul or at one of the regional training centers, FDD was designed to train an entire Afghan Uniform Police force at the district level as a collective unit, so that all active police personnel could at least get some exposure to international police training.[633]

FDD involved a two-month initial evaluation in which the training needs of the district police would be assessed, and additional police would be recruited to fill personnel shortfalls. A unit from the Afghan National Civil Order Police, the elite Afghan gendarmerie force, would then rotate into the district, allowing the entire district police unit to attend training together at a regional training center.[634] This was also an opportunity for additional vetting and biometric enrollment, the issuance of identification cards, and drug testing.[635] At the end of the training period, the police were issued new weapons and equipment, then redeployed to their district. In some cases, district police also received upgraded facilities as a part of FDD.[636] After two months of monitoring by their assigned police mentoring team, the district police unit were to be reevaluated. They would then receive follow-on training through the local provincial reconstruction team for another six months.[637]

As it was designed, a key feature of FDD was that police mentoring team advisors would accompany the Afghan district police to training at the regional training center to help tailor the training to the needs of their specific district, then return with them to the district to continue mentorship—a recognized international best practice. The theory was that intensive reinforcement in the period following the training would improve police capabilities while also reducing the risk of corruption.[638]

For the first seven cycles of FDD, there was no formal procedure for collaborating with international partners in prioritizing districts for the program.[639] NATO and other international partners expressed interest in FDD and looked to expand the model to districts in their areas of operation.[640] By August 2009, 14 NATO Police Operational Mentoring and Liaison Teams were supporting the FDD program, including teams from Germany, Poland, the Netherlands, and Canada.[641]

It is unclear precisely when FDD ended. In April 2010, DOD reported to the Congress that 83 districts had completed FDD and another five districts had begun the next training cycle on March 13 of that year. In addition, it announced the planned expansion of a similar program, the Directed District Development program, in which training would be accomplished within the district rather than at regional training centers. But the November 2010 DOD report to the Congress makes no mention of either program, which presumably ended in the interim.[642]

FDD Suffered from a Lack of Appropriate Personnel and Coordination with Other Efforts

A major challenge for FDD was that there were not enough advisors to support every district selected for the program, which limited the scope and rate of training.[643] Another issue was the pretraining baseline assessments, which were supposed to be done by the team of international and Afghan officials whose job was to tailor the training to the specific needs of each district. In practice, these assessments were often conducted by U.S. military personnel, who had little knowledge of local policing and justice.[644] Even when detailed assessments were developed, they were not always put to use. "Myself, my team, and [DynCorp], we put together a huge, in-depth, very detailed report of the district assessment, as far as the facilities, the personnel, the amount of training they have and need, you know, and nobody read it," one former police advisor related. The advisor commented that even after the report was sent to the higher commands, he and his team would still receive several calls a day from them asking, "Hey, how many generators does this district have? How many people does this district have? I said, 'Didn't you guys read the report?'"[645]

Another problem was a lack of coordination between the Afghan National Civil Order Police and the district police. One advisor reported that the local Afghan Uniform Police returning from FDD training never contacted their temporary Afghan National Civil Order Police replacements or their advisors to conduct a turnover briefing.[646] In addition, attrition due to combat losses and police leaving the force meant that FDD-trained police were soon replaced by newcomers with little or no training.[647] In some places, locals with long memories of the history of corrupt local police demanded that the more professional Afghan National Civil Order Police remain rather than have corrupt local police return.[648]

Because the Afghan National Civil Order Police were committed to holding districts while the district police were at training, they could not perform their specialized civil order mission. The trade-off was not all bad: Some civil order police brigade commanders argued that their participation in FDD enabled them to develop as leaders, and FDD deployments gave their units experience working with American, Afghan, and coalition military forces.[649] Over time, however, the high operational tempo required for FDD support duty, and the diversion from their normal mission, may have contributed to a 70 percent attrition rate for the civil order police.[650]

In districts that completed the FDD, there was reportedly a 60 percent decrease in police casualties.[651] However, the time period this figure covered was not specified, and much of the praise of the program was anecdotal, unsupported by rigorous assessment.[652]

U.S. Marine Corps photo by L.Cpl. Robert Walters

CHAPTER 7

POLICE IN COUNTERINSURGENCY

By the time DOD assumed responsibility for police assistance in 2005, the Taliban-led insurgency had made important inroads into Pashtun-dominated areas of southern and eastern Afghanistan. As a result of the Taliban reemergence, the U.S. military crafted a counterinsurgency strategy in which the Afghan police would be used to augment military forces while clearing insurgent-controlled territory, and also to hold newly cleared territory against a Taliban counterattack.[653] Yet despite its militarized training, the ANP lacked the equipment and resources to be militarily effective. The ultimate results were heavy ANP casualties and the loss of newly won areas.

The U.S. military began its counterinsurgency efforts in Afghanistan without an up-to-date counterinsurgency doctrine to guide its efforts: DOD's most recent doctrine dated back to Vietnam. In 2006, after years of fighting insurgents in Afghanistan and Iraq, and after research and consultation with U.S. allies, DOD published "Field Manual 3-24: Counterinsurgency," an updated counterinsurgency doctrine which identified a host nation's police force as essential to the effectiveness of counterinsurgency operations.[654]

The new doctrine emphasized bringing the population and government closer, and placed the police in a primary role in establishing government legitimacy—a tall order, in light of Afghanistan's history of corruption and predatory police practices.[655]

Over time, senior U.S., coalition, and Afghan leaders recognized that the ANP should not have a militarized role in counterinsurgency, but should instead be responsible for providing police and law enforcement services in largely cleared and secured areas (see chapter 8 for more information). The Afghan government even went so far as to draft a police strategy in 2010 that specifically outlined the core functions of the various ANP units. The Afghan National Civil Order Police (the ANP gendarmerie unit) would be responsible for policing high-threat areas and would help fill the security gap between the Afghan National Army and the Afghan Uniform Police. The Afghan Uniform Police would be responsible for policing more secure territory, while the Afghan Border Police would focus entirely on the border. On paper, roles and responsibilities were clearly outlined; in the field, the various police forces were often used interchangeably.

This chapter explores the ways in which the ANP first began to be enlisted in U.S. counterinsurgency efforts in mid-2005, the evolution of U.S. counterinsurgency doctrine between 2006 and the present day, and the ways in which faulty implementation of that doctrine resulted in the collapse of the civilian police force within days of the U.S. troop withdrawal.

This chapter will also examine the role of the police through two case studies of major counterinsurgency operations. In Helmand, the Afghan National Civil Order Police—the ANP's elite crisis-response unit—was deployed too early, before the Afghan National Army and U.S. forces had completely cleared and secured the area.[656] Separated from their usual mentors, the Afghan National Civil Order Police further undermined government legitimacy through undisciplined and corrupt conduct.[657]

The second case study shows how some of these shortcomings were corrected during subsequent operations in Kandahar. There, the Afghan National Civil Order Police took over after Afghan National Army clearing operations were complete, and successfully set conditions for the Afghan Uniform Police to assume their normal duties.[658] However, this operation still featured Afghan National Civil Order Police and Afghan Border Police taking part in combat action that was more appropriate for military rather than police forces.[659]

SURGING VIOLENCE PROMPTS RE-EXAMINATION

Beginning in 2005, a dramatic uptick in violence initiated by a newly revitalized Taliban-led insurgency forced policymakers in Washington to reevaluate the U.S. approach in Afghanistan.[660] It was in southern Afghanistan that the Taliban were first able to reassert their power, taking advantage of historical ties, fragmented tribal politics, and, in some cases, local resentment against predatory police.[661] The Taliban recruited new fighters through religious leaders, levied taxes on poppy crops and other economic activity, and even operated clinics.[662] The Taliban appointed judges to resolve disputes and punish crimes. Taliban justice services, while sometimes cruel, were not always unwelcome among a populace poorly served by existing government institutions.[663]

In response to the deteriorating security situation, as well as concern over links between insurgents and the narcotics trade, the National Security Council concluded in a 2006 strategic review that the United States needed to develop a new counterinsurgency plan "to augment and complement ongoing 'post-conflict stabilization'"—a description that tacitly acknowledged the failure of U.S. policymakers to recognize that the Taliban's defeat in late 2001 was not really a defeat.[664] The review called for the size of the ANP to grow from 62,000 to 82,000, develop a new civil order/gendarme unit, and to expand counternarcotics and border police capabilities.[665] The proposed increase in police manpower was based on recent census estimates and comparison with the police-to-citizen ratio in surrounding countries.[666]

These recommendations were largely acted upon. By the end of 2006, DOD had created the Afghan National Civil Order Police and was aiming to increase the total size of the ANP to the target number of 82,000.[667] When other donor nations objected to any increase in the previously agreed-upon level of 62,000 ANP members, the United States threatened to withhold at least $300 million in financial support for the ANP if the new target was not approved.[668]

ANP end-strength was officially increased to 82,000 in 2007, although this increase was considered temporary, and was subject to review every six months by the Joint Coordination and Monitoring Board, a committee established to monitor Afghan progress against key milestones agreed to with the donor community.[669] Police support in DOD's February 2007 supplemental budget request revealed DOD's priorities: Requests focused on expanding the civil order police, border and counternarcotics police, buying more equipment, building more infrastructure, and supplying specialized capabilities such as border surveillance and K-9 units that had been recommended by the National Security Council's review.[670] However, former deputy National Security Advisor Doug Lute told SIGAR that DOD continued to view police training in Afghanistan as a secondary priority.[671]

Shifting the ANP's focus to counterinsurgency was not accepted without objections both from the international community and agencies within the U.S. government. As the lead nation for police reform, Germany objected to the blurring of roles between the Afghan National Army and ANP that was symbolized in the U.S. use of the term Afghan National Security Forces (ANSF) to refer to both the army and the police.[672] (The current term is ANDSF, for Afghan National Defense and Security Forces.) Nor was there uniform agreement at State, although the shift to a militarized ANP had the support of then-U.S. Ambassador to Afghanistan Zalmay Khalilzad.[673]

One U.S. official described the fight over the role of police in counterinsurgency as "the most frustrating, bureaucratic, counterproductive interagency battle I've ever known."[674] Although some employees of State's Bureau of International Narcotics and Law Enforcement Affairs complained that turning the ANP into auxiliaries for counterinsurgency would derail the rule of law and create concerns about human rights, DOD argued that the Taliban's increasing attacks on police as representatives

of the national government were forcing the ANP into the role of combatants.[675] Describing its police reform targets, the Combined Security Transition Command-Afghanistan observed:

> Given the current security situation, the police will require policing and specified counterinsurgency operations skills. No one type of policing profile suits all locations and circumstances. Therefore, the balance between military skills and routine policing activity needs to reflect the conditions on the ground.[676]

At least some NATO allies agreed. A Canadian police advisor in Kandahar observed that "civilian policing as you and I know it does not exist in Afghanistan. It is a very dangerous occupation. Here, many times these officers are put on the front line. They are a paramilitary force."[677]

EARLY COUNTERINSURGENCY STRATEGY IS NOT FULLY RESOURCED

The first attempt to develop a counterinsurgency strategy for Afghanistan was produced by Combined Forces Command – Afghanistan (CFC-A) in late 2003, in response to UN concerns that the deteriorating security situation in the south and east might imperil the upcoming 2004 elections.[678] U.S. military leaders, all of whom had come of age since Vietnam, were not trained in counterinsurgency; much of the plan was based on the experiences of senior British officers on the CFC-A staff who had served in counterinsurgency operations in Northern Ireland.[679] U.S Army Lt. Gen. David Barno, commander of CFC-A and one of the architects of the strategy, later wrote: "There was much 'learning by doing' and even disagreement as to whether the fight in Afghanistan was a [counterinsurgency] fight at all."[680] He noted that commanders did not use the word "counterinsurgency" at first, instead describing their operations as "counterterrorist," in keeping with U.S. strategic guidance.[681]

Yet DOD never committed the number of troops that would have been required for a full counterinsurgency effort, including the large number of advisors which would have been needed.[682] Nor was police development a priority. A mid-2007 Combined Joint Task Force Phoenix brief noted that although Afghan National Army mentoring team requirements were 60 percent filled, ANP mentoring teams were only 36 percent filled—and that a request for more forces was unlikely to be approved.[683] NATO troops in southern Afghanistan were spread too thin to combat the rising insurgency. In Helmand, for instance, small British units were unable to operate outside of district centers and, in some cases, even negotiated ceasefires with the Taliban.[684]

DOD'S COUNTERINSURGENCY DOCTRINE: CLEAR, HOLD, BUILD

Doctrine is defined as general concepts promulgated by the military to guide planning and operations.

The 2006 U.S. Army and Marine Corps field manual was in large part the brainchild of then-Lt. Gen. David Petraeus. It defined counterinsurgency as the use of any available means of government power, including military, political, and economic actions, to establish or sustain the legitimacy of a constituted government and defeat actors who seek to overthrow that government.[685] This doctrine presented counterinsurgency as

primarily a political struggle, with military force used to create the opportunity for non-combat activities to gain influence over the population.[686] Defeating an enemy on the battlefield is secondary to addressing the root causes of the insurgency, and victory is achieved "when the populace consents to the government's legitimacy."[687]

An important element of the counterinsurgency manual was the clear-hold-build approach, which would become the dominant model in Afghanistan.[688] During the clear phase, military forces conducted offensive combat operations to remove enemy forces from the area and eliminate insurgent control. The hold phase consisted primarily of defensive operations—ideally by host nation forces—to prevent insurgents from reestablishing control or influencing the population. The build phase consisted of developing government legitimacy and influence over the population while providing security from insurgent intimidation or reprisals. The focus of this last phase is the building of local capacity to deliver services and advance the rule of law, an important part of which was having the military hand off responsibility for everyday law enforcement to civilian police.[689]

Asked to reflect back on the role of police forces in counterinsurgency operations, an original author of the counterinsurgency doctrine, Dr. John Nagl, told SIGAR that "I thought counterinsurgency was hard and then I tried to implement it and I found out it is really hard. . . . I understand police forces were important from reading others, then I went to Anbar [Iraq] and holy moly police forces were important, but we were the wrong people to train them. But there was no one else to do it."[690]

The Goal of Counterinsurgency Doctrine: Establishing Civilian Police as the Face of Government Legitimacy

Police are considered both a central symbol of the relationship between citizens and their government, and a key mechanism for establishing the government's legitimacy.[691] According to U.S. policy, police primarily "reinforce the perception of insurgents as 'criminals' rather than 'freedom fighters' and highlight the government's commitment to uphold its peacetime legal framework."[692] The counterinsurgency manual noted that "police often are the best force for countering small insurgent bands supported by the local populace."[693] Yet for police in Afghanistan, counterinsurgency operations tended to blur the line between their community policing and law enforcement roles and their involvement in military operations.

The Afghan Approach to the Police Role in Counterinsurgency Mirrored U.S. and NATO Doctrine

The Afghan Ministry of Interior's initial strategy for the police mirrored that of the United States: It focused on security and counterinsurgency, while neglecting community policing and the rule of law. For example, the ministry's National Internal Security Strategy stated that "the main thrust of the national internal security forces will be on counterinsurgency operations for the next few years," and that the ANP will "continue to wage war against armed groups" along with the Afghan National Army and coalition forces.[694]

Over time, the Ministry of Interior, assisted by U.S. and NATO advisors, produced a more detailed counterinsurgency strategy, recognizing that government legitimacy aspects of community policing were "crucial," and stressing that the ANP "are at the front line of the counterinsurgency. . . . Police often are the best force for countering insurgent groups supported by the local populace."[695]

At the time, the Afghan strategy was based on the assumption that even in areas where the Taliban had local support, police could establish government legitimacy by providing regular police patrols. Once the Taliban was gone, the theory went, better public security would win over the local population, and service delivery would translate into government legitimacy. In reality, neither happened: The police were often unable to respond to large-scale Taliban counterattacks, and untrained in the concept that their role was to protect the public.

In 2010, the Ministry of Interior used the U.S. and NATO clear-hold-build concept to assign the roles of different police pillars in counterinsurgency operations. ANP strategy distinguished between police roles during different phases, noting that "a clear delineation should be made between the police departments dedicated to counterinsurgency and those charged with law enforcement and civilian policing."[696] According to the Ministry of Interior strategy, clearing the Taliban from a contested area through combat operations was the responsibility of the Afghan National Army, not the ANP (see Table 1).[697]

This model at least attempted to define the roles of different police elements within counterinsurgency plans. In practice, these roles were often blurred.

The Afghan National Civil Order Police: Police with Military Status That Played a Valuable Role in the Counterinsurgency Campaign

According to the Afghan government's counterinsurgency strategy, the Afghan National Civil Order Police were assigned a unique role as a bridge between conventional NATO and Afghan military forces and the Afghan Uniform Police—in essence, filling the gap between offensive combat operations and civilian policing.[698] However, in practice, the Afghan National Civil Order Police was often misused and viewed more as a military rather than police unit. In 2018, in an attempt to consolidate fighting forces, the Afghan government officially moved the majority of the Afghan National Civil Order Police from the Ministry of Interior to the Ministry of Defense. This part of the force was renamed the Afghan National Civil Order Force, and was fully transformed into a military unit with no policing authority.[699]

This move eliminated the Afghan National Civil Order Police's unique police capability for high-threat areas, though it is unclear how much of a practical difference that made. Before its transition to the Ministry of Defense, it had functioned as a gendarmerie whose mission was "to maintain law and order utilizing proportional armed capability."[700] As with most of the world's gendarmeries, it was modeled on the French National Gendarmerie, which has a mobile, rapid-reaction element responsible for

TABLE 1

DESIGNATED AFGHAN ROLES DURING PHASED COUNTERINSURGENCY OPERATIONS

Phase	ANA	ANCOP	Afghan Uniformed Police
Clear	ANA takes the lead	ANCOP may assist the ANA in a supporting role	No role
Hold	No role	In high-threat areas, secure the population and prepare to transition responsibility to AUP	In moderate- and low-threat areas, secure the population and prevent the return of insurgents
Build	No role	Transition responsibility to AUP	Shift from counterinsurgency to community policing while still providing security for governance and stability activities

Source: Afghan Ministry of Interior, Afghan National Police Strategy, January 2010, pp. 33–34.

controlling civil violence.[701] Consisting of carefully selected and well-trained officers, the Afghan National Civil Order Police was envisioned by the Ministry of Interior as a force "able to conduct counterinsurgency operations in cooperation with the Afghan National Army and [also] able to maintain civil order."[702] They were equipped with heavier weapons than the Afghan Uniform Police, and were the first ANP element to be provided with armored vehicles.[703] The civil order police were considered "the principle element of the police used for counterinsurgency operations," and were also expected to work closely with the Afghan Border Police and the Afghan National Army.[704] However, one advisor to the force told SIGAR that they did very little policing.[705]

Although roughly 70 to 80 percent of officers in other sections of the ANP were illiterate, members of the Afghan National Civil Order Police were required to have a sixth-grade level of literacy in 2012.[706] Officers received 16 weeks of initial training—twice what regular Afghan Uniform Police patrolmen received—in addition to eight weeks of follow-up training by an embedded U.S. or coalition advisor team.[707] As a result, the civil order police developed a reputation for professional conduct. Some residents actually protested when their own district police returned from training elsewhere, and demanded that the civil order police remain instead.[708]

THE OBAMA ADMINISTRATION TRIES A NEW COUNTERINSURGENCY STRATEGY

Security in Afghanistan continued to decline through early 2009. Sixty-seven U.S. personnel were killed in action from late 2008 to early 2009, a 24 percent increase from the same period a year earlier. Overall military deaths, including international and Afghan security forces personnel, increased by 48 percent; insurgent-initiated attacks increased by 60 percent.[709]

Immediately after the January 2009 inauguration, the new Obama administration conducted its own strategic assessment and announced a new counterinsurgency strategy for Afghanistan. Designed to continue the "clear-hold-build" concept, it provided greater resources to combat the growing insurgency, more advisors to develop the Afghan National Defense and Security Forces, and better coordination between the military and civilian police.[710] In March 2009, President Obama announced the deployment of 21,000 additional troops, including 4,000 additional soldiers to

train Afghan security forces as quickly as possible. "For three years," he said, "our commanders have been clear about the resources they need for training. And those resources have been denied because of the war in Iraq."[711]

The plan to add 21,000 troops rapidly expanded after an initial assessment by the new commander of the International Security Assistance Force, Lt. Gen. Stanley McChrystal. His assessment warned that "failure to gain the initiative and reverse insurgent momentum in the near-term (next 12 months)—while Afghan security capacity matures—risks an outcome where defeating the insurgency is no longer possible."[712] The assessment also recommended almost significantly increasing the planned size of the ANP, with a final authorized force strength of 160,000.[713] That, combined with proposed force numbers for the Afghan National Army, would bring the Afghan National Defense and Security Forces to a total of 400,000. The number of total Afghan forces required was based on counterinsurgency doctrine that called for one counterinsurgent for every 40 to 50 people in the country.[714] In response to a request from the White House, McChrystal presented three options: sending 10,000 to 11,000 U.S. troops, who would be primarily responsible for training the Afghan security forces; sending 40,000, enough to protect the population; or sending 85,000, enough for a fully-resourced counterinsurgency effort.[715] President Obama eventually approved 30,000 additional troops, which, when fully deployed, brought the number of U.S. troops in Afghanistan to over 100,000.[716]

General McChrystal's assessment explicitly linked rapid growth of the ANP to its role in the counterinsurgency fight, both to "hold areas that have been cleared of insurgents" and to augment security forces. He also assessed that due to a lack of overall strategic coherence and insufficient resources, "the ANP has not been organized, trained, and equipped to operate effectively as a counterinsurgency force."[717] The assessment did not refer to law enforcement or a community policing role for the ANP. General Petraeus, McChrystal's successor, described the role of the ANP as a security force "capable of holding onto the security gains made so far, and to take lead on security responsibilities as we progress through transition."[718]

AUXILIARY FORCES: AN ATTEMPT TO FILL SECURITY GAPS IN COUNTERINSURGENCY STRATEGY

Auxiliary police forces—small, local, community-based units whose job was to repel insurgents and prevent local criminal behavior—were a feature of the U.S. counterinsurgency campaign against the Taliban since 2001.[719] Over the last two decades, U.S. military planners developed hundreds of local policing units under various names—the Afghan Local Police, the Afghan National Auxiliary Police, and the Afghan Public Protection Force Program—as part of the shift from counterterrorism to a counterinsurgency strategy.[720] According to a 2010 RAND study, an essential part of such a strategy was "building competent Afghan national security forces, reintegrating insurgents, countering corruption, improving governance . . . and leveraging local communities, especially the use of traditional policing institutions."[721] The concept

made intuitive sense: Local villagers, recruited and armed with the support of tribal elders who understood and in some cases personally knew the Taliban fighters, could be expected to fight harder to defend their own communities.[722] Local defense forces also alleviated problems created by national police forces, who were often from different ethnic or tribal backgrounds, and thus viewed as unwelcome outsiders.[723]

Yet many Afghan leaders foresaw problems unique to the Afghan context. In 2009, Afghanistan's ambassador to the United States told a *BBC* interviewer he thought local police forces were a risky idea. The Soviets had tried a similar concept without success, he said, and had found that the warlords and power brokers created by the formation of local police forces had weakened traditional tribal structures. That assessment was shared by various members of parliament, who warned that bolstering these small militias could undermine local governance and even create conditions ripe for a civil war.[724]

Afghan warnings were prescient: These quasi-state and semi-privatized police forces proved problematic. The incorporation of militias undermined disarmament and demobilization efforts, and strengthened the power of warlords and strongmen. Some auxiliary police units used their power to prey on the population or further criminal enterprises, which undermined the Afghan state and arguably contributed to the Taliban's resurgence.[725] And even though some programs had some success, according to a Human Rights Watch report, "all have been plagued by failures of vetting and oversight, and, too often, impunity for human rights abuses. In different ways and to different degrees, all of the programs have at times been hijacked by local strongmen or by ethnic or political factions, spreading fear, exacerbating local political tensions, fueling vendettas and ethnic conflict, and in some areas even playing into the hands of Taliban insurgents, thus subverting the very purpose for which the militias were created."[726]

The following are examples of such local forces, which in many ways tended to appear as simply a re-branded version of their predecessors.

The Afghan National Auxiliary Police

Launched in 2006 by NATO and the Afghan government, the Afghan National Auxiliary Police was an attempt to support struggling police forces in southern Afghanistan by enlisting tribal forces and strongmen militias.[727] It was set up to man checkpoints and conduct community policing functions in order to reinforce and free up the Afghan National Police for counterinsurgency operations. Within a year, provincial governors had recruited 8,300 men from 124 high-risk districts in 21 provinces. Training consisted of just five days of classroom instruction and five days of weapons training, after which they were given an AK-47 assault rifle, a standard ANP uniform, and the same salary as the ANP: $70 dollars per month.[728] ANP officers questioned why the Afghan National Auxiliary Police received the same salary and wore the same uniform as they did, despite having far less training and allegiance to the national government.[729] The program was also seen as reconstituting and legitimizing powerful warlords and

their tribal militias, contravening the purpose of the Disband Illegally Armed Groups program of the previous year.[730] In May 2008, the Afghan National Auxiliary Police were disbanded after less than two years in operation. Incompetence and ineffectiveness stained the reputation of the force, as well as suspicions that the recruits were Taliban agents or loyal to provincial power brokers.[731]

Even so, this short-lived program would preview some of the initiatives that followed. Seven months later, the concept of creating village self-defense forces would reemerge.

Afghan Public Protection Program

The Afghan Public Protection Program, known as AP3 and implemented only in Wardak Province, is credited with reducing insurgent attacks and increasing road security in the province.[732] The program began in early 2009 across four districts of Wardak Province, each given a $500,000 incentive from Commander's Emergency Response Program funds for joining the pilot program.[733]

Wardak is a primary route for insurgent infiltration into Kabul, so creating village self-defense forces against insurgents seemed a logical concept.[734] Recruits concentrated their efforts on road patrols and critical public infrastructure to free up the police from guard duties.[735] The program was put under the command of the Ministry of Interior and the Independent Directorate for Local Governance.[736] Recruits were provided two weeks of training, which included military tactics, discipline, rule of law, and human rights concepts. They were also given Kalashnikov rifles, radios and cell phones to communicate with U.S. troops, and a salary of $125 dollars a month.[737] Their pay was later raised to $170 per month in 2012, roughly equivalent to the base pay of patrolmen in the ANP, even though members of the AP3 had significantly less training.[738]

Wardak was home to the Afghanistan Social Outreach Program pilot project, run by the Independent Directorate for Local Governance, which was intended to be the recruitment vehicle for AP3.[739] According to an Afghanistan Analysts Network assessment, "the intention of U.S. and Afghan planners was to give the local [Afghanistan Social Outreach Program] shuras (councils) responsibility for selecting [local police]. This, however, did not materialize." In reality, recruits were chosen by "a mix of direct patronage by elders and local power brokers, including prominent jihadi commanders."[740] The program also ran into problems with local buy-in. A number of local elders refused to sign an agreement with the government at a seminar in Kabul, citing the negative experience with government-backed militias of the Najibullah regime and arguing instead for an increase in ANP and Afghan National Army forces.[741] According to Human Rights Watch interviews, leaders from Sayedabad, Jalrez and Chak districts were especially hesitant to offer volunteers, due to fear of Taliban reprisals and doubts about the effectiveness of the program.[742] Some village elders were allegedly forced to sign the agreement and recruit a mandatory minimum number of members for the program.[743]

Despite these misgivings, recruitment for the program began, somewhat sluggishly, in Wardak's ethnic Tajik districts.[744] Wardak's governor Mohammad Halim Fidai described it as a "comprehensive approach, which is not just fighting the insurgency with the arms and with military means, but also with a creation of employment opportunities for the young people and also [bringing] development to the people."[745] But concerns over a lack of ethnic diversity led to a push for greater Pashtun involvement. Eventually, the balance of power tipped when a local Pashtun strongman from Jalrez district, Haji Ghulam Mohammad, became the local commander.[746]

Ghulam Mohammad incorporated over 500 Pashtun recruits, almost half of the total recruits in the program, giving them only cursory vetting.[747] This gave Jalrez a disproportionate preponderance of recruits, more than twice the intended amount of 200 men for the district, and was seen as a move to co-opt the program to increase his power and authority.[748] Although AP3 commanders officially reported to the ANP district chief, in reality the force acted independently.[749] Ministry of Interior officials had little or no control or oversight over the program, leaving Ghulam Mohammad's men free to threaten, beat, and intimidate residents with impunity. For residents, it was an unhappy reminder of the warlord militias that plagued the region in the early 1990s.[750] In mid-2010, Ghulam Mohammad was replaced by a new commander, but he remained an influential advisor to the governor.[751] There is no reliable data on how effective the force was at quelling insurgent activity.[752]

In January 2011, Governor Halim Fidai announced the dissolution of the AP3 program. Some members transferred to the Afghan Local Police after vetting from the Ministry of Interior and the National Directorate of Security.[753] The main reason for the dissolution, according to the Afghanistan Analysts Network report, was that AP3 was "slower and more resource-intensive and bureaucratic than initially foreseen." The program was not replicated in any other province.[754]

Afghan Local Police

The Afghan Local Police program, created in 2010 and defunded in September 2020, has been the largest and longest-running auxiliary force initiative in Afghanistan.[755] It was intended to recruit local villagers who would protect their local communities and prevent insurgent access to rural areas by supplementing national security forces.[756] The concept was inspired by the Iraqi Sunni Awakening movement in 2006, where increased alienation from al-Qaeda led to a critical partnership between the local Sons of Iraq and coalition forces led by General David Petraeus.[757] As ISAF Commander in mid-2010, Petraeus later endorsed the idea in Afghanistan—but he had to persuade a reluctant Hamid Karzai and staff, who saw this as a weakening of their central authority. Karzai agreed to a 10,000-man force on the condition that the program would last between two and five years, and that it be labeled a "police force" under the Ministry of Interior.[758]

Within a year, the Afghan Local Police had grown from five sites, chosen for their counterinsurgency utility, to 46. The number of U.S. advisors rose from 2,900 to 5,400.[759] The roster of officers expanded from just over 1,000 men at the end of 2010, to 17,000

Members of the Afghan Local Police stand in formation at Ab Band District, Ghazni Province. (U.S. Army photo by Staff Sgt. Jerry Griffis)

by the end of 2012, to 28,000 by January 2015. By 2017, the program existed in 31 of 34 provinces.[760] The relatively lower cost of supporting the local force—at $120 million per year, it was roughly a quarter the rate per individual of funding ANDSF personnel—made it an appealing option as a more sustainable solution for the Afghan government.[761]

Like the Afghan Public Protection Program, the Afghan Local Police were sponsored by U.S. Special Operations Forces, who provided weapons, training, and salaries to around 30,000 members across hundreds of rural communities.[762] Special Forces village stability operatives engaged with local elders to recruit officers, and worked though the Ministry of Interior for vetting and approval of recruits. Local police were given assault rifles and one machine gun per six men.[763] Training lasted only three weeks and primarily covered basic firearm use, with little emphasis on more advanced concepts, such as community-based policing, rule of law, the accountability of police to civilians, or differing gender-based security requirements and procedures.[764] A Special Forces officer involved in training Afghan Local Police described attempts to tailor the training to local conditions: In areas where there was no functioning justice system, for example, the Afghan Local Police would be trained to take judicial matters to village elders, often resolving criminal disputes quickly and efficiently through the informal justice system.[765]

A major problem with the Afghan Local Police was that despite the word "police" in its title, it lacked law enforcement power and authority.[766] This led to confusion among local Afghans and U.S. soldiers. "The Afghan Local Police [and AP3] in Wardak had no uniforms [or identifying markers] when I was there," Squadron Commander Col. John Woodward, who was stationed in Wardak in 2011, told SIGAR. "It was a huge effort just to explain the difference to our soldiers."[767] That lack of understanding among local populations led to misunderstandings when, for example, residents tried to hold forces accountable. When residents tried to file a complaint, they would not know which police they were complaining about.[768]

U.S. conventional forces found them difficult to work with as well. Col. Woodward noted the lack of trust and communication among the U.S. military and the Afghan Local Police: "There was really no formal coordination," or accountability, as there was no single individual for Afghan Local Police coordination. "You never knew what they were doing, and they weren't trusted," he said. "You would roll into a checkpoint, and they would all be asleep or half of them wouldn't be there. . . . It was more of a hindrance to operations."[769] The ANP had the same fractured relationship with the Afghan Local Police, and refused to collaborate or share intelligence.[770]

Overall, the Afghan Local Police program did not lead to improved security in many districts, and even aggravated the conflict in a number of areas.[771] A 2011 Human Rights Watch report described widespread abuses, including killings, rape, beatings, kidnapping, arbitrary detention, sexual violence, and extortion.[772]

In 2015, as the U.S. and NATO military forces reduced its presence in Afghanistan, the Taliban made major gains in Kunduz Province. According to Jason Lyall, a Yale University expert on Afghanistan and insurgency, there were three big reasons for the Taliban's power: the "corrupt and violent militia" defending the city, the "weak central state," and "ethnic rivalries" between local groups. That "corrupt and violent militia" included the Afghan Local Police. Reports from Kunduz described the Afghan Local Police as "widely likened to militias owing to their shady reputation for lawlessness and brutality," and the International Crisis Group wrote in a 2015 report that Afghan Local Police "weaknesses contributed to insecurity that threatened to overwhelm Kunduz city early in the 2015 fighting season."[773] These examples echo a phenomenon seen across Afghanistan: The lack of a democratic, effective police force to secure communities threatened to once again fuel instability and provide inroads for insurgents.

In September 2020, the 18,000-member Afghan Local Police was disbanded.[774] A total of 12,000 officers were transferred to either the ANP or Afghan National Army Territorial Forces.[775] To mitigate potential security risks, the Afghan government developed a tentative plan for post-dissolution employment options for former Afghan Local Police members and for recovering weapons and equipment.[776] Officer identities were confirmed through biometrics and vetted and enrolled into the Afghan Personnel and Pay System to prevent the transfers of "ghost" officers who existed only on paper as a means to steal salaries—and in fact, many districts reported discovering ghost officers during the transition.[777]

Some were skeptical of the consequences of dissolution. Retired Army Brig. Gen. Don Bolduc, the so-called "godfather" of the Afghan Local Police, predicted that "the integration [of the Afghan Local Police into ANP] will be a disaster and so will the weapons round-up. I doubt very much the villagers want to be in the army or police. They would have already joined. They are mostly farmers and shop owners and need to be home."[778]

ANP OPERATIONS REVEAL POLICE LIMITATIONS IN COUNTERINSURGENCY EFFORTS

In early 2010, soon after General McChrystal took command, ISAF undertook a major counterinsurgency campaign in the south, focusing on previously neglected Kandahar and Helmand provinces. In addition to U.S. and Afghan military forces, the plan was to include a comprehensive civilian effort to improved governance and stability. The campaign began in the town of Marjah, in Helmand Province, but the ultimate aim was Kandahar, which was critical to the legitimacy of both the government and the Taliban.[779]

The campaign featured several elements of the ANP: the Afghan Uniform Police, the Afghan Border Police, and the Afghan National Civil Order Police. The campaign was to be the first major test of the civil order police as the holding element in a high-threat area, as called for in Ministry of Interior doctrine.[780] In the end, the campaign revealed shortfalls in police capability to fulfill its counterinsurgency role, particularly without dedicated, embedded advisors.

Operation Moshtarak Reveals ANCOP Shortcomings

On February 13, 2010, thousands of U.S. Marines, Afghan National Army and ANP personnel began Operation Moshtarak—at the time, the largest joint offensive in Afghanistan. It was aimed at disrupting a Taliban hub for planning operations, narcotics trafficking, and moving weapons and explosive materials. A helicopter assault landed in the town of Marjah, in Helmand Province, with the short-term goal of securing the town center and key crossing routes from the Taliban and a long-term goal of securing the population and building a legitimate government presence.[781]

The plan followed the clear-hold-build counterinsurgency approach.[782] The U.S. military initially planned for the clear phase to last for more than a month.[783] However, military leaders began to transition to the hold phase only two weeks after the initial invasion. Marine Brig. Gen. Larry Nicholson argued that Afghan National Civil Order Police should be sent in to free up his troops to fight elsewhere.[784] On February 20, an Afghan National Civil Order Police battalion of 200 personnel arrived in Marjah. On February 27 the military transitioned to the holding phase, in which 200-member police battalion would flush out remaining insurgents and maintain public order.[785]

Despite the size of Operation Moshtarak, there were not enough U.S. and Afghan forces to fully control the district. That led to the introduction of civil order police before there was enough security for them to fulfill their role of establishing law and order. General Stanley McChrystal admitted as much later. “Had we put more force in [Marjah], we could have locked [it] down better,” he said. “I think we have let too much move along without overwhelming-enough security.”[786]

While there was a lull in Taliban attacks after the initial resistance, Taliban activity resumed in Marjah by mid to late March, leaving Afghan government officials unable to move outside the bazaars and district center. The Taliban launched an intimidation campaign against the civilian population, including assassinations, kidnappings, and

night letters warning the populace not to cooperate with the Americans.[787] According to media reports, the number of insurgents in the area increased from mid-March to mid-May. From mid-May to mid-June, there were more U.S. Marine fatalities than in the first month of the campaign.[788]

The rapid transition to the hold phase meant insufficient time for the U.S. and Afghan forces to establish enough security to connect with the local populace and gain intelligence about the enemy. The civil order police were overmatched by the heavily armed Taliban, and security was so poor that more than a month after the start of the operation, the civil order police were unable to address a criminal complaint unless the perpetrator could be found in the nearby bazaar—the only location they could patrol safely.[789] The Taliban were able to infiltrate, intimidate the population, undermine efforts to establish government legitimacy, and attack U.S. forces and the civil order police.[790] Threatened by the Taliban, local residents were unwilling to cooperate or provide information.[791] It may not have helped that the civil order personnel involved in Operation Moshtarak were predominately Tajik, and many did not speak Pashto, the language of the mainly Pashtun population in Helmand.[792] Without a flow of information from the civilian population, the civil order police were unable to prevent the Taliban from reestablishing a presence back in the district, threatening everything that had been gained during the initial wave of U.S. and Afghan military clearing operations.[793]

In addition to the premature transition to the hold phase, the operation was hampered by the separation of the Afghan National Civil Order Police from their previous U.S. Special Forces mentors. In Marjah, the civil order police were handed off to U.S. Marines who had never worked with them before.[794] Despite the civil order police's reputation for professionalism, the unit in Marjah quickly exhibited severe disciplinary problems once it was deprived of dedicated and informed supervision. Some members of the force refused to work at night, to go on patrols, or to even clean their living quarters.[795] Some abandoned checkpoints or refused to stand guard. Approximately one-fourth of the force tested positive for drug use.[796] This breakdown of discipline could be attributed to the absence of their accustomed mentors, a response to an aggressive deployment cycle which had previously led to high attrition rates, or both.[797]

The civil order police also alienated the local populace by shaking down residents at checkpoints and taking cash or cellphones.[798] In doing so, they missed an opportunity to establish their legitimacy. Due to police corruption, the locals despised the previous Afghan Uniform Police force in Marjah, who had left when the Taliban took over the district in 2008.[799] A highly professional Afghan National Civil Order Police unit might have made inroads into the hearts and minds of the people. Instead, it reminded the population of past abuses by the police.[800]

The corruption of the earlier Marjah Afghan Uniform Police, who should have had responsibility for long-term stability, also hampered the build phase of the operation, as the Afghan Uniform Police could not immediately be brought in to replace the Afghan National Civil Order Police. Lt. Gen. William Caldwell, CSTC-A commander, said that

"the people of Marjah will tell you that one of their greatest fears was the [Afghan Uniform Police] coming back" due to their predatory actions.[801] Instead, it was necessary to replace the Afghan National Civil Order Police with newly-graduated police, who only became available as they finished training.[802] This illustrates a fundamental paradox in using police in counterinsurgency in a country with a history of police corruption: Counterinsurgency doctrine calls for greater police contact with the populace, but interaction with corrupt police undermines government legitimacy. "This is not about seizing land or holding terrain," Caldwell said. "You have to have a police force that the people accept, believe in, and trust."[803]

"This is not about seizing land or holding terrain. . . . You have to have a police force that the people accept, believe in, and trust."

—Lt. Gen. William Caldwell, CSTC-A commander

Although some development projects were completed during the build phase, ISAF had little knowledge of conditions in Marjah, and underestimated the need for development which might have bolstered support for the Afghan government.[804] Moreover, there was little effort to establish government structures, particularly a local justice system.[805] The new district governor—an outsider who had spent the previous 15 years in Germany, including four years in prison for stabbing his stepson—was hated by the population of Marjah and was removed as ineffective after six months.[806] Without support from the local populace, Afghan forces were unable to hold Marjah once coalition troops departed in 2014. By the end of 2015, the Taliban were once more in control.[807]

Operation Hamkari Shows the Value of Embedded Mentors and Defined Roles for the ANP

Operation Hamkari, aimed at securing Kandahar City and the surrounding districts, began in June 2010.[808] In addition to the 101st Airborne and other U.S. forces, it included two Afghan National Army brigades, Afghan commandos, and elements from the Afghan Uniform Police, the Afghan Border Police, and the Afghan National Civil Order Police.[809]

Unlike the Marjah operation, Phase I for Kandahar did not consist of a large combat operation, but rather the establishment of a ring of checkpoints along major roads leading into the city. Each of these police substations was manned by either local Afghan Uniform Police or Afghan National Civil Order Police, along with embedded U.S. military police advisors. This was the first time advisors had partnered full-time with the Afghan Uniform Police in Kandahar. By August, more than 1,200 civil order police personnel were manning checkpoints surrounding the city.[810]

Local reactions to the checkpoints and the presence of the civil order police were not altogether positive: A local police chief complained that they lacked an understanding of local culture and were searching the wrong people. The embedded U.S. mentors were able to establish communication between the civil order police and the local

uniform police, and were also able to reduce predatory behavior toward local citizens.[811] However, by employing both civil order and uniform police in the same static positions, U.S. advisors did not make the best use of either element's capabilities—the Afghan National Civil Order Police's greater defensive power, or the Afghan Uniform Police's greater knowledge of the local situation. By November, ISAF concluded that, although some locals felt the checkpoints made them safer, there had been no real impact on Taliban movement.[812]

Phase II of the operation was focused on clearing the Arghandab district on the edge of Kandahar City, an insurgent stronghold, IED production center, and link to other Taliban-controlled districts.[813] Along with an Afghan National Army battalion, Afghan commandos, and the Afghan Border Police, an Afghan National Civil Order Police battalion and its embedded U.S. Special Forces advisors took part in the assault on the district.[814] The presence of the border police so far from the border, in a frontal assault against fortified enemy objectives, was unusual.[815] The heavily-armed border police may have been used to increase the combat power of the force, or its participation may have been a concession to their politically powerful commander, Abdul Raziq (see Highlight Box on p. 178). This phase allowed U.S. Special Forces to establish a village security program in the district with local police forces.[816]

Partnering with dedicated U.S. advisors improved civil order police morale to the point where attrition, which had reached 70 percent in Marjah, virtually stopped: The brigade reported only one desertion between July and August 2010.[817]

Phase III of Operation Hamkari aimed at clearing the Zhari and Panjwai districts, both Taliban strongholds.[818] The civil order police performed their prescribed counterinsurgency role during the hold phase of this operation. One battalion arrived in October as clearing operations were completed, established checkpoints, and began conducting patrols.[819] The civil order police then worked with the local Afghan Uniform Police unit to establish police stations in the cleared areas, as called for in the clear-hold-build concept.[820]

Equipment Was Not Tailored to ANP's Role in Counterinsurgency

In both examples, the ANP were not provided with appropriate equipment or training to survive facing a heavily armed insurgency. Although their equipment was more militarized than that required for community policing, it was not comparable to that of a security force equipped to repel large-scale counterattacks.[821] The ANP were provided with Warsaw Pact weapons, such as the AK-47 assault rifle, rather than the modern NATO weapons provided to the Afghan National Army, and lacked heavy weapons and armored vehicles.[822] Training for the ANP, which had to include both policing and combat skills, was sufficient in neither, and the civilian contractors who provided much of their training did not always have expertise in military subjects.[823] A Canadian police trainer in Kandahar noted that "with just 10 days of training and equipped with a minimum of firepower, [the police] are used as a military force, a sort of 'canary in the coal mine' or tripwire to flush out the Taliban."[824]

The equipment provided for the ANP by the United States and the international community reflected the ambiguity of the police role: It was necessarily militarized—but not enough to counter a well-armed insurgency. This approach had consequences not only for the ANP's immediate success but for their long-term development into a mature force capable of independent operations.

The Afghan Uniform Police were given AK-47s and 9 mm pistols, with many units also having light machine guns. The civil order and border police units had heavier weapons.[825] But because these elements were often employed outside of their designated roles, in high-threat situations, they were often overmatched by the heavily armed Taliban.[826] For example, Afghan Uniform Police patrolmen often had only one or two magazines of ammunition—enough to carry out the duties of a civilian police officer in a permissive environment, but far less than an infantry soldier would be provided in a combat situation.[827] Even Afghan National Civil Order Police conducting offensive operations sometimes only had three magazines of ammunition, compared with the six that were standard for Afghan National Army personnel.[828] The ANP were initially provided with unarmored Ford Ranger light tactical vehicles and International Harvester trucks as medium tactical vehicles. The civil order police had these vehicles as well, but, starting in 2008, were supplied with armored High Mobility Multipurpose Wheeled Vehicles (HMMWV—or, more colloquially, Humvees) to fit their gendarmerie role.[829] After an increase in violence and IED-related casualties in 2009, DOD opted to replace light tactical vehicles with armored Humvees throughout the ANP. The first armored Humvees were not fielded to the Afghan Uniform Police until 2010.[830]

Police were given a wide variety of communications equipment by Germany and other international donors, which led to a lack of interoperability with NATO partners and other Afghan elements. The U.S. government had to buy standard NATO-compatible communications equipment to replace this nonstandard equipment.[831]

In the end, the Afghan Uniform Police was ill-equipped to repeal Taliban counterattacks. This failure jeopardized the Afghan government's ability to establish control of insurgent-held territory, a key measure of success for the U.S. counterinsurgency strategy.

ISOLATED CHECKPOINTS: MAGNETS FOR INSURGENT ATTACKS

A November 2019 assessment by the Afghan government and CSTC-A estimated there were over 10,000 ANDSF checkpoints throughout Afghanistan, with an average of 10 to 20 ANDSF personnel at each, though some had only a handful.[832] According to one police advisor SIGAR interviewed in 2019, "You saw lots of checkpoints all over the place, and there didn't seem to be much rhyme or reason why some checkpoints were manned by the police and some by the army."[833]

Police who lived at these remote and poorly manned static checkpoints for weeks at a time—typically mud brick structures or shipping containers—were often without means of communication or back-up. One such checkpoint in Wardak Province was described

in 2019 as a "scruffy camp, where troops sleep in converted shipping containers with smashed windows" surrounded by "sagging blast walls and teetering sandbags."[834] An isolated, visible, static position paired with minimal personnel and poor defense structure made these checkpoints highly vulnerable to insurgent attacks.[835] The Taliban consistently exploited this vulnerability, harassing the ANDSF as well as capturing ANDSF equipment for their own use.[836]

Attacks on checkpoints like the one in Wardak Province constituted the overwhelming majority of successful Taliban attacks against the ANDSF and were responsible for over half of ANDSF casualties, according to DOD.[837] Estimates indicate forces operating from static checkpoints suffered around double the casualties as those on maneuver.[838] With a significant portion of ANP forces dispersed to these remote checkpoints, attacks on the outposts weighed heavily on the Afghan police in particular: DOD notes some 3,400 Afghan police were killed or wounded between January 2007 and March 2009, and police combat losses during 2008 were three times larger than those of the Afghan National Army.[839] By 2012, the numbers remained dismal: Police were suffering casualties at two to three times the rate of military casualties, a trend that had been consistent over the previous decade.[840] These casualty rates were unsustainable for the ANP—a force the U.S. considered a linchpin in its efforts to transition security responsibility back to Afghans. Without the personnel and means to protect themselves, police at checkpoints were effectively sitting ducks.[841]

Factors behind the Outgrowth of Checkpoints

The process of establishing checkpoints was more localized and ad hoc than centrally planned and coordinated, and it was driven at various times by both international forces and Afghan officials. The establishment of so many isolated checkpoints was an attempt to assert government control over territory and establish a government presence in or around rural villages. They proved ineffective at both.[842]

In theory, checkpoints are a physical representation of government control. As instruments of population control, they are intended to contribute to law enforcement and counterinsurgency.[843] In reality, the ANDSF forces at these checkpoints were generally ill equipped to either maintain control over cleared territory or assert government control in more contested areas. Instead, lack of proper training, sufficient personnel, and nearby support made these isolated outposts highly attractive targets for insurgents.

From a counterinsurgency perspective, a dispersed police presence should also facilitate relationship building with local populations. To that end, the ANP were at times pressed to move into more remote checkpoints to "increase their influence in the villages and become the face of the government."[844] This approach showed some promise, albeit short-lived, in specific cases that involved close mentoring.[845] However, the lack of professionalism among Afghan police generally did not endear them to local populations. "The ANP, far from working to secure the highway, was responsible for some of the crimes on and around the road," wrote historian William Rosenau in a 2011

paper for the CNA Corporation.[846] A summary of one U.S. Marine Corps police mentoring commander's experiences paints a vivid picture of the ANP:

> In addition to engaging in unprofessional behavior, such as napping on duty and taking drugs, the ANP used the checkpoints as platforms for extracting unofficial "tolls" and robbing vehicles and their passengers. Routine visits from the mentors were meant to deter crime and dereliction. To ensure that the police were behaving properly, the mentors sometimes also conducted covert surveillance of the checkpoints.[847]

Similarly, a U.S. Army police mentor along Afghanistan's Khost-Gardez Pass shared the story of a local police chief notorious for hijacking and stealing from jingha (or "jingle") trucks—multipurpose transport trucks decorated with colorful stickers, metal tassels, and chimes. "In one instance, after the police chief claimed that the Haqqani network had burned a jingle truck, we found it parked behind the police station. . . . There were times when I wanted to arrest the ANP."[848] Such rampant bribery, shakedowns, and other predatory policing practices reinforced public perceptions of the police as corrupt.

Political and Social Resistance to Closing Outposts

U.S. and NATO advisers were aware of how poorly isolated outposts met counterinsurgency objectives, as well as the danger they posed to the ANP. By at least 2016, NATO backed efforts to reduce checkpoints.[849] U.S. advisors told SIGAR in 2017 that they had been pushing for years to consolidate vulnerable checkpoints that were proving detrimental to the overall security environment.[850] But some Afghan officials resisted closing checkpoints because they provided a visible, if purely symbolic, sense of security.[851] They were frequently the only visible government presence in remote areas.[852] Consequently, significant social and political pressure to maintain checkpoints around villages and along highways—including a desire to avoid ceding territory to the Taliban—pushed the Afghan government to resist international efforts to consolidate.[853] Stephen Biddle, professor at Columbia University, notes, "To maintain an alliance sufficient to remain in office . . . the president of Afghanistan has often preferred to push troops out into locations that make no military sense but are politically important."[854]

Nevertheless, after years of concerted effort, ANP and Afghan National Army reduction programs gained some traction in 2020. Following a combination of abandonments (nearly 200 Afghan National Army checkpoints were abandoned to the Taliban during December 2020 alone), consolidations, and planned closures, January 2021 estimates put the number of combined Afghan National Army and ANP checkpoints across Afghanistan at fewer than 6,000—with over two-thirds likely to be ANP checkpoints, based on DOD reports from the previous year.[855] As of January 2021, about one-third of the ANDSF, including 66,000 ANP, were said to be manning checkpoints. Progress toward reducing the number of checkpoints remained unclear, since additional checkpoints were being opened at the same time others were abandoned or closed.[856]

International partners' calls to reduce checkpoints reached a crescendo as the United States withdrew its forces from Afghanistan in the second half of 2021. In the wake of Taliban gains, the United States renewed its urging for Afghan political leaders to create a counterstrategy that consolidated forces around district centers. The Afghan

government resisted up to the day of its collapse, although there were piecemeal consolidations in various parts of the country.

In SIGAR interviews after August 2021, this checkpoint reduction strategy was identified as contributing to ANDSF vulnerability and its ultimate collapse. Consolidating ANDSF forces at larger bases seemed like a realistic strategy at the time: It addressed the issues of small ANDSF forces being targeted at remote bases, and the logistical difficulties of resupplying them. At the same time, however, consolidating forces effectively ceded ground to the Taliban, and creating "castles" of ANDSF forces surrounded by enemy territory. Those, too, were difficult to resupply, and made inviting large targets for the Taliban to attack anyway.[857]

"There were times when I wanted to arrest the ANP."

—Former U.S. Army police mentor

AFGHAN POLICE STATIONS: A WALL SEPARATING POLICE FROM THE CITIZENS THEY ARE SUPPOSED TO SERVE AND PROTECT

Counterinsurgency strategy seeks to bring police, the "ground level" of government, closer to the population to ensure community needs are met and to prevent an insurgency from taking root. This involves making police accessible to the communities they serve. To this end, the United States (and other donor countries, including Germany and Canada) invested heavily in building or reconstructing local police infrastructure across Afghanistan.

To enhance proximity between police and populace as well as provide maximum security, police stations were built within towns or villages near highly trafficked areas. These areas could include district centers, markets, or commercial areas. According to a spokesman for the U.S. Army Corps of Engineers, which oversaw U.S. infrastructure projects in Afghanistan, the Corps' standard police station designs were aimed at making them able to withstand small arms fire while not isolating police from the people they were intended to serve.[858] Yet for security reasons, the Corps made police facilities out of reinforced concrete, controlled entry points and guards at each corner, and enclosed the whole facility within a walled or barbed wire perimeter.[859] They may not have been bunkers, but it is unlikely residents perceived them as "accessible."

Police stations were also attractive government targets for Taliban attacks—meaning that residents who lived too close to police stations actually had reason to feel less safe. Keeping locations peripheral but within easy walking distance, and providing residents with options like hotlines or phone numbers to call into police stations, promoted accessibility while minimizing physical threats.[860]

Rebuilding Police Stations in Afghanistan

Over two decades, the United States has invested heavily in restoring police infrastructure. Approximately $3.5 million was allotted towards construction of police headquarters in six Herat districts, with one such facility finished for around $439,000.[861] On the other end of the spectrum was the $17.7 million ANP Provincial Police Headquarters project in Kunduz—a project whose original $12.43 million cost ballooned because of issues with collapsible soil and sinkholes.[862] Falling somewhere in between are a $7.4 million provincial police headquarters built in Pul-e 'Alam (Logar Province); a $6 million headquarters in Kabul's Urban District-15; and three headquarters in Lash Jaween, Torghondi, and Qala I Naw for $3.4 million, $3 million, and $2 million, respectively.[863]

Such efforts have faced a slew of issues. Afghan firms fulfilling construction contracts overseen by the U.S. Army Corps of Engineers often lacked the experience and materials to build facilities up to U.S. standards. As SIGAR audits found in the case with the Kunduz Provincial Police Headquarters, the bidding and planning phases of these projects also often involved significant miscalculation of environmental factors. Sewage, electricity, and other basic functions have a history of not being adequately addressed early on, creating delays or increased costs down the line. Persistent concerns about safety and security also complicate construction.[864]

A 2010 McClatchy Newspapers investigation found that more than 40 Afghan police headquarters projects had been delayed or terminated between 2008 and 2010.[865] Similarly, in one 2010 SIGAR audit, auditors found low standards and materials substitution resulted in six police stations in southern Afghanistan, bid at less than $1 million each, were so poorly constructed they could not be safely occupied.[866]

Trust Posed Bigger Barrier than Concrete Walls or Barbed Wire

Various factions of the Afghan police have been accused and/or found guilty of raiding humanitarian clinics and stealing medical equipment, charging fake "fines" for not voting, killing rivals, assaulting locals, kidnapping family members if illegal "taxes" were not paid, destroying shops, and abducting women and young boys—among other abuses. Lawlessness ran rampant. In his book, Anand Gopal describes how sometimes police "would forcibly enter homes and help themselves to whatever they desired. Once they broke into a house . . . and robbed a newly married couple at gunpoint of the equivalent of $50,000." Gopal continues, "The precinct headquarters became drug central, and most of the time the police themselves seemed high."[867] U.S. mentors expressed similar experiences; one from Nawa-I-Barakzayi District in Helmand Province described 80 percent of the police there as high on drugs—usually opiates.[868]

A population's perceived safety is significantly impacted by police performance and residents' trust and confidence in the force.[869] U.S. efforts to bring the Afghan police

Brig. Gen. Alessandro Veltri, commander of Regional Command West (right), Deputy Commander of the Afghan National Police Col. Delewar Delewarsaha (center), and Italian Chairman of the Defense Committee of the Chamber of Deputies Edmondo Cirielli (third from left) cut the ribbon during an inauguration ceremony for the new 8th district police headquarters in Herat. (ISAF photo)

closer to the populace often focused on proximity without fully addressing this underlying issue. In fact, pushing a predatory police force into closer contact with residents can heighten perceptions of insecurity. Retired Lt. Gen. Karl Eikenberry, former head of U.S. forces in Afghanistan, noted, "Ten good police are better than 100 corrupt police and ten corrupt police can do more damage to our success than one Taliban extremist."[870]

There have, however, been instances of international efforts to build trust in local police forces. These efforts have included Neighborhood Watch Committees funded by the German Agency for International Cooperation, the Afghan Democratic Policing Project, funded by the Dutch Embassy through the UN Assistance Mission to Afghanistan and the UN Office for Project Services, and the Police-e Mardumi project, funded by the European Union Police Mission in Afghanistan and implemented by Afghanistan's Ministry of Interior and civil society organizations. These bottom-up approaches brought community representatives and the police together to solve community problems as well air grievances, building relationships and accountability. Specific aspects of programs differed but usually involved holding meetings with people and local shuras to discuss community concerns and the public's expectation of police.[871] With the Police-e Mardumi project in particular, both officers and the community received training on the rule of law and role of the police as public servants.[872]

In one example from the Police-e Mardumi program, community representatives brought concerns about police bribery and laziness to a provincial chief of police, who followed up at the next meeting with answers and commitments to address concerns. Police reportedly took their performance more seriously after they realized they could be fired based on community complaints.[873]

Anecdotal data suggests that the police and communities involved generally felt these programs facilitated stronger police-populace relations and enhanced local security. But little quantitative data exists to thoroughly assess their effectiveness.[874]

THE FAILURE OF THE AFGHAN BORDER POLICE TO SECURE AFGHANISTAN'S BORDERS HARMED THE COUNTERINSURGENCY EFFORT

Insurgents benefit greatly from insecure borders, which allow them to create safe havens close to the target of their attacks. These cross-border sanctuaries, which may or may not have the consent of the neighboring country, create secure base areas where insurgents can train and equip fighters safe from a counterinsurgent force; provide secure logistics hubs from which weapons, equipment, and reinforcements can be smuggled back across the border into the insurgency's area of operations, and permit wounded fighters to be smuggled across the border for medical treatment and rehabilitation.

These advantages can make the difference between winning and losing for an insurgency. An examination of the historical record of insurgencies since 1945 shows that insurgents with external sanctuaries win their conflicts more often than comparable insurgencies without cross-border sanctuaries.[875] Afghanistan is no exception: The U.S.-backed insurgency fighting the Soviets in Afghanistan in the 1980s retained numerous bases in Pakistan and regularly smuggled weapons, fighters, and equipment across the border.[876]

In the post-2001 order, the Afghan Border Police was charged with protecting the border and stopping the cross-border flow of militants—tasks it proved consistently unable to perform. Part of the reason for that failure was that the United States neglected the Afghan Border Police in the early years of its operation. When the United States did focus on policing the Afghanistan border in 2008, capacity-building efforts were marred by a lack of planning and resources. As with other components of the ANP, widespread corruption was never seriously addressed. That left an underequipped, poorly staffed and poorly trained force to protect one of the most difficult-to-police borders in the world—a job the force was too small to do even if it had been perfectly competent. This essay explains the role of policing *between* official crossings, referred to as the "green" border mission, as well as policing *at* official crossings, known as the "blue" border mission.

Putting the Task in Context: Afghanistan's Vast and Porous Border

As a landlocked country, Afghanistan relies on its neighbors for access to international ports to facilitate its own imports and exports. In the past, this access has been used by its neighbors as a bargaining chip. Pakistan officially closed the border during diplomatic spats in 1950 and again in 1961, for instance, seriously disrupting Afghan trade.[877] Despite high levels of corruption and smuggling, customs revenue accounted for nearly 50 percent of the former Afghan government's total domestic revenue from March 2011 to March 2012.[878] Traffic flows across Afghanistan's borders either through a handful of official border crossing points or over the vast stretches of poorly monitored land between these points. Until 2017, the Afghan Border Police was responsible for both patrolling between these informal crossing points, as well as official crossing points themselves.

As part of its "green" mission, the Afghan Border Police filled a hybrid role: In theory, it had responsibility for both border management activities (such as interdicting smugglers moving goods across unmonitored portions of the Afghan border) and border defense activities (countering insurgents moving across the border.) In reality, it spent very little energy on the former and most of its time on the latter.

The Afghan Border Police's "green" mission was complicated by the fact that in the numerous unmonitored areas that form the remote portions of Afghanistan's borders, the border itself is little more than a line drawn on a map.[879] Several Afghan ethnic groups occupy lands bisected by Afghanistan's border. These cross-border communities typically pay little attention to what they consider arbitrary boundaries. Smuggling is common; each year, massive amounts of Afghan opium flow across unmonitored sections of the border on its way to illicit drug markets worldwide. Illicit trade in timber, marble, and minerals is also common, as is the bribery that enables it.[880]

To put the magnitude of the Afghan Border Police's "green" mission in context, the Afghanistan-Pakistan border alone is only about 300 miles shorter than the U.S.-Mexico border.[881] Unlike the mostly flat desert topography of the U.S.-Mexico border, the Afghanistan-Pakistan border runs through several mountain ranges, with peaks in the west reaching heights of more than 15,000 feet.[882] In 2017, the United States deployed around 16,600 U.S. Border Patrol agents to the Mexican border.[883] The Afghan Border Police, which never numbered more than 23,000 personnel, patrolled a similarly sized border that many local residents do not recognize, with no physical fortifications and no high-tech surveillance equipment, in near-impossible terrain, in the middle of an active warzone—in addition to policing the *other* 2,061 miles of Afghanistan's land borders.[884]

The Afghanistan-Pakistan Border

The Afghanistan-Pakistan border, known as the Durand Line, was established in 1893 by an agreement between Sir Mortimer Durand, a colonial official in British India, and Amir Abdur Rahman Khan (the Iron Amir) to solidify Afghanistan's status as a buffer between British interests in India and Imperial Russian territory north of Afghanistan.[885] The Durand Line cut the territory inhabited by ethnic Pashtuns in two, dividing it between eastern Afghanistan and what is now western Pakistan.[886] For this reason, every Afghan government since Afghanistan's independence in 1919 has rejected the Durand Line, and denied the existence of a legitimate border between Afghanistan and Pakistan.[887] Before 2016, when a push for greater border security by the Pakistani government resulted in a steady increase in restrictive border fencing, border communities behaved as though the border did not exist. Massive amounts of people and goods, both legal and illegal, regularly crossed the Durand Line at both official and unofficial crossings.[888]

As of 2009, the UN Office on Drugs and Crime estimated that 45 percent of illicit Afghan opiates—roughly 3,100 tons of opium—were trafficked across the border into Pakistan.[889] Drugs flow across the Afghanistan-Pakistan border both at and between official border crossing points—before the Taliban takeover, sometimes with the help of corrupt border officials.[890] Similarly, the illegal timber industry smuggles vast quantities of wood—estimated at 20,000 trees annually—from Kunar and Nangarhar provinces into Pakistan across official

and unofficial crossing points.[891] Before the U.S. withdrawal, militant groups siphoned off significant portions of the revenue from these kinds of smuggling efforts to fund their own activities.[892]

Southern and eastern Afghanistan were home to a strong insurgent presence, and a large number of Afghan districts along the border were either controlled or contested by the Taliban and associated groups, such as the Haqqani Network. The Afghan Border Police spent a significant amount of its time fighting these groups, and their presence constrained the area in which the Afghan Border Police could operate. In districts outside of government control, border enforcement almost entirely disappeared, and insurgent groups freely crossed back and forth over the border.

The Afghanistan-Iran Border

The Afghanistan-Iran border runs 572 miles from the Afghanistan-Pakistan-Iran tripoint to the Afghanistan-Turkmenistan-Iran tripoint farther north, stretching across incredibly remote deserts. It is remarkably difficult to police.[893]

Approximately 31 percent of Afghanistan's heroin exports cross the border into Iran, despite the fact that Iran has built significant border fortifications, including embankments, canals, concrete walls, and barbed wire fencing.[894] Before the Taliban takeover, smuggling was enabled by corruption among both Afghan and Iranian border authorities, and illicit goods flowed through official border crossing points as well as across isolated sections of the border.

Aside from narcotics smuggling, increasing numbers of Afghan seasonal workers routinely and illegally cross the border into Iran, which has better economic opportunities.[895] As of 2014, more than 2 million Afghans resided in Iran illegally, and roughly 500,000 Afghans in Iran had valid visas—in addition to around 950,000 registered Afghan refugees who have fled the violence in Afghanistan at one point or another over the last 40 years. Afghans fleeing or migrating further afield, including those bound for Europe, typically pass through Iran as one of the first stops on their journey.[896]

The Northern Borders

To the north, Afghanistan borders three central Asian states: Turkmenistan, Uzbekistan, and Tajikistan. Although the Afghanistan-Uzbekistan border is short and well-guarded, the Afghanistan-Turkmenistan and the Afghanistan-Tajikistan borders are long and porous.[897] As of 2014, only 2,900 Afghan Border Police were assigned to Afghanistan's northern borders outside of official crossing points, even though these borders cumulatively run for more than 1,400 miles.[898] Collectively, Turkmenistan, Uzbekistan and Tajikistan make up the northern route for Afghan narcotics smuggling, through which an estimated 20 to 30 percent of Afghan opium and heroin are smuggled to Russia, China, and Eastern Europe.[899]

The Afghan Border Police Struggled to Fill Their Militarized Role

The Afghan Border Police dedicated the vast majority of its personnel to its "green" mission—securing Afghanistan's borders outside of official border checkpoints.[900] To accomplish this task, the force stationed much of its personnel at remote outposts from which they were

supposed to conduct patrols and monitor the border. Given the ongoing insurgency and the Taliban's reliance on cross-border sanctuaries and smuggling, Afghan Border Police "green" personnel acted as a militarized force, clashing frequently with Taliban fighters in intense firefights. The remoteness of their outposts made them tempting targets for the Taliban, and functioned as a de facto first line of defense against insurgents in border regions.[901] Despite being called the Afghan Border Police, "green" personnel were basically soldiers, not police officers. In the later years of the war, "green" units were armed with automatic weapons, heavy mortars, and recoilless rifles, and accompanied coalition forces on raids against insurgent targets.[902]

Giving these militarized units the name of "police" created confusion for newly arrived coalition units throughout the war; over and over, U.S. military officers had to learn that these elements of the Afghan Border Police were effectively acting as military units.[903] Yet as police units, they still fell under the command of the Ministry of Interior. Operating outside of the Afghan National Army chain of command hindered cooperation between the Afghan army and the Afghan Border Police, especially when it came to evacuating injured personnel or countering IEDs.[904] Instead, the Afghan Border Police was often forced to rely on coalition support—which, starting with the 2014 drawdown in forces, was increasingly not there to help.[905] In an attempt to rectify these shortcomings, all of the Afghan Border Police's "green" units were transferred to the newly formed Afghan Border Force and placed under the Ministry of Defense in 2017.[906]

A key role for the Afghan Border Police was preventing territorial expansion by neighboring countries.[907] Even before its most recent round of construction, Pakistan had a habit of building border outposts a few hundred meters across the Durand Line into Afghanistan, in an attempt to force the Afghan government to tacitly recognize the border by disputing the Pakistan claim.[908] As a result of these construction attempts, the Afghan Border Police's "green" units were involved in a number of serious cross-border firefights with Pakistani security forces during the late 2000s.[909]

Throughout its history, the Afghan Border Police struggled to fill its mandate. Undermanned and underequipped to go toe-to-toe with the Taliban, it lacked advanced medical evacuation or counter-IED capabilities. Border police were not always adequately trained and corruption remained rampant.[910] Stuck at remote outposts in hostile areas, border police struck deals with local Taliban commanders to look the other way in exchange for being left alone. According to one former U.S. military adviser to the Afghan Border Police, any commander with any influence in the area was in communication with the local Taliban commander.[911] U.S. efforts to correct these deficiencies focused on training and mentoring opportunities for Afghan Border Police personnel, along with the provision of weaponry and equipment to increase the force's fighting capabilities.

Training Issues, Failure to Purge Untrained Officers Hindered the Development of a Professional Force

Although various training programs for Afghan Border Police officers and patrolmen played a key role in coalition efforts to reform the force, all the programs struggled to provide quality training in quantity. The Afghan Border Police struggled for more than a decade to eliminate

completely untrained personnel from its ranks. These issues hampered the development of a professional force, especially when it came to building an institutional culture which respected the rule of law and human rights—concepts which, unlike tactical proficiency, were hard to teach outside of formal classroom instruction.[912]

Basic Training Programs Struggle to Build the Afghan Border Police

The National Police Academy in Kabul offered the first formal instruction courses for Afghan Border Police personnel, providing training for officers and noncommissioned officers. However, given the size of the academy and the length of its courses (officer training took three years; noncommissioned officer training took nine months), the academy did not make much of a dent in the need for trained officers. By December 2006, only 752 border police had graduated from the academy, out of a force of around 8,000 personnel.[913] In 2003, frustrated with the slow pace of the German training effort, State created its own police training program (see Chapter 4).[914] State offered Afghan Border Police patrolmen training at either the Central Training Center in Kabul or at various regional training centers dotted around the country. Afghan Border Police personnel underwent the standard ANP training course (either five or nine weeks of training, depending on the trainee's literacy status), followed by a two-week advanced course specifically for the border police, covering smuggling, tracking, checkpoint operations, and security in remote areas.[915] While the details of this program would evolve over the ensuing years, the basic structure would remain largely the same: a standard policing course, followed by border-specific instruction.

The early years often revealed glaring issues, such as the lack of weapons training before March 2005. These were quickly rectified, but others persisted for years.[916] One advisor who worked with the Afghan Border Police in 2007 told SIGAR that his team spent almost their entire first year teaching basic military skills. Some students were untrained, and the training given to those who had attended a coalition instructional program was insufficient, the advisor said.[917]

By 2013, even as more attention was being paid to training quality, and a large portion of that training was being taught by Afghan trainers, the DOD inspector general's office estimated that approximately 18 percent of all Afghan Border Police still lacked even basic training—despite more than a decade of effort.[918] The problem was not the capacity of the training programs themselves, but the difficulty of actually getting border police to the training in the first place. Some commanders refused to send their untrained personnel to training facilities because they could not spare them for eight weeks during the spring fighting season. During the winter months, harsh terrain and bad weather conditions made it hard for patrolmen to travel. Sometimes, commanders simply decided that untrained patrolmen who had served in their units for years did not need to attend training.[919] Further complicating matters, before 2013 neither the Ministry of Interior, Afghan Border Police headquarters, nor NATO Training Mission-Afghanistan kept accurate records of who had attended training.[920]

The Afghan Border Police found it difficult to fill out its noncommissioned officer corps, typically the backbone of any militarized organization. The previously mentioned issues, along with the Afghan Border Police's rapid expansion, meant that by 2011, the force was

short 1,800 trained noncommissioned officers to fill out its organizational structure.[921] Many officers at the time simply relied on mentoring from American personnel for their professional development.[922]

As with training programs for the rest of the police force, training for the border police steadily moved into Afghan hands. By the 2014 drawdown of U.S. forces, courses were being taught by Afghans instead of by coalition advisors or contractors at police regional training centers.[923]

Training in Groups Also Proved Unable to Fill Training Gaps

In 2008, with coalition forces increasingly under threat from IEDs produced using components brought in across the border from Pakistan, DOD created the Focused Border Development (FBD) program to jump-start progress in training the Afghan Border Police.[924] Modeled after the Focused District Development effort used with the Afghan Uniform Police, FBD pulled large groups of border police personnel from their unit and trained them *en masse*.[925] As they went through the eight-week program, cohorts were to be given improved equipment and ultimately partnered with coalition forces, who were to deploy with them back to their units after training was finished to provide additional training in the field.[926] Initially, the goal of FBD was simply to train 52 border police companies in the International Security Assistance Force's eastern regional command, but it was expanded in mid-2009 to train additional companies in regional commands in the north, west and south—122 companies in total.[927] DOD also constructed new border posts for border police units after they finished FBD training, building 165 facilities along the Durand Line by the end of the program.[928]

The FBD program differed from the Focused District Development program in one key respect: There were no units that could replace a border police company while it underwent training. Instead of whole police units, groups of 30 to 40 border police personnel were selected by the unit's commander to undergo training while the rest of the unit remained in place.[929] This hampered one of the program's main goals: improving the combat effectiveness of a unit as a whole.

Moreover, the units partnered with Afghan Border Police forces completing the program were not dedicated mentoring units, which constrained instructional continuity.[930] There were other difficulties as well. Two different contractors provided training services for the FBD program, but they did not initially use the same program of instruction.[931] While the Combined Security Transition Command-Afghanistan had unified the program of instruction by 2009, Afghan Border Police trained in 2008 received different instruction depending on what location they attended. One of the training contractors, DynCorp, was unable to provide recruits with training on heavy weapons and equipment due to contractual limitations.[932]

U.S. Advising Effort Was Not Adequately Resourced

In an effort to supplement Afghan Border Police training programs, the United States made extensive use of military advisor teams. Yet advisers were asked to fix underlying structural failings within the border police that they did not have the authority to tackle.

By 2009, DOD had achieved reasonable police mentoring team coverage in the eastern

part of Afghanistan. In the volatile provinces of Paktika, Paktia, and Khost, there were police mentoring teams paired with all seven Afghan Border Police *kandaks* patrolling the region.[933] In the central zone, which included the provinces of Nangarhar and Kunar, police mentoring teams were assigned to the Afghan Border Police's zone headquarters, as well as five of the kandaks operating in Nangarhar.[934] Overall, however, police mentoring teams were spread incredibly thin along the rest of the country's borders. Only two police mentoring teams served the entire south of Afghanistan, with one in Helmand and another in Kandahar, at the Spin Boldak border crossing point—a extremely low figure, given that four of the six provinces of the International Security Assistance Force's southern regional command (Helmand, Kandahar, Zabul, and Uruzgan) were considered at the time to be high-threat environments.[935] While the insurgency raged elsewhere, smuggling that made the narcotics trade so profitable for insurgents remained rampant across the northern and western borders of Afghanistan—and the Afghan Border Police had little power stop to it.

The Blue Border Mission: Corrupt Policing at Official Border Crossings

In addition to its military role in securing Afghanistan's borders, the Afghan Border Police were also charged with securing designated border crossing points and international airports.[936] Since 2017, when the border police's "green" militarized units were transferred to the newly-created Afghan Border Force under the Ministry of Defense, the "blue" mission became the sole responsibility of the 4,000-member Afghan Border Police under the Ministry of Interior.[937]

Yet Afghan border crossing points remained fundamentally insecure. One Afghan official at the Spin Boldak border crossing commented in January of 2020 that "tens of thousands of people from every province of the country cross the Spin Boldak border on a daily basis without legal documents, [compared with] 500 to 600 people" who have visas and passports.[938] With the tacit approval of the former Afghan government, border police simply watched people cross directly in front of them without checking for documentation.[939]

The Afghan Border Police was responsible for people at official crossing points; the Afghan Customs Department inspected goods and collected customs.[940] The UN estimated in 2010 that customs officers were among the most likely to request bribes out of any subset of Afghan officials—and in 2013, DOD estimated that bribery was siphoning off as much as 70 percent of Afghanistan's potential customs revenue, which has historically made up roughly half of Afghan domestic revenue.[941] Corruption did not just threaten government coffers: It directly threatened security. As one former U.S. advisor to the Afghan Customs Department noted, all corrupt officials saw when they looked at contraband were "dollar signs," even when that contraband was IED precursor material.[942] Profits from narcotics and other illicit goods smuggled through official crossing points fueled criminality and the insurgency inside Afghanistan.[943]

To protect their facilities, the Afghan Customs Department used the Afghan Customs Police—essentially, hired muscle consisting of members of the Afghan Border Police on special assignment to the Ministry of Finance. One advisor who worked with the Afghan Customs Department at the Torkham border crossing point described the customs police as essentially corrupt bodyguards for corrupt senior customs officials.

In 2006, in an attempt to address issues with the Afghan Customs Department and the Afghan Border Police's "blue" mission, the U.S. created its first border-focused advising program, the Border Management Task Force, run by U.S. Customs and Border Protection personnel, working under the authority of State's chief of mission. The task force focused on the management mission at border crossing points, primarily from a counternarcotics angle, and provided mentors for both the Afghan Border Police and the Afghan Customs Department to advise on customs procedures and anti-corruption best practices.[944] The task force had some successes: It installed a number of screening devices for border crossing points and conducted more than 7,000 training sessions on customs procedures between 2010 and 2013. But the FedSys contractors used to fulfill its mission were not subject to performance evaluations, making the quality of the training they provided difficult to gauge.[945] The long-term impact of the task force was quite limited and its operations were highly dependent on the support of coalition forces to provide security.[946] In 2017, a SIGAR investigation found that only one of the eight x-ray machines—valued at $12.1 million—the task force had procured for Afghanistan use was still working, since there was nobody trained to maintain and use the equipment.[947]

Even while the Border Management Task Force was operating at full capacity, its training programs did little to tackle the customs department's underlying structural problems. During an interview with SIGAR, a USAID official advising customs officials at the Torkham Gate border crossing with Pakistan noted that after attending "quite good" training, officers would fall back into business as usual when they returned to their posts. Task force officials struggled to root out this corruption, but met stiff resistance. When Border Management Task Force personnel at the Islam Qala border crossing with Iran started pushing their Afghan counterparts harder to adopt some of training they were providing for lower-level personnel, they were effectively frozen out of the crossing point altogether.[948]

The task force, as well as a number of smaller advising initiatives, closed up shop in the years following the 2014 U.S. drawdown, concluding the "blue" border advising effort. At the end of the mission, large-scale undocumented cross-border traffic and widespread corruption remained the same pressing issues they had been when the border advising effort began.

Strategic and Structural Failings Undermined the Border Police Reform Efforts

U.S. missteps in attempting to reform the Afghan Border Police involved more than just failing to design individual programs well. The United States made a number of structural decisions that undermined the prospects of establishing a competent border police force.

U.S. forces never prioritized efforts to build the force's capacity. In interviews, two separate advisors—one working in western Afghanistan, the other in the east, separated by more than six years—stated in almost identical language that the Afghan Border Police was the coalition's lowest priority, even when the coalition claimed it was their highest.[949]

Part of the problem was a confusion in terms. Despite being primarily a militarized organization with policing responsibility at border crossing points, the Afghan Border Police was labeled as a police force and was organized under the Ministry of Interior. After spending

time in Afghanistan, coalition commanders would often realize the importance of the border police and would spend more time working with the organization. But this learning process had to be repeated at the start of every new deployment, and it ate away at time that could have been dedicated to building the border police.[950]

Even when coalition forces turned their attention to the Afghan Border Police, the results were not guaranteed to be useful. Coalition units, aware that direct action operations were popular with their superiors, often chose to focus their energy on hitting targets directly, instead of mentoring. By 2012, when pressure to put an Afghan face on operations increased, Afghan Border Police units in the International Security Assistance Force's eastern regional command were often being used as "grab and go" forces for their coalition partners—accompanying their coalition counterparts on direct action operations, but not really doing anything. Such operations made limited sense from a teaching perspective, as they had little to do with the border police's post-coalition border security role.[951]

Short deployment cycles also limited the effectiveness of coalition forces at tackling corruption. Afghan officials realized that if they did not want to do something a coalition advisor was attempting to get them to do, they could simply wait that advisor's tour out.[952] The limited institutional memory created by short deployments was also exploitable. One Afghan Border Police advisor interviewed by SIGAR told the story of a corrupt border police officer in eastern Afghanistan who was fired by the Ministry of Interior under intense coalition pressure—a rare event in itself. Several years later, when this advisor returned to the region, the corrupt officer was back in his old job: He had simply been rehired after all the advisors who had pushed for his firing had returned to the United States.[953]

Most importantly, the Afghan Border Police was never given the resources it needed. Its initial force structure was an arbitrary number derived from the number of officers per citizens required in Germany.[954] They were then tasked with securing a border that would have been difficult to police even with adequate resources. One adviser at the Afghanistan-Pakistan border when the force was at its peak size in 2013 and 2014 described a force with too few personnel and insufficient equipment to actually police the border *even if* it had no corruption, was tactically proficient, and had a logistics system and a command hierarchy that could adequately support its operations—none of which was true.[955]

In 2014, an independent assessment of the Afghan National Defense and Security Forces by the Center for Naval Analyses, ordered by the Congress, concluded that the border police's authorized "green" force size still needed another 2,800 personnel to accomplish its mission.[956] No such increase ever occurred.

While that was an Afghan decision, the United States shares some of the responsibility. Given the low numbers of border police personnel and the extensive border they were assigned to protect, the units holding these outposts were often quite small. This approach was militarily sustainable only as long as these small units were protected by air support.[957] However, native Afghan air support capabilities were always limited, and certainly not comparable to coalition air power. In short, the United States spent more than a decade training and equipping an Afghan Border Police based on a strategy that ensured it would never be able

to operate independently of coalition support in a high-threat environment. Sure enough, by 2014, when the U.S. began to reduce its presence in Afghanistan, Afghan Border Police units had to be drawn back from the border and consolidated in larger outposts in order to survive.[958]

Truly securing Afghanistan's borders would require an immense investment of resources, possibly at a level that the U.S. would never have been willing to sustain. At the very least, however, the United States should have been more aware that border security could not be created with the limited resources and authority the assistance mission was given.
In 1981, during the Soviet occupation of Afghanistan, a Central Intelligence Agency report analyzed Soviet efforts to seal the Afghanistan-Pakistan border. It concluded that "to effectively close the border to insurgent infiltration, Moscow would have to develop long-term operations to systematically clear a zone of all inhabitants along the entire border. It would also have to permanently station a sufficient number of troops in the zone to monitor cross-border movement. Implementation of these operations would require a massive increase in the number of Soviet troops in Afghanistan, the construction of numerous roads, the improvement and maintenance of the entire road network to ensure support to the border troops, and the building of supply and other facilities required by border personnel."[959] The United States never undertook operations even approaching that magnitude. That report was declassified in February 2001, meaning it was available to U.S. planners before the U.S.'s October 2001 intervention in Afghanistan.[960]

The "blue" border assistance mission suffered from similar problems: Advisers alone were never going to solve problems at official border crossing points. The "blue" Afghan Border Police did not fail because of a lack of equipment, manpower, or even expertise: They failed because of widespread corruption and deliberate policy choices by the Afghan government—notably, the choice not to impose rigorous immigration checks on people crossing the Durand Line. Addressing this issue would have required sustained political pressure at the highest levels of the Afghan government—an unlikely prospect, given the vested interest the Afghan government has long had in leaving the Durand Line unrecognized.

Similarly, advisers lacked the authority to remove corrupt officials, and anti-corruption reforms at higher levels of the Afghan state were neglected by U.S. policymakers. Effective anti-corruption at the border would have required a broader re-evaluation of U.S. priorities, not just a retooled advisor program.

CHAPTER 8

THE OTHER FIGHT: CRIME AND CIVIL SECURITY

Regional Command South photo

The overmilitarization of the Afghan National Police was clear in several ways. The ANP used military weapons like AK-47s and grenade launchers, and regular ANP units took part in high-risk missions. Its very culture was military, since many instructors, partners and mentors were active or former soldiers.[961] Police training courses put almost 90 percent of their emphasis on military skills such as weapons handling, roadblock establishment, and improvised explosive device identification. Only about 10 percent of the curriculum was devoted to such topics as Afghanistan's constitution, the conduct of criminal proceedings, or human rights. There were no lessons on community oriented police work, domestic violence or women's rights.[962]

The U.S. military's singular focus on fighting the Taliban effectively ignored what most Afghans considered the primary threats to their security: common criminality and brutal, often criminally complicit, police. In Kabul, Afghan police—conditioned for decades to fight suicide bombers—found themselves ill-prepared to deal with rising crime rates rooted in unregulated urbanization, high unemployment, and an explosion in drug use.

This chapter describes the consequences of DOD's overmilitarization of the ANP, including the deterioration of law and order across government-controlled territory and the preservation of Afghanistan's culture of impunity—fostered, in part, by U.S. military funding of Afghan police units with credible allegations of human rights abuses, including torture and extrajudicial killings. This chapter also highlights a key advisors'

dilemma: U.S. partnerships with brutal yet effective warlords that helped restore security, but undermined good governance and rule of law.

AFGHAN NATIONAL POLICE: SAME ISSUES A DECADE APART

On May 29, 2006, a deadly traffic accident caused by a U.S. military vehicle on the outskirts of Kabul triggered violent anti-U.S. rioting in the capital. Hundreds of rioters rampaged through the streets for some six hours, burning and looting buildings, cars, and police posts. The protest left over a dozen Afghans dead, and scores injured. It was said to have been the bloodiest day in Kabul since the fall of the Taliban in 2001.[963]

The response of the ANP was disastrously inadequate. Some officers reportedly ran away; others took off their uniforms and joined the riot.[964] In 2007, police expert Tonita Murray attributed this incident to the failure of international police reform: "Despite nearly five years of expensive reform efforts, and in a country almost continuously in a state of disturbance, it is startling to discover that Afghan police are inadequately trained in maintaining order and crowd control." Notably, the police made no effort to close off streets leading to the main areas of Kabul, even though rioters took two hours to reach the city center from the outskirts. The ANP also had little protective gear and lacked nonlethal equipment, such as pepper spray, water cannons or tear gas, leading them to use guns as a first, rather than last resort. "There appears to have been no intelligence, no contingency plan, and no leadership," Murray wrote. "It is a mystery that there have been no sustained efforts to train Afghan police in order maintenance and riot control."[965]

Fast forward to 2020.

On May 9, 2020, hundreds of Afghans in Ghor Province gathered to protest the government's mismanagement of aid for COVID-19 relief. Gathered in front of the governor's office, protesters damaged government property with stones and attacked security forces. In response, Afghan police opened fire on the protestors, allegedly after warning shots and water cannons failed to control the crowd. Two police officers, a journalist, and three protestors were killed, with another 19 injured. Human rights and media advocates, including Afghanistan's Independent Human Rights Commission and Amnesty International, called for an investigation into the "use of unnecessary and excessive force."[966] Fourteen years after the 2006 riots, and after nearly two decades of international police reform, the ANP were still unable to cope with a basic community policing job: maintaining public order.

CRIME SOARS ACROSS AFGHANISTAN DURING THE U.S. INTERVENTION

Former President Hamid Karzai's unwillingness to tackle corruption in the Ministry of Interior, compounded by the international community's singular focus on fighting the Taliban, meant that the ANP actually contributed to increasing criminality. "The U.S.

Afghan National Police cadets practice riot control during an exercise held at the Mazar-e Sharif Regional Training Center. (U.S. Air Force photo by Staff Sgt. Stacey Haga)

perception of security priorities is different from that of the vast majority of Afghans," Andrew Wilder reported in 2008. "Local law and order were their concerns, not ours."[967] As a result of the narrow U.S. focus on fighting the Taliban, basic law and order rapidly deteriorated in government-controlled areas across Afghanistan. From 2005 to 2008, for instance, a vicious kidnapping ring targeting wealthy Afghans and foreign workers arose in Kabul.[968] In 2008, Herat's parliamentary delegation reportedly threatened to resign if the government did not address the rising crime rates in the province. In subsequent years, kidnappings and murders dominated media headlines and prompted an exodus of investors and Afghan businessmen, including those who had endured the tumultuous civil war and Taliban rule.[969]

It was largely in response to the ANP's inability to deliver law and order in post-2001 Afghanistan that groups of Afghans welcomed the Taliban as liberators—just as they had in 1994. In mid-2009, for instance, when U.S. and British troops launched a campaign to retake Helmand Province, they routinely heard one alarming message from anxious locals: "For God's sake, do not bring back the Afghan police."[970] Villagers in Helmand had found government police forces to be so brutal and corrupt—not only extorting and beating locals, but regularly abducting and raping young boys—that, according to interviews with Helmand residents, they preferred the Taliban's brutal rule for the security it brought. Locals told foreign journalists and military commanders variants of the same narrative: "The people here trust the Taliban. If the police come back and behave the same way, we will support the Taliban to drive them out."[971]

In February 2021, when the Taliban contested or already controlled over half of the country, lawlessness was rampant. State has acknowledged that despite nearly $1 trillion dollars spent on reconstruction, "local authorities are generally ineffective in deterring

crime. Officers openly solicit bribery at all levels of local law enforcement [and] in some cases, officers carry out crimes themselves."[972]

"For God's sake, do not bring back the Afghan police."

—U.S. and British troops, quoting Afghan villagers

Rampant Crime—Rooted in Poverty, Urbanization, and Drug Addiction—Was Top Security Concern for Kabul Residents

As the U.S. forces accelerated the ANP's transformation into a militarized counterinsurgency force, crime rates steadily increased across Afghanistan—notably in Kabul, which historically had relatively low crime rates despite poverty and conflict.[973] The first dramatic rise in criminal activity in Kabul occurred in 2014 and 2015, when a contested presidential election, coupled with a significantly reduced international presence, sparked an economic and political crisis. Crime rates continued to rise, climbing an estimated 35 percent from 2017 to 2018.[974] At the onset of 2019, police crackdowns on crime inspired public optimism for renewed security, but by year's end, police reported another crime spike, including an estimated 40 percent jump over one two-week period.[975] By 2020, crime was rampant in Kabul, with daily media reports of kidnapping, robbery at gunpoint, extortion, and murder. "In one of the most brutal recent cases," reports the *New York Times*, "a family of four were axed to death in their home in the daytime."[976]

At the onset of 2021, after years of insurgency-related suicide bombings and terrorist infiltrations capturing media headlines, common criminality constituted the biggest concern for most Kabul residents.[977] According to the Afghanistan Analysts Network, "Afghanistan's capital is both plagued by targeted killings disguised as criminally motivated attacks and by a massive wave of common criminality that hits the lives of all its beleaguered residents."[978] Before the Taliban takeover, Kabul's crime scene had not only expanded into relatively safe central neighborhoods but had become more violent, as well-armed and politically connected criminal groups grew in size and brazenness.[979] Pickpocketing and robbery were widespread, increasingly organized, and no longer confined to the cover of darkness. Incidents of petty criminality increasingly escalated to violent, occasionally lethal, outcomes in the face of the slightest resistance. Meanwhile, organized gangs routinely targeted wealthy families and businesses for kidnapping and extortion schemes. Smaller shopkeepers fell prey to protection racketeers as well. In fact, Kabul's small shopkeepers were more likely to be extorted by traffic police and municipal employees than by local criminal gangs; the local gangs then got their cut from the police.[980] Private feuds—in past years often camouflaged as insurgent attacks—were also increasingly disguised as criminal or police violence.[981]

In part, Kabul's rising crime levels may be attributed to the city's massive population growth—an estimated 6 million inhabitants living in a city designed for 1 million—compounded by high unemployment and dwindling economic opportunities.[982]

A member of the Afghan Uniform Police burns a pile of seized heroin during an anti-drug summit hosted at Camp Hansen, the Marine Corps Forward Operating Base in Marjah. (U.S. Marine Corps photo)

Moreover, young men between 15 and 24 have long been overrepresented in the city, offering a steady supply of recruits for criminal groups.[983] In 2020, the COVID-19 virus further devastated Afghanistan's economy: According to the World Bank, the poverty rate rose from 55 percent in 2019 to 72 percent in 2020. Unemployment also rose from 23.9 percent to 37.9 percent. As two-thirds of Afghans live on less than $1.90 a day, the country is unlikely to see a significant drop in crime in the near term, even with a Taliban takeover of the country.[984]

Kabul's expanding crime scene is also increasingly connected to illegal drugs, as Afghans struggle with a vast and growing drug addiction problem.[985] According to the UN, the number of opium and heroin addicts has steadily risen from an estimated 200,000 in 2005, to nearly a million in 2009. In 2015, Afghanistan's National Drug Use Survey estimated 2.9 million to 3.6 million drug users in Afghanistan—approximately 10 percent of the population. Women and children have also emerged as the new face of drug addiction in Afghanistan—a group once mostly limited to men, especially those who had spent years in Iran as refugees or laborers. In 2015, an estimated 9.5 percent of Afghan women were addicts, up from at least 3 percent in 2009.[986]

Heroin addiction has long been a problem in Afghanistan, fueled by the country's booming poppy industry and resultant drops in domestic prices. In recent years, however, methamphetamine has emerged as a popular, cheaper alternative. In November 2020, the European Monitoring Centre for Drugs and Drug Addiction reported that Afghanistan is becoming a significant global producer of methamphetamine, the result of a discovery that a wild plant commonly found in parts of Afghanistan can

Traffic in Kote Sangi, on the western edge of Kabul city. (UNAMA photo by Fardin Waezi)

be used to produce the key component of the drug, replacing the need for expensive imported medicine.[987]

Drugs offer a cheap escape from the suffering and anxiety of decades of conflict, poverty, and unemployment. Before the Taliban takeover, a week's dose of heroin sold in Kabul for as low as $6.50; a gram of methamphetamine cost $3.80; and an opium high can be bought for the price of a piece of bread.[988] Yet financing a drug addiction has dragged thousands of families into greater poverty and criminality, including theft, prostitution, and selling children into illegal forced or underage marriages.[989] Drug addiction, predicted Anubha Sood, a senior UN Office on Drugs and Crime program officer, "will pull down, today or tomorrow, the entire economy."[990]

Land Disputes Are a Primary Driver of Violence

Land disputes are a primary driver of violent conflict, ranging from interpersonal disputes (related to inheritance rights, the return of refugees and internally displaced persons, and illegal confiscations by local strongmen), to more serious conflicts between tribes or between a tribe and the state. Since 2002, high population growth and rising land value have increased competition for land and water.[991] An estimated 50 to 70 percent of disputes (mediated predominantly by customary mechanisms) involve land or property, and land ownership disputes account for approximately 60 percent of all corruption in the Afghan judiciary.[992] Added to this is one more exacerbating factor: Afghanistan has one of the largest refugee populations in the world—and they are facing increasing pressure to go home.[993]

Soaring land values—owing to foreign investment, the influx of international aid, and the explosion in poppy cultivation—exacerbated land grabbing by officials of the former

Afghan government, as well as by armed groups.[994] According to a 2019 State report, powerful government officials illegally confiscated land in exchange for political favors, while businesses sold illegally obtained property deeds to unsuspecting buyers.[995] Adding to the confusion, the Taliban often redistributed (and occasionally sold) state and private land in areas then under their control, usually to relatives of slain fighters.[996]

Significantly, Afghan land law does not recognize most customary or communal land ownership or usage rights, creating "a fundamental catch-22," notes a U.S. Institute of Peace report. "To establish formal legal ownership based on customary documents, one must already have formal legal ownership as established in an original formal legal document." The law also presumes state ownership in the absence of definitive proof to the contrary. This is difficult to prove, since land deeds have always been scarce in Afghanistan; where formal records once existed, most have been lost, destroyed, or manipulated to enable illicit land grabs. Only about 20 percent of land is accurately titled today.[997]

Land conflict is enabled by a weak land administration system and an underdeveloped legal framework: "[Afghan land] law is so narrowly written," the U.S. Institute of Peace reports, "that, in most cases, the state is a threat rather than a protector of rights." Decades of conflict and instability have eroded the capacity of traditional community-based mechanisms to mediate disputes. Meanwhile, a similarly weak enforcement capability, limited reach, corruption, and a low baseline of formal documentation undermine formal efforts.[998] In 2017, a SIGAR audit found that political and judicial corruption remains a significant impediment to land reform, noting that "the government has had little incentive to tackle corruption or enact new anti-land theft legislation." Afghan women are particularly vulnerable to land usurpation because their inheritance rights under statutory and Islamic law are frequently ignored.[999]

Land disputes are especially dangerous because they commonly grow to include a broad range of political (and armed) support. For example, in 2005 and again in 2007, armed clashes that broke out between local residents and newcomers in Nangarhar's Behsud district led to the involvement of several jihadi commanders, Jalalabad's former mayor, Nangarhar's former police chief, and the security forces still heavily under the latter's control. In another land dispute between sub-tribes in Achin district, even the Taliban and U.S. troops got involved, according to the Afghanistan Analysts Network.[1000]

> *"The basic issue is that [Afghan land] law is so narrowly written that, in most cases, the state is a threat rather than a protector of rights."*
>
> —U.S. Institute of Peace report

The former Afghan government's tendency to resolve conflicts through compromises and deals with elite powerbrokers enabled the involvement of armed middlemen and

undermined the effectiveness of police action.[1001] In June 2013, for instance, a firefight erupted between Kabul police and residents of Deh Sabz, an area just north of Kabul, killing nine and injuring some 18 others. The fight was over the construction of the Kabul New City development project on land that Kuchi nomads use for pasture. Armed supporters of a local Kuchi leader kidnapped four foreign engineers, and were later pursued by the police to a nearby gas station, where a two-hour firefight led to a call for army intervention. The kidnappers were released shortly after arrest, since the Kuchi leader was the brother of a local strongman and parliamentarian. The incident also revealed fundamental divisions over the role of police: According to the Afghanistan Analysts Network, only half of Parliament supported the police's actions that day.[1002]

The U.S. military drawdown has created its own "legacy of land disputes," reports the *New York Times*. As the U.S.-led coalition withdrew from an estimated 1,000 military installations across Afghanistan, some of the occupied land was transferred to Afghan security forces, not the original landowners. The manipulation of land deeds, including temporary leases between farmers and the U.S. military, adds to the potential for conflict, which Afghan commanders largely dismissed as "an issue between the farmers and the Americans."[1003]

As far back as 2013, one analyst warned that land disputes have the potential to be as disruptive to Afghanistan as the civil war or the Taliban insurgency, unless there is substantial legal reform and improvement in record-keeping. "That's going to be the next big conflict in Afghanistan," wrote Barmak Pazhwak, a former UN Development Programme advisor to Afghanistan's Minister of Rural Rehabilitation and Development. "The conflict will be all over the country and will be really unmanageable."[1004]

After Years Fighting the Taliban, the Afghan Police Are Ill-Prepared for Community Policing

Enduring corruption in the judiciary also enables criminals to bribe or intimidate police and prosecutors. Even if a case is brought to court, the Afghanistan Analysts Network reports, "the levels of *waseta* [political connections] on each side determine the outcome of the trial."[1005] Clientelism by jihadi commanders and local strongmen shields corrupt officers as well, who, in a dynamic unchanged since 2001, frequently extort locals to recoup the cost of purchasing their police post in the first place. In February 2020, the Afghanistan Analysts Network reported that a newly graduated Kabul police commander's attempt to dismantle a long-standing bribery scheme involving the Pakistani consulate led to two firefights with the corrupt police officers, all of whom were protected by a senior powerbroker, and to his arrest by National Directorate of Security officers.[1006]

Efforts to dismantle the Kabul police force's links to local elites and crime syndicates go back to at least July 2017, when former President Ashraf Ghani decreed that all police officers who had spent more than three years in Kabul would be transferred and replaced by provincial police. In response to Ghani's order, many police officers stopped their transfers or arranged swift reappointments in other parts of Kabul by bribing

An aerial view of Kabul, Afghanistan, via helicopter. (U.S. State Department photo by Ronny Przysucha)

the Ministry of Interior directorate in charge of rotations. At the same time, incoming police from the provinces lacked basic knowledge of Kabul's physical and political environment, leaving them ill-equipped to tackle the city's rising criminal activity. Instead of contributing to reform, Ghani's decree contributed to further insecurity.[1007]

Former Acting Interior Minister Amrullah Saleh and his successor, Massoud Andarabi, initiated various reforms to enhance the ANP's law enforcement capabilities. Again, a major component involved reshuffling police commanders who had become entrenched in local interests. Yet, as the *New York Times* reported, "in a sign of how distrusted and depleted the regular police forces had become . . . [the Ministry of Interior] had to draw heavily on the elite special forces." Half of the country's police chiefs, as well as the country's highest-ranking police officer, were replaced with "young special forces officers who are more used to leading commando raids in enemy territory than [in] the patient work of community policing."[1008] In an effort to increase ANP effectiveness, Saleh authorized police officers to pursue suspects in any police district in Kabul without preemptively informing that district's commander, and to open fire on suspects who did not heed stop orders.[1009] In another bid to establish basic police accountability, Saleh's successor, Andarabi, established a 2,500-strong internal security unit to watch over the police, and began keeping detailed files on the country's police officers.[1010] Despite these reforms, however, many police officers maintained their links to organized crime and local strongmen.[1011]

In addition to conventional police abuses, Kabul's increasingly violent crime scene and corresponding firefights also increased the risk of extrajudicial killings by the police. In Afghanistan, private feuds have often been disguised as other forms of violence. With Kabulis demanding greater police action against violent crime, and official guidance permitting officers to open fire on fleeing suspects, some experts worried that factions

within the security forces would increasingly use their police powers to eliminate personal or political adversaries.[1012]

At a more basic level, the ANP were too few and too ill-equipped to handle rising crime levels. Between 2015 and 2019, the ANP lost an estimated 19,000 officers across the country.[1013] Yet the brief lull in terrorist activity in Kabul following the start of U.S. negotiations with the Taliban provided a wakeup call to the nation's law enforcement. Afghan security officials told the *New York Times*, "The country's law enforcement has been so militarized over the two decades of constant war with the Taliban that officers are profoundly unprepared for the basic needs of policing in time of peace." As of January 2020, Kabul Province had some 15,000 police personnel, many of whom were stationed at checkpoints or guarding government infrastructure. Only 1,200 were assigned to criminal investigations, which translates to roughly one police officer per 5,800 Kabul residents.[1014] As of mid-2019, the country had only one functioning criminal forensic laboratory, with its staff of four juggling hundreds of cases per week.[1015] Despite calls going back at least to 2010 to double the size of Kabul's police force, overall numbers remained low.[1016]

Kabul itself offers myriad structural problems for crime-fighting: Explosive population growth has spawned dozens of unregulated shantytowns throughout the city, many of which have no electricity at night.[1017] Some neighborhoods remain inaccessible in the winter even by heavy-duty police trucks; others require navigating mazes of blast walls. According to a senior Afghan police officer, "You need foundations for a city to be able to be secure—a proper address, residents with proper IDs, a municipal system with standards. . . . These are the foundations on which you can build a security layer, and these foundations are not there."[1018]

"You need foundations for a city to be able to be secure . . . and these foundations are not there."

—Senior Afghan police officer

In its 2019 human rights report, State documented the ANP's underdeveloped core policing capability after two decades of militarization:

> On May 5, in Zabul Province, ANP officers injured two hospital staff members for not opening the gate to the hospital quickly enough when they were trying to gain access. One man was shot and the other beaten. . . . The ANP used small-arms fire inside the facility and arrested one of the patients on suspicion of being a Taliban member. Following mediation by elders, he was released the following day.[1019]

RURAL CRIMINALITY

Rural Afghans often experienced and perceived insecurity in ways that differed from their urban counterparts as well as foreigners tasked with stabilizing Afghanistan. The international community labeled parts of the country as high or low risk based on the number of attacks on or threats against coalition and Afghan National Defense and Security Forces, NGO personnel, and their Afghan partners. But according to a field study by Tufts University researchers from 2002 to 2003, "rural Afghans face a different series of threats and insecurities, [which] may result from the weakening of defense mechanisms at the village level, where traditional social networks and institutions were disrupted by massive migration, shortages of local resources, and the risk of armed groups and warlords."[1020]

In short, rural Afghans understand security as broadly encompassing human security, which means having access to services and opportunities such as health care, education, employment, clean drinking water, and political participation, among others. Security, in this sense, is largely inseparable from good governance, development, justice, and human rights. Women, who are typically restricted to the private sphere in rural Afghanistan, usually report the highest levels of human insecurity, while men are more likely to cite physical security concerns, especially on roads and outside village borders.[1021]

In post-2001 rural Afghanistan, the most common crimes—murder, assault, kidnapping, and theft, usually related to disputes over land or women—often went unreported or unsolved.[1022] Yet, the ANP provided "little protection against rising crime, which is itself a product of the high poverty rates in Afghanistan," according to a 2005 Center for Strategic and International Studies report. Rural areas have also experienced a steady rise in murders, hijackings, thefts, and child kidnappings in the post-Taliban years. In March 2005, for instance, thousands of protesters called for the resignation of Kandahar's governor following local media reports that, on average, one child is kidnapped each week in the province. (The actual number was likely higher, due to underreporting).[1023]

Armed forces of all stripes—including militias, the Afghan military and the Afghan police—generate significant criminality for rural Afghans. Insecurity was especially prevalent in areas where midlevel commanders and armed groups were vying for power. Due to the absence or incompetence of local police, a long tradition of autonomy, or both, rural Afghan men typically provided security for their own villages, with little reliance on local government institutions. This was especially true in more remote areas, where villagers would often come to the aid of nearby villages. One woman in a Kabul district told Tufts researchers: "We would not call upon the police because we don't need them. Everyone in this village is related to each other, so we have good security here."[1024]

Like urban Afghans, those living in rural areas viewed the police as inept, if not outright criminals. Police officers (predominantly former militia fighters) were often aligned with powerful commanders in the area, or perceived as such by the local population. In any case, police in rural Afghanistan typically lacked the capacity and authority to assure their own safety, let alone provide security to their constituents. Afghan police forces remained

ill-equipped to provide professional police services, in terms of office supplies, weapons, vehicles, salaries, and training. In some parts of the country, district shuras required locals to lend their cars to the police on a rotating basis. The lack of communications capacity in the countryside also restricted access to the police: To report a crime, villagers would need to "either arrange to bring the police to their home or to travel to the district center, file a claim, and hope that the police eventually make a visit to conduct a follow-up investigation." Even the nominal presence of police, therefore, rarely served as a deterrent to crime in rural Afghanistan.[1025]

While most rural Afghans felt that the police could offer little in the way of law and order, some feared that involving police (or any government authority) might actually invite more trouble for their village. One villager told Tufts researchers, "If something happens with those outside troops then maybe we will be accused of being terrorists and we will be harmed. We would rather secure this area ourselves so that we won't be blamed."[1026] Together, these factors left rural Afghans wary of reporting crimes to the police, which resulted in artificially low crime statistics.

Although Afghan police were sometimes complicit in criminality, local commanders and militias were often the largest source of insecurity for most Afghans. Engaging in theft, kidnapping, extortion, and cross-border smuggling, these groups not only threatened Afghans' physical security, but their economic security as well, by restricting mobility and market access. In 2003, the percentage of rural Afghans claiming they were affected by factional fighting or militias numbered as high as 60 percent in Kandahar and 84 percent in Badghis; even in Kabul Province, 17 percent of residents said the same. On the other hand, in areas where strong local commanders reduced open conflict and crime, human security often suffered: Ordinary Afghans, especially women, experienced little armed conflict, but lived with strict restrictions on their basic freedoms.[1027]

Unlike international perceptions of insecurity, which viewed the Taliban and al-Qaeda as the principle sources of insecurity in Afghanistan, rural Afghans were more concerned about criminality linked to local powerbrokers. A March/April 2004 International Republic Institute opinion survey found that only 9 percent of Afghans viewed the Taliban as a source of instability in their community, but 65 percent felt that warlords and local commanders were the main sources of instability. Overall, most Afghans felt that disarming local commanders and militias was a greater priority than hunting down the Taliban or al-Qaeda.[1028]

Nonetheless, U.S. and international advisors continued to tolerate and even enable many local commanders and militias in the pursuit of defeating the Taliban and al Qaeda. "The expansion of ISAF was welcomed in large parts of the country because people thought . . . the foreign soldiers will protect them from the rather unpleasant commanders that had snatched power. But all that happened was ISAF troops . . . sided with the local commanders," Kate Clark of the Afghanistan Analysts Network told SIGAR. "It was actually worse having the foreigners there."[1029]

Local commanders threatened the rule of law in rural Afghanistan in ways that went beyond extortion, murder, and factional fighting. In much of the countryside, commanders integrated

A joint ISAF and Afghan National Police vehicle interdiction mission led to the discovery of a large amount of narcotics in southern Nimroz Province. (DOD photo)

themselves in the local social, economic, and political systems, including customary justice mechanisms such as jirgas. In a country where as many as 80 percent of all legal cases are resolved by customary law, this effectively limited access to justice for many rural Afghans.[1030] "Commanders play a key role in undermining existing local justice systems and ensuring that dispute resolution favors either friends or the wealthy and influential," said a 2005 Center for Strategic and International Studies report that described this subversion of the customary justice system. "Commanders set up their own commissions and ad hoc courts, or influence the decisions of jirgas in their areas to ensure they control key assets, such as land."[1031] Other scholars have pointed to the existence of private prisons as evidence of the involvement of local strongmen in the administration of justice, either as enforcers of jirga decisions or as judges themselves. "The boundary between customary law and strongman's rule," notes Afghanistan scholar Antonio Giustozzi, "can be thin."[1032]

DYSFUNCTIONAL JUDICIARY HANDICAPS LAW ENFORCEMENT

Before the Taliban takeover, Afghanistan's judicial system was riddled with corruption and suffered from weak accountability and insufficient judicial infrastructure and personnel. But Afghanistan's complicated legal framework itself encourages justice providers to operate in a legal grey zone, or outside the law altogether.

Competing Concepts of Justice in Secular and Islamic Law

The former Afghan government's inability or unwillingness to resolve internal contradictions within its legal framework—composed of secular, Islamic, and customary elements—perpetuated a deeply dysfunctional judicial system that further destabilized the country. Post-2001 legal reform failed to bridge the traditional divide between proponents of secular state law and those who favor Islamic jurisprudence. Instead, the 2004 constitution was drafted as a political compromise between secular liberals and Islamist fundamentalists in what Afghanistan Analysts Network co-founder Sari Kouvo has called a "pick and choose process where everyone got something." The result was a document riddled with internal contradictions, deeply compromising the independence and efficacy of such institutions as the Supreme Court and the Attorney General's Office.[1033]

The core issue concerns the role of Islamic jurisprudence, or Sharia law, in Afghan criminal justice. The Afghan constitution declares that no law may contradict Islamic principles (Article 3) and permits courts to apply Hanafi jurisprudence "within the limits" of the constitution if no directly applicable statutory provisions exist (Article 130).[1034] Yet, Article 130 arguably violates the principle of legality enshrined in Article 27, which requires crimes and punishments to be defined in statutory law at the time of the offense.[1035] Some legal scholars argue that Article 130 should only apply to civil cases, leaving the definition of crime to the government. Nonetheless, thousands of cases since 2004 have been adjudicated by judges using Article 130 to justify convicting defendants when their alleged offense did not violate any statutory law. These crimes, violating either the spirit or the letter of Islam, have included adultery, apostasy, the selling of dog meat, and running away from home. According to Ghazi Hashimi, professor of criminal law at Kabul University, "80 out of 100 women that were incarcerated in the Kabul Pul-Charkhi Prison had been convicted of having run away from home . . . [even though] running away from home is not a crime under the Afghan penal code."[1036]

Adding further complexity to legal interpretation, the Afghan constitution codifies the observation of international treaties in Article 7 ("the State shall observe the UN Charter . . . as well as international treaties")—yet Afghan jurisprudence views Afghan law as paramount. Afghan courts see no obligation to respect the international treaties to which Afghanistan is a party unless those standards already exist in Afghan penal law.[1037]

In the absence of a clear guiding legal framework, police operated mostly within the confines of customary and religious law. For example, Amnesty International reported in 2003 that the dearth of female police in several provinces led to the arbitrary detainment

and arrest of the suspects' male relatives: Given the importance of protecting female virtue in Afghan culture, any woman taken into custody required a male guardian—which meant that some male relative must be arrested with her, despite the law's ban on arbitrary detention.[1038]

Although such Taliban-style justice has long held sway in rural Afghanistan, it is not simply the stuff of village-style customary law. In November 2013, the Afghan Ministry of Justice and the Ministerial Committee of Sharia and Traditional Penalty and Investigating Crimes proposed at least 26 amendments to the Penal Code, which would have reinstated punishments such as public stoning to death or flogging of up to 100 lashes for adultery, and amputation of hands and feet for theft. Although these amendments were not approved, women and men continued to be detained and prosecuted for "moral crimes" not recognized in the criminal code.[1039] It remains unclear how the Taliban takeover will affect such proposals in the future, or how the Taliban proposes to align its legal system with the existing Afghan constitution.

Law by Presidential Decree: Bypassing Parliament

Another major source of Afghan criminal laws has been presidential decrees. Under the constitution, parliament is responsible for drafting laws—but the first Afghan parliament was not seated until November 2005, four years after Hamid Karzai became Afghanistan's first post-Taliban leader. In that interval, President Karzai used his power to decree new laws outside of parliamentary oversight. For instance, Afghanistan's first counternarcotics law was passed by presidential decree only two days before the parliament began its first session on December 19, 2005. After 2005, the president used constitutional loopholes to continue the practice of using decrees to form or modify the laws, a practice many international donors supported.[1040]

Many of the laws passed by presidential decree in the early years of Karzai's first term were influenced by the Afghan government's deep reliance on foreign aid, as well as by foreign donors' ideas about what the country should have. Such efforts rarely took existing Afghan laws into account or analyzed their potential impact on whatever Afghan legal framework already existed. "Foreign lawyers drafted substantive penal laws that incorporated alien concepts and legal syntax, and entitled their own distinctive procedures," Hartmann and Klonowiecka-Milart wrote—a practice they referred to as "résumé law reform" or "summer project lawmaking."[1041]

Moreover, these attempts to implement a highly centralized legal system at the national level "[reflect] an even broader problem with judicial reform in Afghanistan, a tendency to impose Western legal models in the name of 'development' or 'legal reform,'" wrote Afghan scholar Faiz Ahmed. The reach of the central government into rural Afghanistan remains highly limited, and as a result "judicial reform will follow the path of previous state-driven reforms in Afghanistan: At the local level they will be, at best, ignored, and more probably resented."[1042]

CRIME STATISTICS IN AFGHANISTAN ARE UNRELIABLE

Official crime statistics do not give the full picture of crime in Afghanistan. First, very little statistical data on crime, including country-wide prosecution and convictions records, is readily available. Before the Taliban takeover, the Afghan Supreme Court recorded individual court cases at all levels but provided no specific and accessible information on conviction rates or types of crime. Likewise, the Attorney General's Office maintained individual file records, but in a tabulated form that omitted certain information, such as so-called "moral crimes" data. State's Bureau of International Narcotics and Law Enforcement Affairs funded the Case Management System, an online database designed to track all legal cases run through the formal system, but that effort made only limited progress, despite the Ministry of Interior's goal of having the dataset functional in all provinces by 2020. This strategy document also envisaged a research center in Kabul that would use crime statistics to "find better ways of combating crimes." That never happened.[1043]

Official statistics drastically underrepresent actual crime levels in Afghanistan. A comparison of a 2007 survey by the UN Assistance Mission to Afghanistan of existing crime statistics and the UN Department of Safety and Security crime data found that, although crime was increasing in the country, trends showed a decline in reported crime to the police. The study concluded that "probably up to half the crimes go unreported," partly due to widespread distrust of police. According to a 2009 evaluation by an international consulting firm, "Interviewees nationwide reported crime numbers in 2008 being between 9,000 and 12,000. If true, this would place Afghanistan, with 0.42 crimes per 1,000 inhabitants—in other words, "without meaningful criminality." Instead, the statistics demonstrate that crime reporting is inconsistent and incomplete.[1044]

Another reason that crimes frequently go unreported, according to a 2006 U.S. Institute of Peace report, is that "internal family disputes are highly sensitive in Afghanistan's insular culture. . . . For many Afghans, resolving disputes which involve women through government courts and police controlled by strangers contradicts customary practices of *purdah* (separation of sexes)." Coupled with the popularity of informal justice mechanisms, these attitudes mean that cases such as domestic abuse and forced marriages never show up in official statistics.[1045] A 2012 Human Rights Watch report found no relevant statistics on women's imprisonment for moral crimes.[1046]

When Afghans did report crimes to the police, poor record-keeping and reporting procedures, likely compounded by the high rates of illiteracy among police officers, contributed to substantial underreporting as well. As with other capacity-building initiatives, the development of meaningful filing and reporting procedures in criminal investigations lagged behind other priority departments, notably counterterrorism. Although a rudimentary system had been reestablished in principle early on, police filing and reporting remained disorganized and vulnerable to manipulation many years later. From 2002 to 2005, most police stations in Afghanistan lacked paper or pens, while officers issued communications on paper or radio and failed to keep copies of incident and arrest reports.[1047] When some 900 Taliban inmates escaped from a Kandahar prison in June 2008, for instance, not a single inmate had been fingerprinted or photographed. Beyond poor police procedure, this incident exemplifies the broader failure to integrate the three pillars of justice: police, courts, and corrections.[1048]

By 2009, some police stations kept a rudimentary record of prisoners, but lacked a comprehensive administrative system to track and report cases. In Afghanistan's rural districts, even in Kabul Province, paper records were frequently lost, manipulated, or sold. Criminals could buy their freedom with ease within the first 24 hours of arrest, when crimes were not yet recorded or reported to the Attorney General's Office. One high-ranking Ministry of Interior official shared his belief that "files were mostly about showing that the [Ministry of Interior] was improving to donors and mentors." In reality, the Ministry of Interior largely resisted implementing proper administrative procedures for tracking and analyzing crime.[1049]

Even after the provision by international advisors of new technology, record-keeping remained poor even in Ministry of Interior headquarters in 2010, despite the provision by international advisors of new technology and capacity-building initiatives. Notably, the ministry lacked the mechanisms to consolidate the data it received from the provinces. In addition, the various crime-fighting institutions—particularly the Ministry of Interior and National Directorate of Security—did not share their data. Giustozzi concludes that "it was not even clear how to divide the caseload" among the Criminal Investigation Department, the Afghan Uniform Police, and the [National Directorate of Security]."[1050]

Insecurity also hindered crime reporting. District police had to take a criminal file to the provincial center to be recorded, which often meant ground movements through dangerous territory. Since district police would rarely search for evidence after opening a file, filing and reporting were mostly irrelevant anyway. Most of the time, the ANP limited themselves to radio reports if they reported crime at all.[1051]

The low level of reported crime also stemmed from police officers' fears of alienating regional strongmen and politically connected communities. According to Giustozzi and Isaqzadeh, "This was a particularly severe problem in the south, where the strongmen and communities were most closely connected to Kabul and were in a position to get a sympathetic chief of police appointed."[1052] Poorer communities watched with resentment as the affluent and politically connected bought their way out of trouble.

Notably, government crime statistics seemed to exclude conflict-related crimes perpetrated by insurgent and pro-government forces. If a Taliban insurgent killed 50 civilians in a suicide attack, these deaths were not included in the official murder count. In 2011, for example, UNAMA recorded 2,332 civilian deaths perpetrated by anti-government forces; the Ministry of Interior, cited in the annual Statistical Yearbook published by the National Statistics and Information Authority, reported only 1,231 murders that year. Likewise, in 2012, UNAMA documented 2,179 civilian deaths by anti-government forces, while the Ministry of Interior reported 1,948 murders for the entire country that year.[1053]

Asked why the Ministry of Interior did not count terrorism-related deaths, such as those resulting from IED explosions, in their official murder rates, former deputy interior minister Hosna Jalil said that part of the answer was that "Afghanistan wanted to show the U.S. and the international community that it was heavily engaged in counterterrorism, that it was a valuable partner in the Global War on Terror." Counterterrorism was politicized in Afghanistan, and although Jalil believed that Afghan resources should be evenly split between the counter-crime and counterinsurgency/counterterrorism missions, "nothing could ever be 50 percent as important as counterterrorism."[1054]

Foreign Advisors' Hasty Legal Reforms Clashed with Previous Laws and Culture

The post-2001 international intervention introduced more ambiguously drafted laws to the confusing patchwork of laws Afghanistan had to begin with. International advisors favored swift, ad hoc lawmaking—largely circumventing the Afghan parliament—in order to take credit for immediate progress in the realm of justice reform.[1055] Rather than gradually amend existing criminal justice laws, foreign lawyers hastily crafted an entirely new criminal justice framework prioritizing a narrow Western agenda: counternarcotics, counterterrorism, and anticorruption legislation. The hasty, uncoordinated reform process, wrote rule of law experts Michael Hartmann and Agnieszka Klonowiecka-Milart, "bred resentment of the law, and created incentives and opportunities to operate in a large grey area, if not entirely outside it."[1056] Early international reform efforts created more opportunities for judicial discretion—and therefore political interference and corruption—within the justice system.[1057]

In 2004, then-President Karzai decreed that the Italian-drafted Interim Criminal Procedure Code would supersede Afghanistan's 1974 Criminal Procedure Code, a move envisioned as a temporary measure until the Afghan judiciary developed the capacity for a more sophisticated code. But the new criminal code (containing only 98 articles compared to the older code's 500) could not comprehensively regulate the field of criminal justice: It lacked guidance for bail, search and seizure procedures, and did not specifically nullify the 1974 Code or specify which existing provisions it superseded. As late as 2007, the revised criminal code was being applied piecemeal, or not at all, in much of Afghanistan.[1058] Short-term, inconsistent training and the lack of follow-up monitoring further stalled the application of the Interim Criminal Procedure Code and additional laws in the country. Frustrated by the international community's "summer project lawmaking," Abdul Jabar Sabit, a former attorney general, complained, "I will not have my prosecutors taught their criminal procedure and penal codes by [volunteer] lawyers from Australia and Argentina who fly in for six weeks and then fly out!"[1059]

The Interim Criminal Procedure Code and other foreign-drafted laws were also widely criticized for ignoring practical realities. For example, it allowed police only 24 hours to interrogate suspects before handing off the suspect and case file to a prosecutor, and limited detention by the investigative prosecutor to only 30 days before requiring an indictment. These deadlines adhered to (or surpassed) Western human rights standards, but ignored the limitations imposed by Afghanistan's rugged terrain, poor infrastructure, insecurity, and lack of basic resources and personnel. Indeed, the Attorney General's Office claimed that such unrealistic deadlines prevented police and prosecutors from conducting complex or multi-suspect investigations, especially in the winter.[1060] The Interim Criminal Procedure Code's time constraints also increased the motivation among police to use torture to secure quick confessions.

In response to the widely opposed 24-hour preliminary detention limit, the Afghan Ministry of Justice drafted a conflicting provision in the 2005 Police Law allowing police to detain suspects for 72 hours. The two conflicting provisions coexisted in the Afghan legal system until the Interim Criminal Procedure Code was revised and approved in 2014. Still, compared to the 10-day time limit under the 1974 Code, even an expanded 72-hour limit precluded complex investigations by largely illiterate officers poorly trained in investigative techniques.[1061]

"I will not have my prosecutors taught their criminal procedure and penal codes by [volunteer] lawyers from Australia and Argentina who fly in for six weeks and then fly out!"

—Abdul Jabar Sabit, former attorney general

The brevity of the Interim Criminal Procedure Code also created a demand for special investigative procedures to regulate crimes largely foreign to Afghanistan's justice system, such as money laundering and terrorist financing. Again, foreign advisors hastily drafted (and passed via presidential decree) ad hoc, stand-alone laws on bribery and corruption, terrorism financing, counternarcotics, and money laundering, with little attempt to fit them into the existing legal framework. As a result, these freestanding laws defined investigative procedures, crimes, and penalties that did not exist in the Interim Criminal Procedure Code, the 1974 Criminal Procedure Code, or the 1976 Penal Code. These new laws did not amend, or even refer to, existing provisions.[1062]

For example, the antiterrorism financing law included life imprisonment as a penalty—a punishment which did not exist in the 1976 Penal Code—and established procedures for mutual legal assistance and extradition, legal concepts completely foreign to Afghan criminal justice law. The anti-money laundering law violated the 2004 constitution, which requires a court order for home searches, by allowing police to conduct covert and technical surveillance. Furthermore, an antiterrorism law, drafted by the U.S. Department of Justice and modeled on the United States' Patriot Act of 2001, violated human rights standards by authorizing prosecutors (not judges) to order detentions for up to 120 days. The major donors, the United States in particular, silenced all UN opposition to these draft laws, although the Afghan Ministry of Justice did reject the U.S.-drafted terrorism law in favor of its own.[1063]

MORAL CRIMES

In May 2010, the *New York Times* reported the story of two Afghan girls, ages 13 and 14, who fled their forced marriages—illegal under Afghan statutory law—to much older men. Stopped at a checkpoint in the relatively liberal province of Herat, an Afghan police officer arrested the two girls for running away and transferred them to the custody of the local warlord-turned-government official, described by the Afghan Independent Human Rights Commission as the "self-appointed commander and morals enforcer in his district in Ghor Province." After what was considered a sham trial led by the former warlord and local mullahs, the girls received 40 lashes each, also illegal under Afghan statutory law. Manizha Naderi, the executive director of Women for Afghan Women, said it was common for police officers who apprehend runaway child brides to return them to their families, instead of directing them to women's shelters. "Most police don't understand what's in the law, or they're just against it," she told the *New York Times*. In some cases, the police return runaways to face "honor killings"—a practice in which women deemed to have brought dishonor on the family are killed by their own relatives.[1064] In another incident in May 2014, a 10-year old girl from Kunduz Province was raped by a local mullah. Local police took the girl from a women's shelter and returned her to her family despite the risk that she too would be the victim of an honor killing. Male family members provided written guarantees that they would not harm her, but Amnesty International warned that the girl remained at risk.[1065]

Women are often victimized by police officers, prosecutors, judges, and other government officials, especially outside the major urban centers. This is especially true in the case of "moral crimes." In Afghanistan, women and girls fleeing abusive situations are frequently arrested and incarcerated for such crimes as *zina* (sexual intercourse outside of marriage), and "running away," which is widely interpreted as intent to commit zina or, if the woman is married, intent to commit adultery. Many moral crimes are merely unwritten social norms, rooted in Pashtunwali and other customary codes of conduct. Others, such as zina, are criminalized in the Afghan penal code, yet contradict Afghanistan's international legal obligations as codified in the 2004 constitution. According to the Human Rights Watch, approximately 400 female inmates in January 2012 had been convicted for moral crimes. That number accounts for approximately half of all adult women in Afghanistan's prisons, and virtually all teenage girls in its juvenile detention centers.[1066]

When it comes to crimes against women, police officers commit "twin injustices," according to Human Rights Watch: "the often vigorous enforcement of vaguely defined or undefined moral crimes, and the correspondingly anemic enforcement of the [2009] Law on the Elimination of Violence Against Women." Abused women and girls fleeing violence are imprisoned, while the men responsible for the abuse and injustice almost always enjoy impunity. Police officers and prosecutors tend to accept dubious accusations of enraged husbands or family members at face value, while dismissing (and only in rare cases investigating) the women's claims of abuse.[1067]

An Afghan woman looks out of the window of her bedroom at a women's shelter in Kabul. (AFP photo by Rebecca Conway)

As is typical of police investigations in Afghanistan, Afghan police responding to moral crimes rely primarily on material confessions to score convictions. After an arrest, police instruct women and girls to sign with thumbprints confessions that most cannot read and that usually have not been read to them. These "confessions," obtained without the presence of legal counsel, are often the only evidence presented in court, and routinely result in convictions.[1068]

In some cases, police have even arrested women and girls seeking refuge in women's shelters, a small number of which are scattered in less conservative parts of the country. Sometimes, after referring a woman to a shelter, police officers will later return to arrest or return the woman to her family, where she faces retaliation from brothers, husbands, or other relatives. According to the Afghanistan Independent Human Rights Commission, there were an estimated 243 cases of so-called honor killings between April 2011 and 2013, almost certainly underrepresenting the true figure. Police officers committed nearly 15 percent of the honor killings and sexual assaults documented by the commission in this two-year period.[1069] Many Afghan judges show as much unprofessionalism and bias toward women as the police officers. In moral crimes cases, judges routinely convict women on the basis of confessions of dubious validity or even letters or opinions from abusive husbands asking for the women's punishment. Even the Supreme Court formally endorsed this discrimination in 2010 and 2011 by publicly instructing the country's judges to treat running away as a crime, despite its absence in statutory law. The Supreme Court instructed women to seek government help rather than run away, even though law enforcement officials often arrest, rather than protect, runaways.[1070]

"It is a sad irony," concluded Human Rights Watch in 2012, "that Afghanistan's relatively scarce resources for criminal justice are being used to prosecute and incarcerate women and girls for actions that should never be crimes, while impunity reigns for most perpetrators of serious human rights violations and violence against women and girls."[1071]

DETERIORATING POLICE-PROSECUTOR RELATIONS UNDERMINE THE RULE OF LAW

The lack of clarity over legal authorities and mandates, partly rooted in the unresolved ambiguity of the 2004 constitution, led to constant turf wars between police and prosecutors in Afghanistan.[1072] Under Afghanistan's 2004 constitution, which embraces a civil law tradition, police officers are responsible for discovering or detecting crimes, while investigative powers are reserved for the prosecutor. That means the prosecutor has a significantly greater role than do prosecutors in common law countries, like the United States. Afghans adopted this strict division between detection and investigation—which originated in the 1964 Constitution—in order to limit police power after decades of abuse.[1073]

Yet foreign donors, especially those with common law traditions, had generally opposed this traditional division. Others believed that police should be allowed to investigate crimes, while prosecutors should have the authority to direct police officers during the discovery phase. Even though neither Afghan police nor prosecutors believed that the prosecutor has any say over police actions during the first 72 hours after an arrest, the Interim Criminal Procedure Code granted prosecutors the power to confirm, modify, or nullify police decisions during the detection phase.[1074]

As the Afghan legal system evolved, the legal statutes governing the roles of each of its subcomponents have grown increasingly difficult to interpret. For instance, the 2005 Police Law, drafted by international advisors to the Ministry of Interior, broadened existing police authority to stop, detain and search individuals, vehicles, and residences. However, the law did nothing to resolve the tension between these provisions and the Interim Criminal Procedure Code, which granted prosecutors greater authority to direct police actions during the detection phase.[1075]

The net result of these inconsistencies was a broken relationship between Afghan prosecutors and police. In 2010, the International Crisis Group assessed that "the lack of clarity over established authorities for detection and discovery has made the task of investigating crime difficult, muddled basic procedures and expanded opportunities for corruption." The deterioration of the police-prosecutor relationship, the report said, was a main case of corruption and weak rule of law in Afghanistan.[1076]

CORRUPTION, CULTURAL ASSUMPTIONS, LACK OF POLICE TRAINING ERODE LEGAL SAFEGUARDS

Law enforcement in Afghanistan faces a myriad of challenges, from a lack of awareness among police officers and detainees of relevant laws, rights, and procedures, to corrupt and lengthy judicial processes, to a shortage of defense lawyers. It is also handicapped by a culture that presumes guilt over innocence and places a premium on confessions over material evidence. These perceptions and cultural predilections, coupled with inadequate training in civilian policing techniques, have led to systematic torture, illegal

detentions, and extrajudicial killings by Afghan police, who are shielded by a sustained culture of impunity.

Afghan Law Prohibits Torture and Illegal Detentions, but the Lack of Police Capacity and Accountability Undermine Rule of Law

During the initial years of Afghanistan's reconstruction, the Afghan criminal justice system was regulated by parts of the 1964 Constitution, the 1973 Law of Police and Gendarmes ("the Police Law"), the 1965 Criminal Procedure Law, and the 1976 Penal Code. Although these decades-old laws fell short of modern international standards, they established a basic foundation for the rule of law. Notably, the 1964 constitution prohibited torture and coerced confessions; the penal code made torture punishable by five to 15 years of imprisonment, and the criminal procedure law restricted preliminary detentions to 72 hours.[1077]

Yet after 2002, implementing even these minimal protections proved a challenge for law enforcement officials. In 2003, Amnesty International documented "a widespread lack of awareness among the police of international human rights standards on policing or of domestic law concerning human rights and policing," including the 1973 Police Law.[1078] This was unsurprising, however, given that most police were former militia fighters who had never encountered or enforced these types of legal codes and policies. Those who had, the professional officers trained under the previous Marxist government, were mostly middle-aged by 2001. Decades of conflict had ensured that there were few existing copies to refer to, and widespread illiteracy meant there were few police officers able to read them.[1079]

It is not clear how much greater legal awareness would have helped. Neglected and poorly resourced courts were unable to handle the growing volume of cases brought before them. An "arrest, bribe, and release" culture flourished, while innocent Afghans without recourse to legal aid were unlawfully detained.[1080]

Almost no measures existed to hold corrupt or abusive police officers accountable. According to Amnesty International, only one reference to police accountability could be found in domestic law: the Afghan Law of Employment, Promotion and Retirement of Police and Gendarmes (1973), which according to Amnesty International "in effect [put] police personnel outside the regular court system and therefore in one sense above the law."[1081] This lack of accountability persisted throughout the 20 year police assistance effort.

Before the Taliban takeover of August 2021, Afghanistan's criminal justice framework was, at least on paper, among the most progressive and modern in the Islamic world. Afghanistan has ratified several international treaties that prohibit torture which is also banned by the 2004 Afghan constitution. The 2018 Penal Code expanded the definition of torture to align more closely with international standards, and criminalized abusive or degrading treatment by public officials. The 2014 Criminal Procedure Code renders any statement made due to torture or duress inadmissible in court.[1082]

U.S. medics examine the injuries of an Afghan National Policeman sustained following an attack by a suicide bomber in Helmand Province's Garmsir District, April 19, 2012. (U.S. Marine Corps photo by Cpl. Reece Lodder)

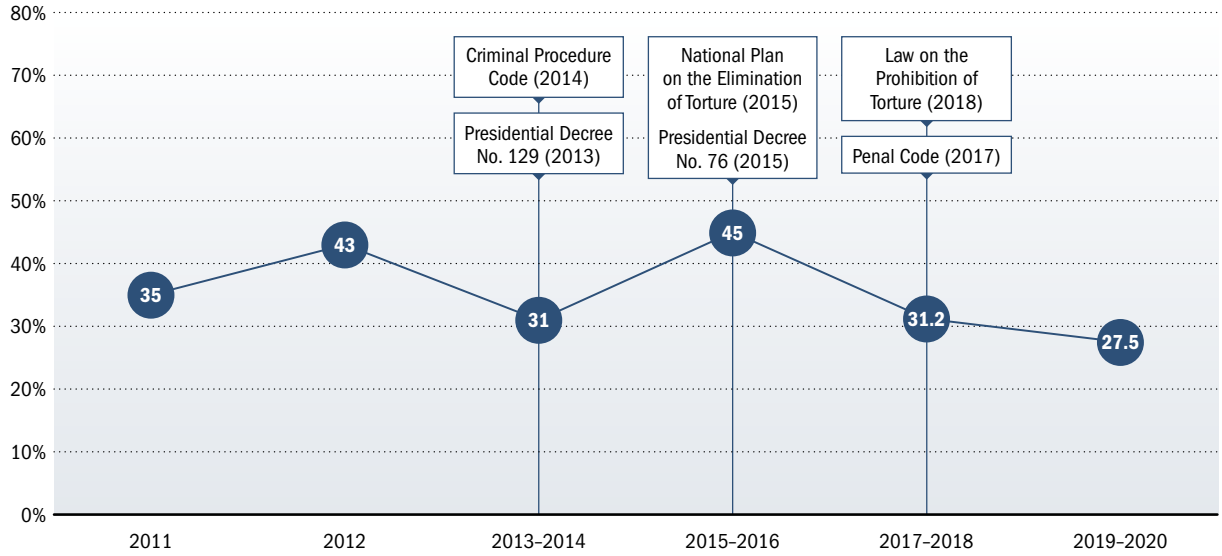
In 2013, a presidential decree reaffirmed the constitutional prohibition of torture and ordered the Ministry of Interior, the National Directorate of Security, and the Attorney General's Office "not to torture or mistreat" suspects or detainees. Procedural safeguards against torture were again reaffirmed in 2018, with the passage of the Law on the Prohibition of Torture, whose provisions prohibited torture, prohibited any exceptions to torture, and established an Anti-Torture Commission.[1083] Afghan legal codes also guarantee citizens most fundamental legal protections: a ban on arbitrary arrest or detention, the right to be informed of the charge against them, the right to avoid self-incrimination, the right to counsel and the right to a public trial, among others.[1084] Yet this abundance of amendments, presidential decrees and supplementary laws shows that the existence of statutory protections has not eliminated the use of torture and other abuses in Afghanistan. A widespread lack of awareness of detainee rights among police, limited law enforcement and judicial capacity, and a culture of impunity for official abuses continued to undermine the rule of law up to the day of the Taliban takeover of the country.

Premium on Confessions Led to Illegal Detention, Torture

Since 2010, the UN Assistance Mission in Afghanistan and the Office of the United Nations High Commissioner for Human Rights have regularly documented the torture and mistreatment of suspected Taliban detained by Afghan security forces, based on hundreds of interviews with detainees (see Figure 1).[1085] These reports have consistently found that the overwhelming majority of torture and ill-treatment was inflicted in order to obtain confessions.[1086] In 2017, those UN bodies reported that "evidence obtained through confession remains key to most successful prosecutions." Many of those detainees said that they did not understand or could not read what was written on the documents they signed, and most said they had no access to a lawyer before signing.[1087]

FIGURE 1

CREDIBLE ALLEGATIONS OF TORTURE BY DETAINEES IN ANP CUSTODY, BY PERCENTAGE



Source: UNAMA/OHCHR, "Preventing Torture and Upholding the Rights of Detainees in Afghanistan: A Factor for Peace," February 2021, p. 5; UNAMA/OHCHR, "Treatment of Conflict-Related Detainees in Afghanistan: Implementation of Afghanistan's National Plan on the Elimination of Torture," April 2017, pp. 23, 31.

Of the 77 detainees who gave credible reports of torture in a police facility from January 2015 to December 2016, 90 percent said that they were tortured in an attempt to force a confession; 47 ultimately confessed.[1088]

> *"I was regularly tortured by three ANP, who accused me of supporting the Taliban. . . . I was beaten with a cable each time for one hour. . . . After each beating, I was asked to confess. . . . For three days, I did not confess until ANP used electric shocks. I then signed a confession saying I was a member of [the] Taliban."*
>
> —Detainee 448, Kandahar Prison, 2016

In response to the 2015 UN report, the Afghan government rolled out a National Plan on the Elimination of Torture in February 2015, tacitly acknowledging the ANP's use of torture for expediency.[1089] The action plan identified two factors that have encouraged widespread torture of detainees in Afghanistan: a lack of knowledge about proper methods of collecting, preserving and analyzing evidence, and pressure for quick results.[1090] Although international partners have supported capacity-building for National Directorate of Security forensic units, including mentoring for laboratory staff, the ANP—and the Afghan Uniform Police especially—remained ill-equipped to conduct thorough criminal investigations that adhere to human rights standards.[1091]

In September 2015, former Afghan President Ashraf Ghani issued a presidential decree amending the 2014 Criminal Procedure Code with "the stated goal of improving the

effective prosecution of persons responsible for committing terrorist crimes and crimes against security." Under the revised code, security personnel could hold such suspects for up to 10 days in order to gather incriminating evidence. During these 10 days, the detainee had no right to be brought before a judge to challenge the grounds for his detention. A prosecutor might then authorize a further extension of up to 60 days, again without judicial oversight. In total, suspects detained for crimes against state security may be denied judicial oversight for up to 70 days without any way to challenge their confinement.[1092] Both circumstances almost certainly violate requirements under international and state law for accused suspects to be brought promptly before a judge.[1093]

In 2017, UNAMA and the UN High Commissioner for Human Rights warned that this code amendment did not substantially reduce the risk of torture, and may in fact increase it—by allowing suspects of terrorist crimes and crimes against internal and external security to be held for extended periods by security forces without judicial oversight.[1094] Already, the 2017 UN report documented many detainees being held longer than the 10 days allowed without a prosecutor's request for an extension. In some cases, detainees were held in National Directorate of Security and ANP detention for more than two months.[1095]

In the latest report, UNAMA and the UN High Commissioner for Human Rights found that 30.3 percent of detainees monitored between January 2019 and March 2020 presented credible evidence of torture, down only slightly from 31.9 percent in the 2017–2018 monitoring period. In ANP detention centers, the prevalence of torture fell from 31.2 percent to 27.5 percent (before the Taliban takeover, Kandahar was the locus of torture by the ANP, with allegations reported in 57.7 percent of cases). As in previous reports, written confessions remained critical to prosecutions: Detainees were asked to sign or thumbprint a document without knowing or understanding its content in 42.9 percent of instances.[1096]

The report noted that ANP officers informed detainees of their rights prior to questioning in only 0.6 percent of instances of detention; this number increased to only 5.4 percent during the entire duration of detention (including after questioning). Similarly, detainees in ANP custody had access to a lawyer in only 0.6 percent of instances prior to questioning, and in 6.3 percent of all cases during the entire period of detention. Family contact occurred less than one-third of the time, while medical examinations were performed in only 1 out of 335 instances of detention. The lack of independent medical examinations is particularly important, since Afghan law requires a high burden of proof—typically signs of torture on the body—for victims demanding government compensation.[1097]

Even on the rare occasion that ANP officers informed suspects of their rights, the information provided was not always comprehensive. The UN agencies reported that although detainees were most often informed about their right to a defense lawyer, they were not necessarily told how to obtain one, or even told of their right to remain

silent.[1098] The failure to inform detainees of their rights is sometimes due to a lack of awareness, and sometimes to the pressure to obtain confessions and convictions. In 2009, the UN agencies reported that some police and prosecutors deliberately chose not to inform detainees of their rights, including the right to an attorney, because "human rights hinder their work." Judges, too, do not consistently respect the detainee's right not to self-incriminate or the inadmissibility of coerced confessions in court.[1099]

"Human rights hinder their work."

—UN report on why police and prosecutors do not inform detainees of their rights

A related impediment to effective law enforcement is the ingrained cultural perception that only guilty people need lawyers. In 2009, UNAMA observed that "engaging defense counsel is seen as a sign of guilt rather than a critical protection."[1100] In 2019, UNAMA noted that "detainees continued to lack a clear understanding of the benefits of having a legal counsel, or believed that requests for a lawyer would negatively impact their case during investigation."[1101] In its 2019 Country Report on Human Rights, State documented that criminal defense lawyers continued to experience abuse and threats from prosecutors and other law enforcement officials.[1102]

This presumption of guilt in criminal trials further facilitates illegal detentions: In the past, prosecutors have refused to release detainees in the absence of a guarantor, despite the absence of such requirements in the court's verdict, as well as the Supreme Court's ruling that this type of conditionality is unconstitutional. On some occasions, guarantors have even been imprisoned when the accused failed to meet his obligations.[1103] Although the 2014 criminal procedure code permits temporary release on bail, as of 2019, courts "rarely honor" this legal right, according to State reporting.[1104]

Arbitrary detentions persist for a variety of reasons in Afghanistan. Detainees may be detained after being acquitted or completing their sentence because the court or prosecutor failed to give explicit release orders. This may happen because of administrative incompetence, or it may be that corrupt officials are demanding bribes for release.[1105] Relatives or associates of suspects are sometimes arbitrarily arrested or detained in order to pressure the accused to surrender to the authorities. In January 2009, UNAMA found that Afghan courts have even *convicted* relatives in place of the accused. For example, in 2007, a court in Laghman Province convicted and sentenced a father to six years' imprisonment for his son's alleged kidnapping of an 18-year old woman. An appeals court overturned the primary court's decision only after UN intervention.[1106] In 2019, such practices were still around: State documented authorities detaining women "as proxies for a husband or male relative convicted of a crime on the assumption that the suspect would turn himself in to free the family member."[1107]

In many instances, law enforcement officials' failure to ensure the rule of law is the product of inadequate resources. The minimal provision of legal aid during preliminary detentions is partly due to the low numbers of defense lawyers in Afghanistan, some

of whom are also reluctant to take on terrorism-related cases due to personal security concerns. The right to contact family members is curbed by the limited availability of phones in most ANP and National Directorate of Security detention centers, and only 10 percent of ANP lockups currently have permanent medical staff, which makes the provision of timely medical examinations nearly impossible.[1108] The scarcity of women's shelters has also led law enforcement officials to hold some victims of domestic abuse in prisons as a form of protective custody. According to State, abused boys—including victims of *bacha bazi*—have also been placed in juvenile rehabilitation centers because there are not enough shelters for boys.[1109]

As late as 2019, only 10 percent of Afghan resources went into countering crime; the rest poured into the counterinsurgency and counterterrorism missions prioritized by the international community. Hosna Jalil, deputy interior minister for policy and strategy from December 2018 to January 2021, said that during her tenure, common criminality had been responsible for approximately 150 to 200 percent more deaths than terrorism, even though crimes were underreported and the police could only investigate, on average, 7 to 8 percent of the cases they received. Still, only 10 percent of the police was tasked with countering crime, and even this tiny fraction was underdeveloped. Even some senior police did not know the laws they were expected to uphold. Her initiatives to improve the ANP's crime-fighting capabilities, she said, were obstructed by international donors with conflicting agendas.[1110]

THE ADVISOR'S DILEMMA

U.S. and coalition efforts to transform the ANP into an accountable police force capable of enforcing the rule of law were challenged by U.S. support to warlords and militias whose loyalty to the central government was in name only. Such support constituted a core dilemma for U.S. advisors, who often subordinated the long-term need to build good governance in Afghanistan to the immediate concerns of national security and counterinsurgency success on the battlefield.

DOD Circumvents Leahy Law, Enables Police Impunity

A set of congressional legislation commonly known as the "Leahy Laws" prohibited DOD support to Afghan police units implicated in serious human rights abuses.[1111] Yet SIGAR found in June 2017 that DOD was unwilling to stop funding Afghan allies that engaged in torture, extrajudicial killing, and other gross violations of human rights when they were deemed indispensable to the counterinsurgency.[1112] Using a legal loophole in annual DOD appropriations known as the "notwithstanding clause" to continue Afghan Security Forces Fund assistance, the U.S. military enabled impunity for human rights abusers who ultimately undermined the rule of law in Afghanistan (see callout box on pp. 171–172).

According to the Leahy Law's original sponsor, Senator Patrick Leahy, DOD's "inexcusable" use of the loophole tells U.S. partners, "We've got this law. But you go ahead and do everything you want to do. You do the most outrageous thing you want

Afghan Brig. Gen. Nasrullah Zarifi (left) and Kandahar Provincial Chief of Police Brig. Gen. Abdul Raziq (center) salute an Afghan Honor Guard before attending an Afghan Uniform Police noncommissioned officer and literacy course graduation at the training center in southern Afghanistan. (U.S. Air Force photo by Tech. Sgt. Renee Crisostomo)

to do, extrajudicial killings and everything else. And don't worry—we'll keep sending you U.S. taxpayers' dollars."[1113] Leahy told National Public Radio in 2018 that "the notwithstanding authority was intended to be only rarely used—usually in the middle of a battle or something like that."[1114]

SIGAR's 2017 inspection report found that the Office of the Under Secretary of Defense for Policy used its "notwithstanding" authority in December 2015 to continue funding 12 Ministry of Interior police units that had engaged in gross violations of human rights in 2013. Eight additional units (of a total of nine) implicated in human rights abuses in 2014 were also authorized to receive Afghan Security Forces Fund money, despite failing Leahy vetting. In these instances, DOD withheld some funding that it deemed "not essential to U.S. force protection, U.S. mission and national security objectives, and potential [Afghan National Defense and Security Forces] investigations" into abuse allegations. This included funds for U.S.-based training, site improvements and minor construction, and transportation for trainees. DOD told SIGAR that it withheld $212,120 from the aforementioned 12 Ministry of Interior units, and a total of $707,154 through June 2017.[1115]

Matthieu Aikins, the investigative journalist who reported on crimes attributed to Kandahar Chief of Police Abdul Raziq in 2011, said that "[t]he history of the Leahy Law in Afghanistan is a mix of neglect, chronic understaffing, and creative interpretation of the law."[1116] Neglect took the form of inadequate DOD guidance in reporting abuses and the absence, until very recently, of a method to systematically track human rights violations in Afghanistan. SIGAR reported in 2017 that DOD did not explicitly require the reporting of human rights violations in Afghanistan until November 2011, and that the Office of the Under Secretary of Defense for Policy began to track violations only

An Afghan National Police officer guards the front gate of the Zaranj provincial prison. (Regional Command South photo)

after July 2014. Although SIGAR found no evidence that U.S. forces were told to ignore human rights abuses, DOD's failure to issue adequate policy guidance meant that many such incidents, including child sexual assault, were ignored.[1117]

SIGAR further reported that from 2010 to September 2016, State's Bureau of Democracy, Human Rights, and Labor conducted 5,753 Leahy vetting requests from DOD. Of those, 651 were suspended, meaning that preliminary vetting identified possible human rights abuses but the bureau did not have enough time to confirm or rule out the information before scheduled training events for Afghan security units; none were outright denied funding and access to training programs. It is likely that some human rights abusers slipped through the cracks because of chronic understaffing or other challenges.[1118]

Part of the failure to implement the Leahy Laws in Afghanistan may also be attributed to the sheer scale of DOD-funded assistance to Afghanistan's military and police units. DOD and State told SIGAR in 2017 that "the large scale of DOD-funded training, equipment, and on-budget assistance (such as salaries, uniforms, and infrastructure) being provided to essentially all members of the [Afghan security forces], and the presence of U.S. forces closely partnering with [ANDSF] units on a mission that is imperative for achieving U.S. national security objectives, have made standard Leahy vetting procedures impracticable."[1119] Although the standard Leahy vetting process continued to be applied to State-funded assistance, such as training programs sponsored by its Bureau of International Narcotics and Law Enforcement Affairs, a separate procedure unique to Afghanistan was established in July 2014 for DOD-funded activities.[1120] DOD and State proactively vetted individual members of Afghan police or military forces only if they were selected for U.S.-based training, or if a gross violation of human rights incident was reported and the departments were able to identify the responsible units and individuals.[1121]

LEAHY LAWS

The Leahy Laws prohibit DOD and State from funding units of foreign security forces that face credible allegations of serious human rights violations.[1122] The law requires the secretaries of both agencies to "ensure that prior to a decision to provide any training, equipment, or other assistance to a unit of a foreign security force, full consideration is given to any credible information available to the Department of State relating to human rights violations by such unit."[1123]

The Leahy Law as it applies to State is codified in the Foreign Assistance Act of 1961, while the DOD Leahy Law appears as a recurring provision in annual defense appropriations.[1124] These two federal statutes are similar but not identical, and the absence of standard definitions for language such as "gross human rights violation" and "credible information" has resulted in divergent interpretations.[1125] In 2014, DOD and State began holding biweekly Leahy Forum meetings to review allegations on a case-by-case basis.[1126]

According to the standard Leahy vetting process, Leahy Law prohibitions on foreign security assistance may be waived only under extraordinary circumstances—for instance, if the host government has taken all possible corrective steps, or if U.S. assistance is necessary for disaster relief or national security emergencies. In such cases, DOD must notify the Congress within 15 days of providing assistance based on any exception or waiver.[1127]

Before 2014, the DOD Leahy Law prohibited the use of Afghan Security Forces Fund money for "any training program" for units engaged in human rights abuses. DOD's interpretation of this was that this prohibition did not apply to providing mentors, embedded personnel, or equipment. Assistance that DOD determined did not fall under the Leahy Law's definition of "training," as well as assistance funded from other sources (such as the Afghanistan Infrastructure Fund and the Commander's Emergency Response Program) were not subject to the vetting requirement. In January 2014, the Congress amended the DOD Leahy Law to include all ASFF-funded activities, namely "any training, equipment, or other assistance" to foreign units implicated in human rights abuses.[1128]

In response to congressional attempts at closer scrutiny, DOD has used a legal loophole known as the "notwithstanding clause" in its version of the Leahy Law. That is, since the establishment of the ASFF in 2005, the Congress has stipulated that its funds "shall be available to the Secretary of Defense, notwithstanding any other provision of law."[1129] DOD has interpreted this clause to allow the Secretary of Defense to bypass the Leahy Law if necessary. According to policy guidance issued in May 2015 by then-Secretary of Defense Ash Carter, the notwithstanding clause may be invoked if withholding assistance would "present significant risks to U.S. or coalition forces," would "significantly undermine or damage the U.S. mission or national security," or would "reveal DOD's sources and methods."[1130] Such broad conditionality arguably enables the U.S. military to circumvent the Leahy Law at will—and, according to DOD's interpretation, without notifying the Congress.[1131]

In December 2016, SIGAR sent a classified audit of DOD's Leahy Law compliance to the

U.S. Senator Patrick Leahy. (Photo courtesy of the office of Senator Patrick Leahy)

Congress, which was publically released the following year in June 2017. The audit, *Child Sexual Assault in Afghanistan: Implementation of the Leahy Laws and Reports of Assault by Afghan Security Forces*, found that DOD used the notwithstanding clause in the Afghan Security Forces Fund to get around holding the ANDSF accountable. In response to the audit, the fiscal year 2018 omnibus bill that passed in March 2018 took out the notwithstanding provision to remove the loophole. However, the underlying Leahy Law was not changed, and the bill set up a parallel mechanism that allowed DOD to continue funding certain forces under certain conditions when certified by the Secretary of Defense.[1132]

The DOD Leahy Law in the fiscal year 2021 National Defense Authorization Act states that "*limited* [emphasis added] training, equipment, and other assistance" may be provided to implicated Afghan security units only if withholding assistance would "present significant risk to U.S. or coalition forces or significantly undermine U.S. national security objectives" and "the Secretary has sought a commitment by the government of Afghanistan to take all necessary corrective steps." The law requires DOD to inform the Congress within 30 days of providing exception-based assistance, in addition to a report describing the information relating to the gross violation of human rights, the implicated Afghan security unit, and the corrective steps to be taken by the Afghan government. DOD must also submit additional reports every 120 days detailing the status of the corrective steps taken by the Afghan government. If no measures have been initiated within one year, DOD must stop funding the unit.[1133]

Balancing the Need for Security and Good Governance

Longstanding U.S. military partnerships with brutal warlords—who also operated as official Afghan government officials—clearly violated the essence of the Leahy Laws. They also constituted a major dilemma for U.S. advisors in Afghanistan: This mutual support helped the U.S. military restore security to Taliban-controlled areas and reduce risk to U.S./NATO and Afghan troops, but it also undermined the good governance necessary for long-term stability. Further complicating matters, many Afghans praised these strongmen for providing security and public services, unlike countless officials of the former government. Balancing the need for security against the long-term goal of establishing the rule of law was no easy task.

Kandahar's Abdul Raziq was the poster child for this dilemma until his assassination in October 2018.[1134] Raziq has been credited by Afghans and U.S. officials alike with achieving a level of security in Kandahar that eluded U.S. troops elsewhere in Afghanistan. His forces—led by four police commanders that a UN official branded the "four horsemen" of counterterrorism—had pursued the Taliban so fiercely that Spin Boldak quickly became the safest district in southern Afghanistan.[1135] In September 2014, journalist Anand Gopal described how Kandahar transformed under Raziq's rule:

> After peaking in 2010, insurgent-initiated violence inside city limits had plunged 64 percent by 2013—largely on the heels of the U.S. military surge and the ascendance of a new police chief, Abdul [Raziq], whose forces have pushed the Taliban into the hinterlands. Once, [Taliban] assassinations and suicide strikes came regularly. . . . Today, though, the government has flushed most neighborhoods clean of insurgent cells, and the city feels rejuvenated. Unlike Kabul, where the impending withdrawal of U.S. troops has sparked capital flight, Kandahar is humming with newfound money and—in some quarters, at least—rediscovered hope.[1136]

Several U.S. and NATO officials had long advocated for Raziq's replacement, arguing that his corruption and illicit activities compromised the campaign to "win hearts and minds" in Kandahar.[1137] Military commanders in Kandahar, however, recognized that partnerships between the Afghan National Army and armed groups like Raziq's militia represented the country's best hope for peace.[1138] The U.S. military was often forced to rely on these militias precisely because most Afghan soldiers lacked the capability and willingness to conduct independent operations against the Taliban.[1139] U.S. troops also depended on Raziq's forces for their security, and some U.S. officers claimed that withholding assistance could jeopardize U.S. soldiers.[1140] In Spin Boldak, Raziq commanded more than five times the number of U.S. troops in the area, and U.S. officers relied on Raziq's fighters to safeguard NATO supply convoys entering Kandahar. One U.S. Army officer told the *Washington Post* in August 2010, "If we didn't have him, we'd be screwed. It wouldn't be this quiet." Another senior U.S. official remarked, "If we pulled [Raziq] out of there, our control of the border would have collapsed."[1141]

Raziq's merits as an ally aside, U.S. and NATO officials recognized the dilemma he posed. British Maj. Gen. Nick Carter, commander of the International Security Assistance Force's command in the area, called their partnership with Raziq "a pragmatic solution. . . . He's Afghan good-enough." U.S. and NATO officials have tried to reform

Raziq into a more palatable strongman by deploying U.S. mentors to chaperone him and offer incentives for improved behavior. A U.S. Army Special Forces colonel deployed to mentor Raziq said, "We're trying to promote integrity by watching his operations a whole lot more closely, but we don't want him to stop doing all of the good things that he's doing." Still, at least one U.S. mentor was replaced for growing too close to Raziq.[1142]

This dilemma intensified when allegations against Raziq's forces increasingly shifted from graft and drug smuggling to torture and summary executions. The methods of Raziq's "four horsemen" equaled the Taliban's in savagery. About one, a police commander known in Kandahar as Jajo, Gopal writes:

> According to [Jajo's] Facebook page, [he] supports women's rights, admires modernizing reformers from Afghan history, and despises the Taliban. . . . If you listen to stories in the bazaar, though, you'll also learn that Jajo forced those violating the city's one-person-to-a-motorcycle rule to kneel on the asphalt and kiss the sizzling hot exhaust pipe (Taliban are known to prefer doubling up on motorcycles); that he stripped prisoners naked and paraded them around his base; that men under his command use rape as an interrogation tool; that when executing prisoners he might resort to a pistol or electrocution, but that he preferred beheadings.[1143]

Many victims of this Taliban-style law enforcement were simply in the wrong place at the wrong time, or were members of a rival tribe that government officials perceived to be infested with Taliban. According to a tribal elder who was one of Jajo's victims, "Even the Americans haven't done this sort of thing. . . . Even the Soviet army hasn't." Under Raziq and others like him, the counterinsurgency effort, Gopal notes, came "to mirror the thing it sought to eradicate."[1144] In a 2015 interview with National Public Radio, Senator Leahy similarly noted, "If we back corrupt, abusive warlords, we help foster a culture of impunity, blurring the distinction between our allies and the Taliban."[1145]

U.S. officials responded by halting detainee transfers to Afghan control in southern Afghanistan in 2011, but continued to fund Raziq's forces and other units implicated in human rights abuses. Meanwhile, Afghan officials began operating secret prisons beyond the reach of the UN and international human rights groups. According to a senior ANP official, each of the "four horsemen" ran a private jail; Jajo's was in a former U.S. military facility in Kandahar City.[1146]

Kandahar's residents feared Raziq and his police commanders—yet many welcomed this often brutal security in exchange for peace.[1147] Like many warlords, Raziq operated as a de facto government, providing aid and services to impoverished Afghans. A U.S. Army official in Spin Boldak described Raziq as a "Robin Hood figure who appears from nowhere, takes money and uses it to meet [the people's] needs." Kandaharis came to him complaining of electricity shortages and requesting new schools and job opportunities; young boys asked for his photograph. "He is responsible for everything good here," one resident told the *Washington Post*.[1148]

TRAFFICKING VICTIMS PROTECTION ACT FUNDING RESTRICTIONS

In 2000, the Congress passed the Trafficking Victims Protection Act (TVPA), the first comprehensive federal law to combat human trafficking in the United States and abroad. The law mandated an annual Trafficking in Persons report that publicly ranked governments' efforts to prosecute traffickers, protect victims, and prevent human trafficking, to include the use of child soldiers. Countries whose governments do not fully meet, or make significant efforts to meet, the law's minimum standards to eliminate human trafficking are ranked Tier 3, and face potential restrictions on U.S. nonhumanitarian, nontrade-related assistance.[1149]

The TVPA has been amended repeatedly over the years to incentivize continuous improvement in foreign governments' anti-trafficking efforts (see Figure 2). Most significantly, these amendments have restricted the availability of waivers and the number of consecutive years that countries can remain penalty-free on the Tier 2 Watch List before being automatically downgraded to Tier 3.[1150]

In 2020, after toggling between Tier 2 and the Tier 2 Watch List for years with the aid of presidential waivers, Afghanistan was downgraded to Tier 3 for the first time since 2002.[1151] The 2021 Trafficking in Persons Report assessed that Afghanistan had failed to make appreciable progress in the previous year, and upheld the country's Tier 3 ranking. Significantly, Afghanistan was identified as one of 11 countries with a documented "policy or pattern" of human trafficking, trafficking or forced labor in government-funded programs or sectors, sexual slavery in government camps, or the recruitment of child soldiers. Although the Afghan government took some important steps to address trafficking in 2020—including the first prosecution of a police officer for *bacha bazi*—the report highlighted a "government pattern of sexual slavery in government compounds" and the continued recruitment of child soldiers.[1152]

The former Afghan government had consistently violated the Child Soldiers Prevention Act of 2008 (CSPA), which mandates the inclusion in the Trafficking in Persons report of foreign governments whose armed groups (including police forces, as of 2019) recruit or use child soldiers in combat or supporting roles. Absent a presidential waiver, countries on the CSPA list are subject to restrictions on commercial licensing of military equipment and security assistance under the following authorities: International Military Education and Training, Foreign Military Financing, Excess Defense Articles, and Peacekeeping Operations.[1153] CSPA restrictions on Afghanistan were waived in 2020 (as in previous years) because security assistance to the Afghan government was deemed to "[fulfill] critical U.S. counterterrorism objectives and [foster] conditions that enable an end to the conflict in Afghanistan." Like the DOD Leahy Law, broadly worded exemptions allow funding restrictions to be easily circumvented: The President may waive restrictions if foreign assistance to Tier 3 countries is believed to "promote the purposes of the TVPA or is otherwise in the national interest of the United States."[1154]

FIGURE 2

TRAFFICKING VICTIMS PROTECTION ACT TIER RANKINGS

Tier 1	Countries whose governments fully meet the TVPA's minimum standards for the elimination of trafficking
Tier 2	Countries whose governments do not fully meet the TVPA's minimum standards but are making significant efforts to bring themselves into compliance
Tier 2 Watch List	Countries whose governments do not meet minimum standards but are making significant efforts towards compliance, yet the estimated number of trafficking victims is very severe or significantly increasing without proportional government action and insufficient evidence has been provided of increasing efforts to combat trafficking from the previous year
Tier 3	Countries whose governments do not fully meet the TVPA's minimum standards and are not making significant efforts to do so

Source: "Trafficking in Persons Report," June 2021, pp. 52–53.

According to the Stimson Center, 18 countries have been complicit in the use of child soldiers, but 97 percent of the congressionally mandated prohibitions on arms sales and military assistance to those countries have been waived. This has resulted in close to $5 billion of U.S. financial support continuing to fund countries in violation of the CSPA.[1155] With the U.S. military's exit from Afghanistan, however, it is no longer apparent that waiving restrictions for gross human rights violations, such as pervasive child sexual slavery, will be tolerated under the guise of "U.S. national interest"—particularly following President Biden's remarks to "make it a priority to combat this terrible crime."[1156] The use of legal loopholes and waivers to continue funding Afghan security units and individuals implicated in human rights abuses not only sacrificed accountability and long-term governance gains, but also failed to guarantee long-term security and stability. It is incumbent upon the U.S. government to continue to hold foreign police forces accountable for actions that violate TVPA and CSPA legislation, and to condition U.S. security assistance accordingly. In addition, partner nations must take steps to reform their police and military forces to improve compliance with these donor-applied requirements in order to qualify for long-term U.S. funding.

ANP ABUSES HURT U.S. COUNTERINSURGENCY GOALS AND UNDERMINED THE RULE OF LAW

While the U.S. failure to interfere with human rights abuses may have contributed to battlefield victories, the ANP's reputation for committing them hampered both counterinsurgency goals and the establishment of law and order in Afghanistan. Moreover, many Afghans came to view the United States as complicit in the ANP's crimes. Senator Leahy told National Public Radio in 2018, "I don't think [DOD] realize[s] the United States ultimately gets blamed for this. It becomes a talking point for our enemies."[1157] Indeed, ANP brutality was a centerpiece of Taliban propaganda. In April 2016, for example, Raziq's police allegedly arrested and tortured Bashir Ahmad Reyan, an Afghan university student in Kandahar, who Raziq later claimed died in a battle between rival Taliban factions. Shortly after, in a post on the Taliban's website entitled "Who are the True Enemies of Education?" the Taliban condemned Reyan's death, and accused Afghan government forces of abducting Reyan and subjecting him to "unspeakable forms of torture."[1158] Every act of police brutality and predation further empowered the Taliban, and DOD's use of ANP officers as "little soldiers" eroded the rule of law in Afghanistan.

"If we back corrupt, abusive warlords, we help foster a culture of impunity, blurring the distinction between our allies and the Taliban."

—U.S. Senator Patrick Leahy

An Afghan National Police officer escorts a prisoner into the Zaranj provincial prison. (Regional Command Southwest photo)

FUNDING AFGHANISTAN'S TORTURERS-IN-CHIEF

Abdul Raziq

An unknown exile in Pakistan on September 11, 2001, the illiterate but charismatic Abdul Raziq rose to become one of the most powerful people in southern Afghanistan.[1159] A powerful police commander and fierce opponent of the Taliban, Raziq was a close ally of both President Karzai and the U.S. military. He was also a warlord, a drug trafficker, and a gross human rights violator dubbed "Kandahar's Torturer-in-Chief" by human rights groups.[1160] Considered an indispensable ally in the counterinsurgency, Raziq received millions of U.S. dollars to help fund and train his police, facilitating his meteoric rise in the south.

A senior member of the Achakzai tribe, one of Kandahar's two dominant tribes, Raziq commanded a tribal militia that had near total control of the Chaman-Spin Boldak border crossing, the lucrative gateway for all supplies coming into southern Afghanistan from Pakistan. According to U.S. military officials cited in *Warlord Inc.*, "[Raziq] owns a trucking company, commands 3,500 police, effectively controls the local government, and reportedly takes in millions from extorting passing vehicles and trafficking drugs." Co-opted by the Afghan government, Raziq's semiofficial title became chief of staff of the provincial border police. Then-President Karzai promoted him to Kandahar's chief of police in May 2011.[1161]

According to Afghan and international officials, Raziq's arrival—first to Spin Boldak and later to Kandahar City—brought with it "a new level of brutality."[1162] One of the earliest public allegations against him appeared in a 2006 State human rights report:

> In March Commander Abdul [Raziq] of Kandahar province was removed from his post for allegedly attacking 16 rivals under the pretext that they were Taliban militants. The 16 men were Pakistani citizens who had traveled to Afghanistan for Afghan New Year celebrations. They belonged to a clan in Pakistan that [Raziq] blamed for the death of his brother two years earlier.[1163]

Pakistani diplomatic pressure and a tip from an in-country European Union employee prompted an official investigation by the Afghan Ministry of Interior. The final report "documented the killings in such a way that would leave no reasonable person in doubt that these were summary executions carried out by the [Afghan] Border Police" under Raziq's command. No charges were filed against Raziq, who was soon reinstated as Afghan Border Police Commander in Spin Boldak.[1164] By 2011, Raziq was Kandahar's provincial police chief, a position he accepted on the condition that he retain control over Spin Boldak as well.[1165]

Following Raziq's promotion, Kandahar became a hotbed for systematic torture and enforced disappearances.[1166] A 2013 UN report on the torture of conflict-related detainees notes that "ANP officials in Kandahar Province have increased the level of brutality and the use of torture" since Raziq's appointment as acting chief of police.[1167] Notably, all seven of the Afghan police detention facilities where UNAMA found evidence of systematic torture

Afghan Brig. Gen. Abdul Raziq (left), Kandahar's provincial chief of police, shakes hands with Afghan Uniform Police instructors at the Kandahar Regional Training Center in southern Afghanistan. (U.S. Air Force photo by Tech. Sgt. Renee Crisostomo)

were located in Kandahar.[1168] Furthermore, UNAMA "received credible reports of the alleged disappearance of 81 individuals who reportedly had been taken into ANP custody in Kandahar Province from September 2011 to October 2012."[1169] In 2014, Afghanistan expert Anand Gopal reported that some 40 unidentified bodies bearing signs of torture had appeared in Kandahar in October 2013 alone.[1170]

In its 2017 follow-up report, the UN again documented Kandahar as Afghanistan's torture capital, where a "staggering 91 percent" of detainees gave credible accounts of torture, including "having water forcibly pumped into the stomach, having their testicles crushed with clamps, being suffocated to the point of losing consciousness and having electric current applied to their genitals." In contrast, UNAMA found no indications of torture once detainees were transferred from ANDSF custody into Ministry of Justice-administered facilities.[1171]

In 2017, the UN Committee against Torture singled out Raziq when questioning the Afghan delegation about government efforts to curb torture.[1172] In its subsequent report on Afghanistan's compliance with the Convention against Torture, the committee recommended prosecuting the police chief.[1173] Still, no charges were brought against Raziq, and in 2019, UNAMA documented torture among 77 percent of Kandahar detainees it interviewed—at a time when the percentage of detainees who reported being tortured nationwide in Afghanistan had declined from 45 to 31.2 percent. Allegations against the ANP of a series of unexplained disappearances and extrajudicial killings—especially in Kandahar—persisted through 2019. UNAMA added that it "remains unaware of any concrete action taken by the authorities to investigate the widespread and, in some cases, public allegations that ANP has been complicit in acts of enforced disappearances."[1174] Meanwhile, Raziq consistently denied all allegations, claiming that summary executions of civilians were actually firefights with

Taliban insurgents, or that bodies appearing in Kandahar were products of battles between Taliban factions.[1175]

For years, the U.S. military looked the other way while Raziq engaged in corruption, drug trafficking, and gross human rights violations. In January 2010, U.S. and NATO commanders told a congressional delegation that Raziq took a major cut of all trucking that passes through the Chaman-Spin Boldak border crossing.[1176] By various accounts, the Afghan government received only one-fifth of all customs revenue at the border crossing.[1177] One U.S. Army officer told the *Washington Post* in 2010, "As long as we don't catch him moving trucks full of opium through the desert, we'll let him slide. If his men are shaking people down on the highway, well, that's just the way it's done here. It's no different from tollbooths on the highways back home."[1178]

By late 2009, senior NATO officials began calling for Raziq's replacement, due in large part to credible reports that Raziq enabled widespread fraud in support of the Karzais in the 2009 presidential election and 2010 parliamentary election.[1179] Yet U.S. and NATO commanders in Kandahar pushed back, with General Stanley McChrystal, then in command of ISAF and U.S. forces, ultimately deciding that Raziq was too useful to sideline: U.S. forces had to move supplies through the Spin Boldak border crossing. In 2010, as 30,000 U.S. troops prepared to surge to southern Afghanistan, General McChrystal flew to Spin Boldak to persuade Raziq to increase traffic along the border. U.S. military officials also needed Raziq's cooperation to implement a multimillion dollar U.S. plan to modernize the crossing in order to speed up the flow of traffic.[1180]

Raziq's militias were also on the front line of the U.S.-led military offensive into Taliban-controlled areas west of Kandahar City, a campaign which led to his promotion to brigadier general—a rank requiring a direct order from President Karzai.[1181] U.S. officials publicly praised the combat prowess of Raziq's fighters, and Raziq was transformed into a folk hero.[1182]

Earlier efforts to sideline Raziq were largely abandoned. Raziq's forces were mentored by U.S. Special Forces and trained by DynCorp and Xe (formerly known as Blackwater) contractors at a U.S.-funded center in Spin Boldak. DOD provided weapons, vehicles, and communications equipment, and paid the fighters' salaries through the Law and Order Trust Fund. Raziq received visits from such senior U.S. officials as Ambassador Karl Eikenberry and Generals Stanley McChrystal and David Petraeus. In July 2011, after Raziq moved to a higher-profile job as acting police chief, the U.S. military quietly halted the transfer of detainees into Afghan custody in areas Raziq controlled.[1183]

While acknowledging credible allegations of torture, the U.S. military continued to fund Raziq's units—a clear violation of the intent of the Leahy Law even if it was legally defensible on technical grounds. DOD's actions prompted years of inquiries by various U.S. officials about why assistance to Raziq was not blocked by the Leahy Law. In 2011, a State official in Kandahar told journalist Matthieu Aikins that "no Leahy Amendment issues have come to me" regarding Raziq's activities.[1184] In March 2017, multiple U.S. officials had confirmed that Raziq had "failed Leahy vetting and the law has been enforced against him."[1185]

For years, Raziq's impunity extended to the Afghan government. Then-President Karzai shielded Raziq from criminal charges as early as 2006, when he buried the investigation into Raziq's Spin Boldak massacre. Raziq also received protection from Kandahar's governor and known associate of President Karzai.[1186] By the end of Karzai's rule, Raziq was already too powerful to sideline. The Ghani administration "seems afraid of Raziq, who operates far outside the law," Human Rights Watch reported in 2017. After the UN Committee against Torture called for an investigation against Raziq in 2017, several Afghan senators called the report "vague" and suggested that allegations were fabricated by Pakistani intelligence.[1187]

Faced with little oversight by Afghan or U.S. officials, Raziq continued to operate with impunity until his assassination in October 2018. In a 2015 interview with National Public Radio, Raziq was asked about the possibility that the United States would withhold aid due to his units' alleged human rights abuses. "You don't have to worry about that. They will give us," he replied. "Are they going to hand over this area back to the Taliban?"[1188] In another local radio interview in January 2018, Raziq declared that "this government has neither appointed me, nor can it remove me. I have been appointed based on the demands of Kandahar people, and I will leave based on Kandahar residents' demands."[1189]

At the time of his death, the warlord of Kandahar had never been convicted for the torture, forced disappearances, or extrajudicial killings of hundreds of Afghans. Despite his brutal tactics, Raziq was respected, even admired, by many in Kandahar who viewed him as a protector. He may have been Kandahar's unofficial Torturer-in-Chief, but he also brought security to province that had long been the most dangerous in Afghanistan.

Matiullah Khan

From his humble origins as an illiterate taxi driver, Matiullah Khan rose to become the principal warlord in Uruzgan Province, a Taliban stronghold and birthplace of its spiritual leader, Mullah Omar.[1190] Like Kandahar's Abdul Raziq, Matiullah Khan represented Afghanistan's "new breed of warlords . . . entirely created by the international presence" prepared to reinforce, and sometimes even supplant, ineffective regular Afghan security forces in the fight against the Taliban.[1191] Despite allegations of drug trafficking, human rights abuses, and double-dealings with insurgents, Matiullah's private security company collected millions from U.S. and NATO allies, who depended on him to safeguard the military convoys supplying international forces in Tirin Kot, the provincial capital.

Matiullah Khan first came to power as a commander of the highway police in Uruzgan.[1192] When the Afghan Highway Police was disbanded in 2006 for being, in the words of a former Western diplomat, "one huge drug smuggling operation," Matiullah retained his police chief title and the loyalty of many officers, who continued working for him as a private security company.[1193] His role as a private commander afforded him such influence that, even before 2011, when he was appointed as Uruzgan's chief of police, he could freely appoint government officials in the province.[1194]

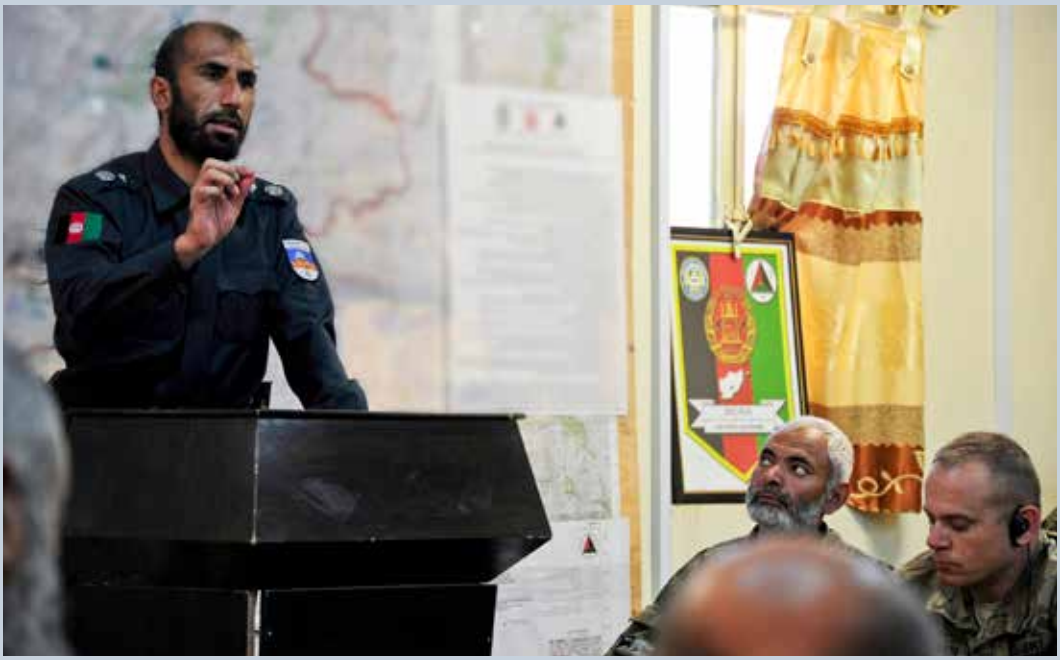
Matiullah's 2,000-strong militia, called the Kandak Amniante Uruzgan, controlled all traffic along the chaotic highway connecting Kandahar and Tirin Kot.[1195] In 2010, the *New York Times* described this army as "an unusual hybrid: a booming private business and a

government-subsidized militia."[1196] Under an arrangement with the Ministry of Interior, the government paid for roughly 600 of Matiullah's 1,500 fighters, including Matiullah himself, despite a total lack of government oversight. "The government tried to shut him down, and when they couldn't, they agreed to pay for his men," said Martine van Bijlert, co-director of the Afghanistan Analysts Network.[1197] After becoming chief of police in 2011, Matiullah deployed his officers at posts along the highway, in addition to his private gunmen, thereby profiting from security provided in part by government-paid police.[1198]

Matiullah bought his fighters' loyalty with the millions he earned safeguarding NATO supply convoys. On one day each week—designated as Security Day—Matiullah deployed his gunmen along the 100-mile highway and declared it open for business. On this single day, supplies for NATO bases, the provincial government, and local markets were delivered: "Gasoline, rice, cement, steel, vegetables, spare parts—everything—[had] to pass on one road, on one day," wrote journalist Christopher Reuter.[1199] As documented in *Warlord Inc.*, "[e]very [host nation trucking] contractor and subcontractor assigned to take U.S. supplies to Uruzgan exclusively uses Matiullah's security services at a cost of between $1,500 and $3,000 per truck, per mission."[1200] Matiullah earned an estimated $4 to $6 million per year from NATO security alone; aides estimated his total income at $2.5 million a month.[1201] According to a CEO of a private security company in Afghanistan, "No one can travel without Matiullah without facing consequences. . . . You have to either pay him or fight him."[1202]

While many Afghans credit Matiullah with restoring a type of security and order in Uruzgan, the warlord's protection racket predictably undermined fundamental principles of the rule of law. According to Mohammad Hanif Atmar, Afghanistan's Minister of Interior from October 2008 to June 2010, "Parallel structures of government create problems for rule of law. . . . Along the highway, many of Matiullah's soldiers drive Afghan police trucks and wear Afghan police uniforms." Indeed, many of Matiullah's men had quit the police to join Matiullah's better-paid militia.[1203] Since he was making millions from highway security, Matiullah also had a financial interest in prolonging chaos. According to General Nick Carter, commander of ISAF Regional Command South, this meant attacking Afghans who refused his security services or enlisting the Taliban to do so.[1204] Matiullah had also long been suspected of drug trafficking, an allegation he repeatedly denied, despite the fact that Uruzgan's opium crop traveled via roads that Matiullah exclusively controlled.[1205]

By 2010, Matiullah was operating as the region's de facto government. A tribal elder in Tarin Kot observed, "Matiullah is not part of the government; he is stronger than the government and he can do anything he wants."[1206] Indeed, little happened in Uruzgan without Matiullah's blessing. He approved government appointments and directed government services. According to the *New York Times*, "[W]hen Afghan officials have confronted him, he has either rebuffed them or had them removed."[1207] Matiullah has told reporters that his salaries support 15,000 impoverished locals who relied on him for charity and public services. Dozens of supplicants lined up each week in Tarin Kot to plead for cash or help—anything from food and clothes, to student scholarships, to additional mosques. Matiullah has personally funded 75 mosques, two schools, a hospital, and his own modern police headquarters, while also allegedly boosting teachers' salaries by $100 a month each.[1208]



Uruzgan Chief of Police Brig. Gen. Matiullah Khan talks about the achievements his force has made in the region during the past year. (Australian Ministry of Defence photo by Cpl. Chris Moore)

By 2010, Matiullah was also holding weekly meetings with Uruzgan's tribal leaders, often mediating land and other disputes. Like the jihadi warlords of the civil war era, Matiullah disrupted traditional tribal power structures, irritating some local leaders "who say that the line between Matiullah's business interest and the government has disappeared."[1209] With his millions of dollars from NATO and U.S. support, Matiullah has managed to undermine the very institutions—police forces and provincial administrations—that the United States has spent years trying to build.

Yet U.S. forces saw in Matiullah Khan an indispensable ally against the Taliban, and the U.S. military needed strong military allies more than they needed rule of law in Afghanistan. Beyond securing the crucial supply road into Tarin Kot, Matiullah's militia supplied intelligence and ran missions with U.S. Special Forces.[1210] Sitting less than 200 yards from the U.S. Special Operations Task Force Southeast compound, Matiullah's reception room was "festooned with photos of him posing with U.S. Special Forces soldiers. There [were] framed certificates of appreciation from a series of Special Forces teams. One, from a commander in 2011, reads: 'Your superior work ethic, professionalism, expertise and bravery are the epitome of the Special Forces motto: The Quiet Professionals.'"[1211]

According to former President Karzai's half-brother, Ahmed Wali Karzai, Matiullah's forces also fought Taliban insurgents in neighboring provinces, including in northern Kandahar and Zabul.[1212] Matiullah was credited by many with defeating the Taliban in Uruzgan. One district governor said, "Before Matiullah, the police chiefs were afraid to send their men out of Tarin Kowt. . . . Matiullah has chased away the Taliban. Now the roads are open and the police are in their posts there day and night."[1213] In Tarin Kot, *Vice Magazine* reported, there were more posters bearing [Matiullah's] face than there were posters of the Afghan President.[1214]

Matiullah's impunity stemmed not only from U.S. backing, but from close political ties to Kabul's elite—notably former President Hamid Karzai and his half-brother, Ahmed Wali Karzai, widely acknowledged as the most powerful man in southern Afghanistan until his death in July 2011.[1215] All three men belonged to the powerful Popalzai tribe, of which Matiullah was considered a tribal leader. Matiullah even claimed to have protected Hamid Karzai when he took refuge in Uruzgan during the U.S.-led invasion in 2001.[1216] According to a tribal elder in Tarin Kot, "[Matiullah] is like the younger brother of Ahmed Wali. He is protected in Kabul."[1217] Uruzgan locals feared retaliation not only from Matiullah, but the Karzais as well.

Matiullah Khan was also the nephew of Jan Mohammad Khan, the feared governor of Uruzgan from 2002 to 2006, and close ally of the Karzais. When the Dutch took over Uruzgan's security in 2006, they did so on the condition that President Karzai fire Khan for his notorious illicit activities and human rights abuses.[1218] Specifically, following the Taliban's collapse, Khan and Matiullah, his lieutenant and leading enforcer, "turned on tribal rivals, who they accused—often falsely—of links to the Taliban. Some were murdered, others were targeted by U.S. Special Forces on tip-offs from the two warlords, and others fled into the arms of the Taliban."[1219] According to press accounts, Matiullah "led the hit squads that killed stubborn farmers who did not want to surrender their land, daughters, and livestock to the former governor."[1220]

Due to these human rights abuses, the Dutch army, which led NATO's provincial reconstruction team in Uruzgan from 2006 to 2010, blocked Matiullah's nomination as police chief. "If we appoint Matiullah police chief, probably more than half of all people in the Baluchi valley would run over to the Taliban immediately," said one high-ranking Dutch army official.[1221] Yet, support from the Australian Defence Force, which took over in 2010, facilitated Matiullah's appointment soon after.[1222]

Matiullah consistently dismissed all allegations against him, and referred to his rivals in the former Afghan government as thieves stealing the salaries and equipment meant for his police force.[1223] He was not entirely wrong. Juma Gul Hemat, Matiullah's predecessor as the government-appointed police chief, "[was] best known as the guy who gets really fat off his officers' paychecks." Juma was so notorious for taking bribes, selling drugs, and embezzling his officers' wages that even his deputy reportedly wanted the police chief behind bars.[1224] After years of trying to shut down his rival's "illegal business," Juma later praised Matiullah for delivering security to Uruzgan—but only after securing a government appointment in Kabul.[1225] Extorted by both government police and Matiullah's private army, Uruzgan's population could hardly rely on either to enforce the rule of law. But Matiullah, at least, kept the Taliban at bay.

INTERNATIONAL LAW ENFORCEMENT PARTNERSHIPS ADVANCE U.S. COUNTERTERRORISM

"When America pulls out of a conflict zone at the wrong time, it creates a vacuum in which the terrorist threat grows again," write Congressman Michael McCaul and former ambassador Ryan Crocker in a recent *New York Times* op-ed.[1226] When the last U.S. military forces pulled out of Iraq in December 2011, the United States lost situational awareness of the terrorist threat inside the country, enabling the rise of the Islamic State. The long-term effects of the U.S. withdrawal from Afghanistan remains to be seen, but as Central Intelligence Agency Director William Burns testified to the Congress in April, the United States' ability "to collect and act on threats will diminish."[1227] The terrorist landscape in Afghanistan in 2021, however, is diverse and likely to expand under the protection of the Taliban regime.

Without a significant U.S. military presence in a region, the expansion of non-military, non-intelligence cooperation with a host nation government offers mutual benefits. Law enforcement cooperation, in particular—using mutual legal assistance agreements, extradition, joint terrorism task forces, and other information-sharing tools—enables the United States to maintain situational awareness of terrorist and transnational criminal networks and to help eliminate these threats before they reach the U.S. homeland.

This partnership-focused approach to counterterrorism is not new: The United States has law enforcement partnerships with Saudi Arabia, Jordan, Kenya, and a host of other countries across Africa and Asia especially.[1228] The United States missed that mark in Afghanistan. Bilateral law enforcement cooperation with the former Afghan National Police—not just its specialized police units—would have advanced U.S. counterterrorism goals in the region. Nonetheless, long-term partnerships between U.S. and foreign law enforcement agencies—such as the recently formed Joint Terrorism Task Force-Kenya—offer an effective avenue to simultaneously build law enforcement capacity in U.S. partners and to achieve U.S. counterterrorism objectives without costly military interventions.

Afghanistan's Terrorist Landscape in 2021

Although sustained counterterrorism pressure has degraded al Qaeda and the Islamic State, terrorist organizations—more than 20 in the Afghanistan-Pakistan region—still pose a threat to regional and U.S. national security.[1229] Notably, in its June 2020 security assessment, DOD stated that al-Qaeda in the Indian Subcontinent—al-Qaeda's regional affiliate in Afghanistan—continued to maintain close ties with the Taliban."[1230]

According to a June UN report, the Taliban and al-Qaeda remain closely aligned, their ideological ties bolstered by decades of intermarriage and shared struggle in Afghanistan. As of June 2021, al-Qaeda was present in at least 15 provinces, its members reportedly relocated by the Taliban to more remote areas for added protection. A significant part of al-Qaeda's leadership also remains based in the border region between Afghanistan and Pakistan—including al-Qaeda leader Aiman al-Zawahiri—and works

closely with its regional affiliate, al Qaeda in the Indian Subcontinent. The latter, which reportedly consists of primarily Afghan and Pakistani nationals, is believed to be "such an 'organic' or essential part of the insurgency that it would be difficult, if not impossible, to separate it from its Taliban allies," the UN report said.[1231]

Although the Taliban has reportedly begun registering and restricting foreign terrorist fighters on its territory, the UN monitoring team concluded that the Taliban and al-Qaeda "show no indication of breaking ties."[1232] According to a Taliban decree made available to the UN in September 2020, the Taliban Intelligence Commission has been authorized to establish a unit responsible for the "general oversight, training, and well-being of foreign terrorist fighters." All in all, al-Qaeda "stands to benefit from renewed credibility on the back of Taliban gains," cautions the UN report.[1233]

Meanwhile, the Islamic State's regional affiliate, Islamic State Khorasan, has been cited as "active and dangerous" under its ambitious new leader, Shahab al-Muhajir.[1234] The group's deadly bombing attack on Kabul airport in the final days of the frantic evacuation of Afghanistan killed 13 U.S. troops and as many as 170 Afghan civilians—the highest single-day death toll for the U.S. military since 2011.[1235] The Islamic State Khorasan is already recruiting heavily from the ranks of disaffected Taliban members and other militants.[1236] The Taliban's targeting of Islamic State fighters in Afghanistan—especially if aided by U.S. close air support—may swell the Islamic State's ranks with sympathetic Taliban and those who reject collaborating with the U.S. military.

Recent unclassified U.S. intelligence assessments declare that al-Qaeda, the Islamic State and other terrorist organizations residing in Afghanistan have been degraded after two decades of intensive U.S.-led counterterrorism and do not pose an immediate threat to U.S. national security.[1237] The shift of U.S. counterterrorism assets to Africa and the Middle East, and the Taliban's total capture of Afghanistan, however, offers long-denied breathing room for these groups to reconstitute. The Afghanistan Study Group, a 15-member bipartisan group co-chaired by former chairman of the Joint Chiefs of Staff General Joseph Dunford, concluded that al-Qaeda and other terrorist elements in the Afghanistan-Pakistan region could restore their ability to attack the U.S. homeland within 18 to 36 months following a complete U.S. withdrawal without a peace agreement.[1238] This assessment, however, preceded the Taliban's rapid takeover of Afghanistan. U.S. intelligence underestimated how quickly the Afghan government would fall, and it may still underestimate how quickly it will take al-Qaeda or the Islamic State to rise.

Bilateral Cooperation: Less Risk than Alternative Counterterrorism Options?

Without boots on the ground, or armed drones just minutes away, countering terrorist and transnational criminal threats through traditional military means demands greater risks and costs. Over-the-horizon operations—in other words, employing counterterrorism forces from a nearby country—have a mixed record. Operating from far-flung U.S. land bases requires the use of armed surveillance drones, long-range

bombers, and attack planes aboard aircraft carriers.[1239] These long distances, however, carry greater costs and risks. "The farther that Special Operations forces have to travel to strike a target, the more likely the operations are to fail," reports the *New York Times*.[1240] Remotely piloted aircraft, or drones, like the commonly used MQ-9 Reaper, would require round trips of at least eight hours—a conservative estimate—between the U.S. air base in Qatar and Afghanistan. Some officials estimate that planes and drones would require as many as nine hours each way for a mission in Afghanistan.[1241]

Longer flight times leave less time for drones to provide persistent overhead coverage—in other words, hovering over targets long enough to conduct effective surveillance and reconnaissance. As a result, DOD will need to deploy far more platforms to provide simultaneous 24-hour coverage in various parts of a country.[1242] More platforms do not just mean more drones, however. According to a July 2018 Center for a New American Security report, a "remotely piloted flight is by no means a low-manpower-demand mission; each [unmanned aerial vehicle] mission requires round-the-clock coverage by, at a minimum, a pilot, a sensor operator, and an intelligence analyst." Providing 24-hour coverage for a particular geographic area typically requires a combat air patrol, or "CAP," which typically includes four drones and some 200 personnel.[1243]

Over-the-horizon operations are an important, and often effective, means for the United States to eliminate terrorist threats abroad. However, they carry serious risks and limit the United States' ability to collect intelligence and conduct unilateral operations.[1244] Developing effective partnerships with foreign law enforcement units offers a long-term, alternative approach to counterterrorism.

The Role of Police and Law Enforcement Cooperation in Counterterrorism

Unlike militaries, police have unprecedented access to local communities—placing them on the frontlines of preventing and responding to terrorism. Local police are more likely to have detailed knowledge of facilities that terrorists rely on, such as flight schools, explosives manufacturers and sellers of nitrogenous fertilizers. When properly trained, police can draw on local knowledge to identify common precursors to terrorism, such as theft of explosives, biological cultures, or protective clothing, identify fraud, drug trafficking, and money laundering. More broadly, law enforcement's community engagement and responsiveness to local grievances increases the likelihood that citizens will share information that helps police detect terrorist-related activity.[1245]

Law enforcement investigations lead to information that drone strikes and aerial bombings not only miss, but often actively destroy. Military strikes that kill suspected terrorists do not leave detainees to interrogate, biometric data to collect, or physical evidence to analyze—routine activities that offer law enforcement agents new leads or allow them to connect disparate cases, individuals, and organizations. "A phone number may provide the link we need to identify a terrorist operative," notes former FBI director Robert Mueller. "A handwritten note may lead us to a training camp. One bit of evidence could be the key to preventing an attack."[1246]

During overseas operations, FBI agents collect intelligence from detainees, at terrorist safe houses during military-led raids, and in the course of post-blast investigations. For instance, fingerprints and DNA samples taken from detainees are entered into the FBI's 150 million-plus fingerprint database, which can be cross-checked with DOD's biometric database. Law enforcement agents can then run prints via satellite in under two minutes to determine whether suspected terrorists have ties to the United States. Bomb technicians can even link improvised explosive devices to their makers via post-blast investigations; even latent fingerprints on batteries and electrical tape may identify bomb-makers. In the investigation of the 1988 Pan Am Flight 103 bombing, a fingernail-sized piece from the circuit board of a radio/cassette player found during a ground search of more than 845 square miles established that the bomb had been placed inside a tape deck in a piece of luggage—intelligence that helped convict those responsible.[1247]

Despite the advantages of law enforcement investigations, host nation law enforcement personnel in Asia, Africa, and the Middle East—areas where terrorist groups seek to establish footholds—often lack the capabilities or resources to disrupt terrorist groups or to investigate, prosecute, and detain suspected terrorists.[1248] This gap in investigative skills and resources requires the United States and its Western partners to reinforce the law enforcement and judicial capacities of those fighting on the frontlines. Terrorism, after all, has no clearly defined battlefield, remarked then-Director of the FBI Robert Mueller in March 2007: "No country is immune. The war zone stretches from Baghdad to Britain and from Battery Park to Bali. And while globalization has made the world smaller, technology has given the terrorists a multitude of weapons, from dirty bombs and IEDs to mobile phones and the Internet."[1249]

"A phone number may provide the link we need to identify a terrorist operative. A handwritten note may lead us to a training camp. One bit of evidence could be the key to preventing an attack."

—Former FBI Director Robert Mueller

The Benefits of Cooperative Law Enforcement Relationships to Combat Terrorism

Despite the disparities, U.S. partnerships with less capable and resourced law enforcement and judicial agencies around the world is mutually beneficial. As the following examples demonstrate, law enforcement cooperation with partners in the Middle East, Africa, and Asia-Pacific has enabled the arrest and prosecution of countless terrorist threats to the U.S. homeland since 9/11. It is far more beneficial to U.S. national security to detain suspected terrorists in countries like Afghanistan, Pakistan, and Yemen than it is to pursue them once they cross international borders into Europe or the United States.

In 2002, a senior al-Qaeda official named Abu Zubaydah was captured in Faisalabad, Pakistan when local Pakistani police—accompanied by agents of the Central Intelligence Agency and FBI—carried out a series of counterterrorism raids in Pakistan's cities. Recognizing that this joint operation would grant the U.S. access to all those detained, then-Secretary of Defense Rumsfeld declared, "We intend to get every single thing out of him to try and prevent terrorist attacks in the future." In addition to detainee access, the close law enforcement and intelligence cooperation between the United States and Pakistan gave U.S. officials access to the computer hard drives, cell phones, documents, and other evidence collected at the scene. Collectively, this information provided additional leads for U.S. and Pakistani law enforcement to pursue.[1250] Over a dozen suspected al Qaeda operatives were also arrested in Peshawar, Pakistan that same year, as a result of joint raids by Pakistan's Criminal Investigative Directorate and the FBI. According to eyewitnesses, the detainees were immediately handed over to the United States for questioning.[1251] According to a Congressional Research Service report, the interception and tracing of satellite telephone transmissions has been key to capturing Taliban and al-Qaeda operatives in joint U.S.-Pakistani raids.[1252]

In 2007, FBI legal attachés coordinated the international investigation and arrest of suspected terrorist Daniel Maldonado, a U.S. citizen from Houston who had moved to Egypt before joining a jihadist training program in Somalia. Kenyan military authorities captured Maldonado in January 2007, after which the FBI's Joint Terrorism Task Force in Houston transported him back to the United States. According to Mueller, the FBI's partnerships with counterparts in Kenya, Ethiopia, and Somalia were critical to securing the would-be terrorist's arrest.[1253]

In December 2020, U.S. federal prosecutors indicted Cholo Abdi Abdullah, a Kenyan operative for al-Qaeda's East African affiliate, al Shabaab. According to a recently unsealed federal indictment, Abdullah traveled to the Philippines in 2016 to enroll in a flight school for the purpose of obtaining a pilot's license and carrying out a 9/11-style attack in a major U.S. city. Abdullah ultimately completed the tests necessary to obtain a pilot's license, but was arrested on local charges in the Philippines in 2019 before he was able to carry out his plot.[1254] He was the second al Shabaab operative arrested while taking flying lessons in the last two years, according to the *New York Times*.[1255]

Abdullah's arrest was the product of robust international law enforcement cooperation, including FBI legal attaché offices in Nairobi and Manila, the Kenyan Anti-Terrorism Police Unit, Joint Terrorism Task Force-Kenya, the Philippine National Police, and a host of other law enforcement and judicial agencies in the United States, Kenya, and the Philippines.[1256] This foiled attack served as the latest reminder, according to terrorism expert Bruce Hoffman, that al Qaeda and its affiliates remain a threat to America nearly two decades after 9/11.[1257]

An Expansive U.S. Toolkit for Bilateral Law Enforcement Cooperation

Civilian counterterrorism approaches—dominated by law enforcement agents, not military and intelligence officers—involve hurdles that U.S. actors rarely faced in Afghanistan and Iraq: U.S. agencies have to operate within the confines of host nation laws and regulations, building trust and cooperation rather than having the ability to conduct unilateral operations and detentions within the host country. Yet this is already the conventional approach to counterterrorism as it is conducted in Africa, Asia-Pacific and the Middle East. The United States has an array of non-military tools for facilitating international law enforcement cooperation, such as State and FBI antiterrorism assistance programs, overseas joint terrorism task forces, and mutual legal assistance agreements (see Table 2).

FBI Global Law Enforcement Partnerships

Global law enforcement partnerships are critical to the FBI's mission. To this end, the FBI trains law enforcement partners at U.S. and international centers to investigate and prosecute crimes related to terrorism and terrorist financing, narcotics, and money laundering. The FBI's primary mechanism for international counterterrorism cooperation, however, is its legal attaché offices abroad.[1258]

Legal Attachés: the FBI's First Responders Abroad

FBI legal attachés—commonly known as LEGATs—are FBI agents located in U.S. embassies or consulates who coordinate international investigations and information-sharing. The number of legal attachés tripled between the early 1990s and 2015. In 2018, the FBI had 63 attaché offices with approximately 600 personnel stationed overseas and another 600 on temporary assignment.[1259] According to former FBI Director Robert Mueller, LEGATs are "the FBI's first responders, from assisting our British counterparts in the London bombings to finding the man responsible for the attempted assassination of President Bush in Tbilisi, Georgia." According to Mueller, hundreds of FBI employees also embedded with the military in Iraq and Afghanistan, which enabled them to "identify, evaluate, and resolve terrorist threats faster and more efficiently than ever before."[1260]

Joint Terrorism Task Force-Kenya

In February 2020, the FBI and State partnered with Kenya to establish Joint Terrorism Task Force – Kenya (JTTF-K)—the first joint terrorism task force located outside of the United States. State's Counterterrorism Bureau has supported law enforcement and counterterrorism capacity-building in Kenya for over two decades, and the JTTF-K, which is funded by the Counterterrorism Partnership Fund, is the latest U.S. government effort to establish Kenya as a counterterrorism leader in East Africa. The task force's creation came on the heels of a deadly terrorist attack by al Shabaab on a luxury hotel in Nairobi, Kenya in January 2019 that killed 21 people, including a U.S. citizen.[1261]

Within the United States, the FBI's **joint terrorism task forces**, or JTTFs, are locally-based teams of U.S. federal, state, and local law enforcement and intelligence agents charged with investigating and countering terrorism-related crimes. There are approximately 200 task forces in the United States today, led by the FBI and coordinated through the interagency National Joint Terrorism Task Force at FBI Headquarters.

Source: FBI, "Joint Terrorism Task Forces," accessed February 15, 2022.

TABLE 2

U.S. POLICE ASSISTANCE PROGRAMS

U.S. AGENCY OR PROGRAM	Description
Department of State/Bureau of Counterterrorism and Countering Violent Extremism (CT)	Countering the Financing of Terrorism (CFT): tools and programs that help build the capacity of foreign partners to detect illicit funds. Counterterrorism Partnerships Fund (CTPF): designed to build a network of partnerships in states where terrorist groups seek to establish a foothold. For example, the Trans-Sahara Counterterrorism Partnership supports military and law enforcement initiatives in North and West Africa, while the Partnership for Regional East Africa Counterterrorism supports similar efforts in East Africa. Antiterrorism Assistance Training (ATA): Jointly administered by State's Counterterrorism and Diplomatic Security bureaus, ATA is the primary State Department program for funding counterterrorism and law enforcement training and technical assistance.
Department of Justice	International Criminal Investigations Training Assistance Program (ICITAP): Works with foreign governments to develop professional and transparent law enforcement institutions that protect human rights, combat corruption, and reduce the threat of transnational crime and terrorism. Office of Prosecutorial Development Assistance and Training (OPDAT): Works with foreign partners to build capacity in investigating and prosecuting terrorism, organized crime, money laundering, terrorist financing, and other transnational criminal activities. OPDAT deploys resident legal advisors to U.S. embassies to enhance cooperation in transnational cases by providing case-based mentoring and technical assistance to justice sector personnel. Drug Enforcement Administration (DEA): Provides counternarcotics training to foreign counterparts, including drug-related investigation, eradication, and interdiction operations. Federal Bureau of Investigation (FBI): Provides training and technical assistance to national law enforcement personnel around the world to build capacity to investigate and prosecute crimes related to terrorism, terrorist financing, money laundering, and narcotics. FBI National Academy: Offers advanced courses in terrorism and terrorist mindsets, management science, law enforcement communication, and forensics for U.S. and international law enforcement managers. FBI Legal Attachés (LEGAT): Located at U.S. embassies or consulates, LEGATs conduct international liaison and information-sharing with foreign law enforcement partners.
Department of Treasury	The Office of Foreign Assets Control, Office of Terrorist Financing and Financing Crimes, Financial Crimes Enforcement Network, the Office of Technical Assistance and related offices and programs provide policy guidance, training/mentoring, and technical assistance to help foreign counterparts implement anti-money laundering and counterterrorism financing regimes worldwide.
Mutual Legal Assistance Agreement	Allows for the exchange of evidence and information in criminal and related matters.
Memorandum of Understanding with Treasury's Financial Crimes Enforcement Network	Allows for the exchange of information between Treasury's FinCEN and foreign financial intelligence units in money laundering and terrorist financing cases.
Customs Mutual Assistance Agreement	Allows for the exchange of information related to the prevention and investigation of customs offenses.
Extradition Treaty	Agreement under which a person in one country is transferred to another country for prosecution or punishment.
United Nations Security Council Resolution 2936	A 2017 UN resolution that mandates all UN member states establish, use, and share airline passenger information, biometrics, and watch lists to detect terrorists who may be flying in or out of their territories.

Note: A memorandum of understanding or an exchange of letters may be made between Treasury's Financial Crimes Enforcement Network (FinCEN) and a foreign country's financial intelligence unit (FIU).

Source: Thomas Warrick and Joze Pelayo, "Improving Counterterrorism and Law Enforcement Cooperation between the United States and the Arab Gulf States," Atlantic Council, October 2020; State, "Treaties, Agreements, and Asset Sharing," State Bureau of Counterterrorism, "Programs and Initiatives," accessed July 26, 2021; FBI, "International Operations," accessed November 17, 2021.

The JTTF-K is Kenyan-led, but serves as a mechanism for the sharing of intelligence and law enforcement capabilities. "The JTTF for Kenya will support the interagency approach required to successfully investigate and prosecute terrorists before they conduct attacks," said Ambassador Nathan A. Sales, the coordinator for counterterrorism at State.[1262]

As part of the JTTF-K program, Kenyan investigators, drawn from the country's law enforcement and national security agencies, receive 12 weeks of intensive counterterrorism training at the FBI Academy at Quantico, Virginia. The team is taught techniques and tactics used by U.S.-based JTTFs, and is trained to handle sensitive counterterrorism intelligence shared with the Kenyan government. After completing the course, the JTTF-K officers will conduct counterterrorism investigations in Kenya in coordination with in-country FBI personnel, aided by an FBI special agent mentor. Investigations will be prosecuted in Kenyan courts, based on legal authorities derived from the Kenyan constitution and international treaties, in order to promote host nation capacity-building.[1263]

Lessons Identified from Afghanistan: A Combined Counterterrorism Hub for Law Enforcement Cooperation

U.S. and international police assistance in Afghanistan demonstrated the problems that emerge from having many separate lines of effort led by a myriad of civilian and military entities—the U.S. military, NATO, State's Bureau of International Narcotics and Law Enforcement Affairs and its Antiterrorism Assistance Program, DOJ's International Criminal Investigative Training Assistance Program, DEA, the FBI—and a host of others, foreign and domestic. After the 9/11 attacks, the United States learned the importance of information-sharing and law enforcement cooperation. It colocated or consolidated various counterterrorism-focused agencies and programs into the Department of Homeland Security and the National Counterterrorism Center. The FBI also accelerated the development of joint terrorism task forces across the country to enable greater cooperation among local, state, and federal law enforcement and intelligence agents.[1264]

The United States failed to apply these same lessons to Afghanistan before the collapse of the Afghan government and security forces. But it should not waste the opportunity to apply the lessons from Afghanistan to future police assistance and reconstruction missions. The U.S. government should consider establishing a combined hub where various counterterrorism-focused units—civilian and border police, crisis response units, and national intelligence agencies—can share intelligence and work joint cases. The international donor community can participate by providing technical support, capacity building, case development advising, and sharing of intelligence and investigative leads. A central hub will not only synergize donor efforts and minimize working at cross purposes, but it will enable more effective oversight of donor funds and programming.

The United States and host nation partners would also mutually benefit from cooperative law enforcement relationships. The recently created Joint Terrorism Task Force-Kenya provides a new model for developing closer information-sharing and cooperation in the realm of civilian-sector counterterrorism. Existing law enforcement partnerships around the world enable the sharing of law enforcement reporting,

intelligence assessments, and advanced investigative techniques, and enable U.S. law enforcement access to detainees and physical battlefield evidence. Additional international joint terrorism task forces could provide an effective and sustainable mechanism for helping U.S. foreign partners combat the threat of international terrorism originating within their borders.

AFP photo by Massoud Hossaini

CHAPTER 9

SPECIALIZED POLICE FORCES: AN ENDURING AND COMPREHENSIVE APPROACH

While the regular ANP struggled ineffectively to deal with ordinary crime, a handful of smaller, specialized police units found greater success in their own law enforcement duties. These specialized units were created by the Afghan government and the international community in the years following the 2001 intervention to deal primarily with law enforcement issues of paramount concern to major international donors: narcotics, corruption and terrorism.

The specialized units discussed here—the Counter Narcotics Police of Afghanistan, the Major Crimes Task Force (MCTF), and the General Command of Police Special Units, which dealt with counternarcotics, corruption, and counterterrorism/counterinsurgency respectively—received substantial investment from the international community, unlike the parts of the ANP which dealt with more run-of-the-mill crime.

Although the injection of resources and expertise by the U.S. and its allies into these specialized units enabled them to avoid the widespread incompetence and corruption that befell much of the rest of the ANP, it did not completely eliminate concerns about competence, trustworthiness, and corruption within these forces. These units often fell victim to a number of the problems already discussed: a corrupt justice system, a difficult relationship with prosecutors, and a patchwork criminal code. In some cases, and with varying degrees of success, the MCTF and the CNPA were able to work

around these problems using international mentor support and separate criminal justice systems dedicated exclusively to their cases.

Overall, SIGAR found that the U.S. government was able to create competent, specialized units, provided there were close partnerships with U.S. law enforcement agencies and on-the-job mentoring from experienced U.S. law enforcement officers (or, in the case of the General Command of Police Special Units, from special operations forces). Those gains, however, became increasingly fragile as U.S. support waned. This chapter covers U.S. mentoring and assistance efforts to these specialized units and the prosecutors and judges that worked alongside them.

THE COUNTER NARCOTICS POLICE: A PROMISING CONCEPT FACES A HERCULEAN TASK

Afghanistan is the world's largest producer of opium, although the cultivation, sale, and use of such products is illegal in the country.[1265] The narcotics trade in Afghanistan, which is dominated by opium, fueled government corruption, the Taliban insurgency, and a growing domestic drug epidemic.[1266] Since 2001, the international community has spent significant sums tackling Afghanistan's narcotics problem. The U.S. alone spent more than $8.62 billion, focused mainly on opium, the drug that poses the most direct threat to Western countries.[1267]

The Counter Narcotics Police of Afghanistan was created in 2003 to help Afghan law enforcement combat the opium trade.[1268] Its development was supported by coalition forces, led primarily by the United States and United Kingdom. The CNPA was a specialized police unit, but not all departments were treated equally: Certain units, such as its national special forces, were designed to conduct sensitive investigations and paramilitary raids and received extensive support from the United States. That support sometimes included one-to-one Afghan-to-advisor ratios, long-term partnerships with American law enforcement organizations, and sustained financial support. In contrast, its 34 provincial units became some of the most neglected units in the entire Afghan police force.[1269]

Nevertheless, special units of the CNPA were some of the most capable units in all of Afghan law enforcement. Combined with a special justice system devoted entirely to narcotics crimes, the CNPA showed an ability for more than a decade to successfully arrest and imprison narcotics traffickers. This high level of capability, however, came at a cost: The CNPA's special units were highly dependent on U.S. support. Moreover, the extent of Afghan opium cultivation has soared since the creation of the CNPA.[1270] This is not necessarily the fault of the police: The worsening of the Afghan drug trade can be tied to failures in nearly every aspect of the war in Afghanistan, and a lack of high-level political will inhibited the ability of the CNPA to successfully target politically connected drug kingpins. No matter how capable, the CNPA cannot solve Afghanistan's narcotics problem on its own.

Afghanistan's Losing Battle with Narcotics

In 2002, opium poppy was cultivated on 74,000 hectares of land in Afghanistan.[1271] By 2017, that number stood at an estimated 328,000 hectares.[1272] Afghan farmers produce around 84 percent of the world's illicit opium.[1273] The Afghan opium economy was valued in 2017 as accounting for between 20 and 32 percent of Afghanistan's gross domestic product—a single crop so lucrative that it roughly equals the value of the country's entire licit agriculture sector.[1274] Poppy cultivation alone was recently estimated to provide the equivalent of up to 590,000 full-time jobs, more than the number of people ostensibly employed by the Afghan National Defense and Security Forces at the time of the U.S. withdrawal.[1275]

Afghanistan's worsening opium problem has driven massive increases in public corruption, which a 2018 SIGAR report on U.S. counternarcotics efforts in Afghanistan said has had a "corrosive" effect on the political economy of Afghanistan.[1276] It added, "Corruption associated with the opium economy undermines state legitimacy and public institutions, particularly in the security and justice sectors."[1277]

The opium trade's main beneficiary has been the Taliban, which collects payments at every stage of the growth, manufacturing and export process.[1278] In 2016, General John Nicholson, then the commander of U.S. forces in Afghanistan and of NATO's Resolute Support mission, estimated that the drug trade in Helmand Province alone provided about 60 percent of the Taliban's funding.[1279]

The Structure and History of the Counter Narcotics Police

From its creation in 2003, the Counter Narcotics Police of Afghanistan focused primarily on interdiction.[1280] A joint effort mounted by the Afghan Ministry of Interior, the German Police Project Team, the UN Office on Drugs and Crime, and the UK—the lead nation for counternarcotics under the Security Sector Reform framework established in 2002—the CNPA was initially designed to be a self-sustaining agency within the Ministry of Interior, independent of the ANP in order to reduce the risk of corruption.[1281] From the beginning, it was a small agency. Despite its expansive mandate to cover drug crime throughout Afghanistan, as of 2018, it had only 2,596 personnel.[1282]

In counternarcotics, **interdiction** refers to seizing illegal narcotics, destroying drug production facilities, arresting and prosecuting drug traffickers, intelligence collection, and operations to trace, freeze, or confiscate proceeds from the drug trade. Although the CNPA did assume some responsibility for opium poppy crop eradication, this report will deal only with the force's interdiction responsibilities.

It joined a complex constellation of agencies that had responsibility for different elements of the counternarcotics mission in Afghanistan. The Ministry of Counter Narcotics, created in 2004, assumed responsibility for coordinating Afghan government counternarcotics efforts, though it had no authority over the Ministry of Interior, which was responsible for actually implementing counternarcotics interdiction operations. It thus had no authority over the CNPA.[1283] Without a formal command and control relationship between the two organizations, the relationship between the CNPA and the Ministry of Counter Narcotics was at times fraught; police leaders sometimes blamed the ministry for attracting international donor money by taking credit for law enforcement successes that they had nothing to do with.[1284]

The structure of the CNPA consisted of units of various sizes assigned to each of Afghanistan's 34 provinces—elite special units that were trained, equipped, and mentored by coalition forces to conduct national drug enforcement missions, and a headquarters in Kabul attempting to exercise command and control over these disparate elements, with varying degrees of success.[1285]

Close Partnerships between Special Units of Counter Narcotics Police and the U.S. Drug Enforcement Administration Yielded Positive Results

At first, international assistance to the CNPA was sparse. By 2005, two years after its creation, the force consisted of only about 350 "marginally trained officers" in seven provinces.[1286] The U.S. Drug Enforcement Administration, the lead American agency for interdiction efforts in Afghanistan at the time, saw its job in these early years as investigating drug traffickers, not training Afghans to do that job.[1287] Over time, DEA's stance on the latter issue evolved, and the agency committed to a strategy of building special vetted units that it could mentor and partner with during investigations. The National Interdiction Unit became the first such special unit in 2004, followed by the Sensitive Investigative Unit, the Technical Investigative Unit, and the British-mentored Intelligence and Investigation Unit.[1288]

By the mid-2010s, a former DEA official who covered Afghanistan told SIGAR that DEA had two parallel lines of effort in Afghanistan: pursuing counternarcotics cases, and building Afghan capacity by helping Afghan counternarcotics police build cases.[1289] DEA retained a compound of its own inside the National Interdiction Unit Compound in Kabul, outside the Green Zone.[1290] DEA agents and contracted personnel lived and worked on the compound alongside their Afghan counterparts, enabling easy coordination, teaching, and mentoring.[1291] DEA personnel could get up and walk over to talk to their Afghan counterparts whenever they wanted, and would make a point of doing so even when they did not have pressing business to deal with in order to build rapport.[1292] A DEA special agent who worked on the compound as the head of the law enforcement team within the Afghan Threat Finance Cell credited this proximity as responsible for the investigative successes that DEA and the Counter Narcotics Police special units were able to achieve.[1293]

The National Interdiction Unit

The National Interdiction Unit executed search warrants and conducted raids, interdiction operations, and seizures based on investigations by other CNPA units.[1294] The interdiction unit acted as the CNPA's paramilitary arm in a range of capacities, from "providing security for undercover officers meeting with drug traffickers, to air mobile operations targeting clandestine drug labs and storage sites."[1295] Based in Kabul, it deployed teams for short rotations to staging areas throughout the country.[1296]

The interdiction unit was small in its early years; by 2007, it had only about 100 officers.[1297] To train this initial batch of personnel, DEA brought in Blackwater instructors to teach tactical operations, under the supervision of DEA agents in Kabul.[1298] DEA officially created the Afghanistan Regional Training Team in 2006 with

the support of the U.S. military. Its faculty was made up of DEA special agents and contracted trainers.[1299] Instruction covered a variety of topics, including land navigation, surveillance, and arrest techniques.[1300] Instruction was comprehensive and ongoing, and contrasted sharply with the "one-and-done" programs most of the other branches of the ANP attended. CNPA special units were expected to complete all of the training courses that the Regional Training Team offered, and their progress was publicly tracked on a color-coded board.[1301] Once officers finished all available courses, they attended follow-on and refresher courses to keep their skills fresh.[1302] The structure and rigor of the training was similar to the ongoing training a member of a U.S. federal law enforcement agency or the U.S. military might receive.

In addition, several DEA agents were assigned to the Narcotics Interdiction Unit to work alongside its members on interdiction operations.[1303] These agents helped develop investigations, plan operations, and coordinate air support for the unit on complex operations, though the unit grew increasingly able to take on this work over time.[1304] Following DEA's withdrawal from the interdiction unit compound, as part of the overall U.S. drawdown of forces around 2015, DEA's direct involvement in the unit's operations decreased, though DEA agents remained involved in an advisory and oversight role.[1305]

Interdiction unit personnel also worked alongside DEA Foreign-Deployed Advisory and Support Teams, paramilitary DEA units that worked mostly against targets in southern Afghanistan.[1306] A platoon-size element of the Narcotics Interdiction Unit would then be deployed from Kabul to work with DEA paramilitary units for several weeks at a time.[1307] These DEA paramilitary teams did not perform extensive training in the field, but relied on the Narcotics Interdiction Unit to already have an adequate base of skills from the training and mentoring they received in Kabul.[1308]

DEA's Foreign-Deployed Advisory and Support Teams had great relationships with their Afghan counterparts. One team leader told SIGAR that the interdiction unit was probably "the most competent Afghan force" in the country. His team went nowhere without the Afghan interdiction unit, he said, "nor did [they] want to," as it helped deal with the local populace during operations.[1309] But the relationship was not between equals: The same team leader said that although his team would take great pains to make the Afghan interdiction unit personnel feel involved by briefing the unit ahead of time on each operation, the operations themselves were entirely U.S.-led.[1310] The Afghan interdiction unit did not plan or lead any of the partnered operations and often accompanied DEA paramilitary teams in limited numbers, since the teams prioritized filling out their limited helicopter space with coalition special operations forces.[1311]

The U.S. government had provided most of the resources to train and equip the National Interdiction Unit, through DOD, State, and DEA.[1312] The unit had grown substantially over the years. In 2019 they received funding for 736 personnel, up from 536 in 2015.[1313]

The Counter Narcotics Police of Afghanistan destroy crops in Baharak District, Badakhshan. (UNAMA photo by Eric Kanalstein)

The Sensitive Investigative Unit

DEA created the Sensitive Investigative Unit in 2007 as part of a decades-old partnership with various nations around the world to fight global drug trafficking. DEA managed sensitive investigative units in 15 countries, including Afghanistan, Colombia, Guatemala, and Thailand.[1314] A sensitive investigative unit is the result of a formal agreement between DEA and the relevant police authority in the host nation (in Afghanistan, the Counter Narcotics Police), in which host nation police officers are handpicked to undergo training at DEA's facilities in Quantico, Virginia.[1315] These personnel then form a specialized counternarcotics investigative unit that acts as a trustworthy host nation unit capable of conducting complex investigations of major drug trafficking organizations.[1316] Sensitive Investigative Unit members undergo background investigations, polygraphing, drug testing, and Leahy Law vetting by DEA.[1317] The Sensitive Investigative Unit in Afghanistan remained a small outfit, at one point consisting of only around 74 personnel, and its advanced capabilities depend on U.S. funding.[1318]

As DEA's presence in Afghanistan decreased in both size and freedom of movement after 2014, this cooperative relationship continued to evolve.[1319] Over time, as the U.S. military began its withdrawal from Afghanistan, DEA's role changed. In the final years, it moved to a more distant oversight role, rather than that of a partner fighting in the investigative trenches.[1320]

The Sensitive Investigative Unit received the same kind of assistance from DEA that the National Interdiction Unit did: training, followed by mentoring from specially assigned DEA agents. The first batch of Afghan officers graduated from the Sensitive Investigative Unit training course at Quantico in 2007. However, due to continued issues

with Afghan trainees going AWOL during training in the United States, DEA stopped sending trainees to Quantico.[1321] Instead, they attended training at a DEA facility in Ankara, Turkey.[1322] After completing the training course and returning to Afghanistan, Sensitive Investigative Unit officers received specialty training in a variety of topics by the Regional Training Team and other U.S. government trainers in Kabul, similar to that provided to the interdiction unit.[1323] As of 2019, the Sensitive Investigative Unit received follow-on training from a much smaller pool of U.S. contractors.[1324]

DEA agents and intelligence analysts were assigned to mentor and work hand in hand with the Sensitive Investigative Unit on a daily basis.[1325] Early in the relationship, this often amounted to Afghan units coming along for the ride while American personnel did much of the investigative work.[1326] According to a DEA special agent who led a Sensitive Investigative Unit mentoring team in the early 2010s, Afghan personnel often had to be motivated or told to do things by DEA agents, and "were not pushing cases with the same intensity as DEA."[1327]

This disparity seems to have been driven, at least in part, by the Sensitive Investigative Unit organizational culture, in which the direction of investigations rested mainly with the leader of an investigative unit, rather than being overseen by a leader who assumes a certain amount of initiative and collaboration among subordinates, as is the general rule in American law enforcement.[1328] As a result, the success of DEA mentoring seemed largely driven by the personalities of the leadership of their partnered Afghan units. A DEA agent who worked with special units between 2011 and 2014, and then returned to Kabul with DEA in 2019, told SIGAR that after highly effective leaders of Sensitive Investigative Units moved on to other positions, progress made by that unit would often be lost.[1329] Nevertheless, the units steadily developed an independent capability to work cases, though they still received significant support from DEA.[1330]

DEA mentoring efforts with both the National Interdiction Unit and the Sensitive Investigative Unit also benefited from relatively long deployments: DEA advisors deployed to Afghanistan for two-year tours, renewable up to six years, as opposed to the typical 9- or 12-month tours of U.S. military personnel.[1331]

The Technical Investigative Unit

The Technical Investigative Unit was a Kabul-based, vetted unit that conducts court-approved electronic surveillance.[1332] Begun in 2008 as part of the Sensitive Investigative Unit, it consisted of a small number of officers selected for their technical aptitude, along with several hundred vetted civilian linguists and translators who support its electronic intercept programs.[1333] The Technical Investigative Unit, with DEA and DOD assistance, staffed the Afghan Judicialized Telecommunications Intercept Program, which provided electronic intercepts that were admissible as evidence in courts in Afghanistan, the United States, and other countries.[1334] The unit's surveillance apparatus received support from DEA's Judicial Wire Intercept Program, which funded wire intercept programs around the world in DEA partner nations.[1335] Contract intelligence analysts provided by the U.S. government mentored Afghan law enforcement officers in

the proper investigative techniques for analyzing intercepted conversations, and DEA personnel continued to provide assistance with telephone intelligence exploitation.[1336] In addition to its work with the CNPA, the Technical Investigative Unit began conducting all of the Major Crimes Task Force's electronic intercepts, starting in 2011.[1337] All of the unit's intercepts are approved through the Afghan judicial system, and were requested by Afghan, not U.S., investigators.[1338] Despite this, DEA advising oversight was necessary to make sure the system worked at its full capacity.[1339]

Although the Afghan Judicial Wire Intercept Program was controlled and managed by Afghans, DEA provided operations and maintenance support.[1340] In an interview with SIGAR, a former DEA special agent who worked with Afghan vetted units in Kabul emphasized that the "technical side of things" was maintained by U.S. contractors, and that, as of 2019, the Technical Investigative Unit would be unable to operate without American support.[1341] The Technical Investigative Unit was the only special unit moved into the international zone in Kabul after DEA's presence in the city was pulled back into the U.S. embassy, to ensure continued U.S. access to the unit and its equipment.[1342]

Special Units Are Relatively Effective, But Not Independent

The National Interdiction Unit acted as the paramilitary enforcement arm of the CNPA, launching raids against narcotics targets throughout the country. Due to its competence and the overlap between counternarcotics and counterinsurgency, at least half of all its missions were dedicated to fighting the Taliban.[1343] However, in 2019, the commander of the National Interdiction Unit told SIGAR that the unit was operating at only about 60 to 70 percent of its capacity without U.S. support.[1344] Since 2016, a Special Forces Operational Detachment Alpha had been regularly deployed to work with the National Interdiction Unit, performing train, advise, and assist work, as well as coordinating air and ground support on some missions.[1345] The Deputy Minister for Counter Narcotics told SIGAR in late 2019 that without the support of U.S. Special Forces, the interdiction unit would be unable to work in areas with a large insurgent presence.[1346]

Similarly, although the Sensitive Investigative Unit conducted successful independent operations over the last several years, DEA remained heavily involved and often worked alongside the unit (which was to be expected, given the design of the program).[1347] As of late 2019, contracted trainers provided weekly training and DEA agents provided on-the-job training for Sensitive Investigative Unit officers.[1348] Since DEA's drawdown, DEA personnel in Kabul often worked as enablers for the unit—the opposite of the way the relationship started.[1349]

DEA also provided the polygraphing services required to vet these units, though the vetting process was not a guaranteed method of eliminating corruption or human rights abuses. In 2016, the head of the Sensitive Investigative Unit was removed from his position following a Ministry of Interior push to address corruption and gross violations of human rights.[1350] Significant numbers of unit personnel are dismissed every time a polygraph re-test is done for attempting to lie, so the 18-month intervals between testing created a dangerous avenue for corruption to seep into the unit.[1351]

DEA's presence in Afghanistan shrank from a high of 90 agents during the 2010-2014 civilian surge to only six agents as of late 2019.[1352] This downsizing, coupled with the 2015 withdrawal of DEA personnel back into the Green Zone, greatly reduced DEA's ability to work directly with special unit officers and reduced activities for both the U.S. and Afghan counternarcotics missions.[1353] While these units were capable of operating at this lower level of support, their capability had been eroded over time.

Downsizing its presence in Afghanistan was always DEA's plan: Every position above the initial 13 personnel it had in Afghanistan in the early years of the war was designed as temporary, and was funded by either State or DOD.[1354] In 2014 and 2015, when this downsizing began, DEA began the transition to a much smaller presence and continued to partner with the National Interdiction Unit and the Sensitive Investigative Unit—but from a more behind-the-scenes perspective.[1355] A former senior DEA agent told SIGAR that the plan had always been to build the special units up dramatically and get them on the right path, then have them operate both independently of DEA and alongside it once DEA reduced its presence in Afghanistan.[1356] That is what ended up happening.

Provincial Units and Counter Narcotics Police Headquarters Were Not Given the Same Level of Support as the Special Units

As of 2013, the staff of the Counter Narcotics Police special units just described made up 30 percent of the entire workforce.[1357] The other 70 percent was made up of two components: provincial units scattered across Afghanistan, charged with investigating drug crime at a local level, and the general directorate and headquarters staff, who oversaw the special units, provincial units, and other areas, such as detention facilities and laboratory testing capabilities.[1358] DEA's focus on creating long-term partnerships paid dividends with the special units, but that extraordinarily high level of support was limited to those units. DEA had no desire to get involved with capacity-building efforts in the rest of the organization; as one former senior DEA official told SIGAR, that "wasn't our job."[1359] As a result, provincial units and headquarters staff got little attention. As one U.S. government interagency assessment noted in 2009, "No [U.S. government] or international entity is currently leading the overall Counter Narcotics Police of Afghanistan development effort. In particular, no organization has taken full responsibility for developing the CNPA headquarters."[1360]

It is worth noting, however, that had DEA tried any large-scale capacity-building efforts with CNPA, it would not necessarily have been a better approach: DEA is not designed to do that kind of work. One former senior DEA official told SIGAR that he resisted such an expansion of DEA's mandate, despite pressure from State and DOD, because in his view it would have "set the DEA up for failure."[1361]

Assistance to Headquarters Was Uncoordinated, Hampering Growth

In the absence of a major DEA program, there were three attempts to develop mentoring programs at CNPA. As of 2009, Blackwater, DynCorp, and the DOD all had mentors working with the deputy minister for counternarcotics.[1362] These mentors were highly experienced (at the time, the Blackwater and DynCorp mentors were both

retired DEA agents), but the coordination of their mission was poor.[1363] A 2009 U.S. government interagency assessment found that "the system by which the mentors are managed and supported lacks unity and strategic design. . . . There is not a plan for integrating this effort into a progressive leadership developmental track" for the CNPA, the Afghan National Police or the Ministry of Interior.[1364] Mentors sometimes found themselves serving multiple masters. The Blackwater mentor to the Deputy Minister for Counter Narcotics at the time told SIGAR that although his contract was paid for by the Pentagon's Counter Narcoterrorism Technology Program Office, he spent most of his time answering not to them but to military officials at Central Command, State personnel, and his own higher-ups at Blackwater.[1365]

The CNPA headquarters, meanwhile, did not keep personnel or training records for its officers, and lacked even a functioning internal filing system for memos, policy outlines, or the like.[1366] At the time, according to an assessment by the Office of the Secretary of Defense, it was "not clear exactly how many personnel [were] serving in the [Counter Narcotics Police], their locations, status of their development and equipping, and what, if any, support they [were] receiving."[1367] Moreover, there was no effort within the police agency to combat corruption at the headquarters level, despite a U.S. government assessment that CNPA personnel "are more susceptible to corruption than regular ANP officers due to the lucrative nature of the narcotics trade."[1368]

Recognizing the problems posed by this neglect, DOD, along with DOJ's International Criminal Investigative Training Assistance Program, created the Counter Narcotics Police Development Unit in late 2009.[1369] From 2009 to early 2015, those advisors, along with U.S. military-contracted counternarcotics advisors, took on some of the management challenges at CNPA headquarters.[1370]

But the headquarters continued to struggle. By 2013, tactical communication between it and CNPA provincial units was an issue based on a lack of telecommunication infrastructure.[1371] An independent assessment commissioned by Central Command at the time noted that "a rift exists between" special units and units falling more directly under the CNPA's headquarters.[1372] Efforts by the CNPA to establish a tactical operations center in 2011 and 2012 were marred by a lack of trust between the special units and the operations center itself, with CNPA special units worrying that provincial units would tip off drug traffickers to their operations.[1373]

In 2014, after several years of managerial reform effort, the CNPA headquarters was rated by DOD as "capable of executing all functions with minimal coalition assistance," requiring assistance only with critical functions.[1374] At the same time, the report said that headquarters still needed outside help with "major operational planning, organizational restructuring, inter-organizational coordination, and major expenditure resource allocations"—an indication that, at the very least, "minimal coalition assistance" was required across a broad range of activities.[1375] The Counter Narcotics Police Development Unit was terminated in 2015 due to deteriorating security. After that, a

Romanian police officer was appointed in 2015 to act as the sole advising link between NATO's military mission and Counter Narcotics Police headquarters.[1376]

Early in the war, the lack of management capacity at CNPA headquarters and the immense influence DEA had over its specialized units created an environment in which those specialized units effectively operated in their own bubble, insulated from the rest of the police agency. But by 2010, headquarters was able to provide direction to the special units when it came to operations independent of DEA, though coordination between vetted units and other parts of the CNPA force remained limited.[1377] The integration of the vetted units into the CNPA's command structure was improving in recent years, especially since the last two Afghan two-star generals to serve as directors general of the CNPA came up through the ranks of the special units.[1378]

Provincial Units Received Little Support, Yet Faced Huge Obstacles

Provincial units made up the largest chunk of the CNPA manpower. As of 2014, 1,100 officers were authorized for provincial units, representing 39 percent of all authorized officers.[1379] Provincial units were characterized as type A, B, or C, depending on the threat of drug trafficking and cultivation in those provinces. Type A provinces were authorized 66 personnel; Type B provinces got 36, and Type C got 10.[1380]

CNPA headquarters' struggle to retain authority over provincial units was complicated by the dual funding and logistics mechanism designed to sustain these units. In theory, the provincial units were supposed to receive funding and support from both the provincial chiefs of police and headquarters in Kabul.[1381] But headquarters was often unable to provide funding, leaving provincial units entirely dependent on support from local police chiefs.[1382] This not only undermined headquarters' control over provincial units, it also left provincial units underfunded, since what local police chiefs were willing to provide did not necessarily meet the need.[1383] Even that funding source could be unreliable: A 2009 DOD assessment found "a total absence of any form of acceptance or support for [CNPA] officers at the provincial level."[1384] Lack of funding played havoc with the ability of provincial units to do their jobs. The Deputy Minister for Counter Narcotics told SIGAR in 2014 that the provincial unit in Kandahar was storing 67 tons of seized drugs because the unit did not have the money to dispose of it.[1385]

Provincial police chiefs in turn used their influence over funding to assign provincial units tasks that sometimes had nothing to do with counternarcotics work, such as serving as bodyguards or manning checkpoints.[1386] Other police chiefs were actually engaged in criminal activities themselves: The provincial chief of police for Nimruz Province in southwestern Afghanistan, for example, was arrested by CNPA officers in Kabul in 2013 for drug trafficking.[1387]

Meanwhile, various coalition partners gave some support to provincial counternarcotics units in their areas, in the form of equipment such as vehicles and power generators. But there was "no international coordinator and no accountability" for this assistance, and so nobody knew where some of the equipment went.[1388] Moreover, while equipment was being provided by various coalition actors, provincial units were not necessarily learning what to do with it: As of 2009, there were no mentors assigned to provincial CNPA units in all of Afghanistan, and U.S. government assessment from that year noted that a "lack of organization, training, facilities, equipment and support [was] evident in all provinces."[1389] Only 9 out of 34 provinces had offices for counternarcotics police, and there were no plans to construct more.[1390] Provincial units struggled with "local personalities, tribal affiliations, drug abuse, [scarce] resources, corruption, [and] banditry."[1391]

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Coalition efforts to remedy these issues focused on training provincial officers at the Counternarcotics Training Academy in Kabul. In theory, each provincial officer was supposed to attend ANP basic training before attending the Counternarcotics Training Academy for additional training, but some managed to avoid both.[1392] Moreover, this training failed to include literacy instruction—a real problem, given rampant illiteracy throughout the provincial CNPA.[1393] CNPA Development Unit advisors told SIGAR in 2014 that about 30 percent of officers, non-commissioned officers, and soldiers were illiterate.[1394] Police mentors estimated that in one type A province, only 2 of the 67 assigned personnel could read and write.[1395]

Even with perfect training, the provincial units' lack of resources still would have resulted in poor capacity. For instance, under Afghan law, suspects arrested for trafficking in drugs above certain thresholds (for instance, trafficking two or more kilograms of heroin or 10 or more kilograms of opium) must be tried at the Central Narcotics Tribunal in Kabul.[1396] Provincial counternarcotics units were faced with the problem of how to transport their prisoners long distances to Kabul through dangerous territory. Secure provinces close to Kabul could transport prisoners by ground vehicle, but more remote provinces were forced to rely on air transport. As of 2014, the CNPA had two helicopters specifically for transporting prisoners from distant provinces—but provincial units could not afford to pay for helicopter fuel.[1397]

Despite all of these limitations, the counternarcotics provincial units did manage to conduct successful law enforcement operations—often drug seizures—with support from both the coalition and CNPA headquarters.[1398] The level of competence and independence of action displayed by provincial units often depended on the type of the province they were based in; mentors noted that "provincial unit personnel assigned

to Type A and Type B provinces generally have a greater ability to conduct operations independently, while officers assigned to Type C provinces are less operationally proficient."[1399] By 2014, counternarcotics officers in some regions were conducting self-directed operations based on intelligence generated from their own informants, although their capacities were consistently limited by lack of funding.[1400] Some provincial units were given only five gallons of gas per day to perform their work.[1401]

Neglected as they were, the provincial units played an important role in interdiction operations and conducted most of the CNPA's seizures.[1402] This helps illustrate a fundamental problem with the U.S. approach to working with this police force: Although its special units were highly capable, they could not be everywhere. The U.S. focus on special units left provincial counternarcotics police struggling to contribute to the mission.

Separate Courts for Narcotics Cases Bypass the Corruption and Mismanagement in Afghanistan's Judicial System

In an effort to bypass Afghanistan's corrupt justice system and ensure that convicted narcotics traffickers actually went to prison, the former Afghan government and its international supporters established a separate criminal justice system for narcotics crimes, to avoid corruption and mismanagement. The 2005 Afghan Narcotics Law, written with significant international input, established the Central Narcotics Tribunal, a panel of Afghan judges with exclusive jurisdiction over any narcotics case involving two or more kilograms of processed opium (heroin or morphine), 10 or more kilograms of opium, or 50 or more kilograms of hashish or any other controlled substance.[1403]

The tribunal, housed in Kabul, benefited greatly from its location.[1404] For most of the U.S. intervention, Kabul was a relatively secure location compared to insurgent hotspots in the south (which are also narcotics trafficking hotspots). As a result, prosecutors at the Central Narcotics Tribunal were more insulated from threats and intimidation than their counterparts in the provinces. A specially trained judicial security unit within the Counter Narcotics Police was created to provide protection to the tribunal's judges.[1405]

A special prosecutorial unit, known as the Criminal Justice Task Force, was formed from investigators pulled from the Counter Narcotics Police and prosecutors pulled from the Ministry of Justice.[1406] This fusion of investigators and prosecutors was important, because under Afghan criminal law, prosecutors, not police, are assigned the duty of investigating crimes. Police are merely supposed to "detect" crimes—though this line gets blurry in the Counter Narcotics Police's special units, which do significant investigatory and intelligence legwork.[1407] In practice, this arrangement led to investigators working to develop cases to the point where they were ready to be tried in court, under the supervision and direction of the prosecutors who would be trying them, with prosecutors sometimes taking more active roles in investigations when required.[1408] Under Afghan law, for instance, prosecutors had to accompany teams executing search warrants.[1409]

The amount of traditional investigative work done by Criminal Justice Task Force investigators was usually limited, focused on filling in gaps in cases that were handed off to them from various source police units for trial before the Central Narcotics Tribunal.[1410] The amount of investigative work varied; task force investigators would usually have more legwork to do on a case originating from a provincial CNPA unit than one coming from the Sensitive Investigative Unit.[1411] Most of the narcotics cases came to the task force from the CNPA's special units, a former task force mentor told SIGAR, but cases also sometimes came from the regular ANP, the National Directorate of Security, and some coalition units who came across narcotics crimes in the course of their operations.[1412]

In 2009, DOD completed construction of the Counter Narcotics Justice Center, which became the new home of the Central Narcotics Tribunal and the Criminal Justice Task Force, and which also housed a 56-bed detention facility.[1413] Both the task force and members of the tribunal received training and mentoring from the United States, through a joint State and DOJ effort which contracted with law enforcement experts to mentor and train the Afghan investigators, prosecutors, and judges, and which deployed assistant U.S. attorneys on temporary duty to mentor prosecutors and judges.[1414] Although small—the training and advising program consisted of two contracted mentors and a handful of assistant U.S. attorneys for much of its existence—the program was remarkably successful.[1415] Afghan prosecutors, investigators, and judges were operating independently, with mentor input, by the early 2010s.[1416] Before the training program closed down in 2016, due to increasing insecurity, contracted mentors helped establish a training cadre at the Counter Narcotics Justice Center, consisting of prosecutors and judges who had received extensive training in advanced aspects of counternarcotics justice, such as countering money laundering, who were able to pass their expertise along.[1417] As of fiscal year 2019, DOJ still provided occasional classes to this training cadre.[1418]

All of this intensive effort paid off: In December 2009, then-U.S. Ambassador to Afghanistan Karl Eikenberry described the Criminal Justice Task Force as the "most effective judicial organization in Afghanistan."[1419] A DEA mentor who worked with the Sensitive Investigative Unit from 2011 to 2014 told SIGAR that, in his experience, the Counter Narcotics Tribunal was the only way to actually send a suspect to jail in Afghanistan, since in any other court suspects could buy their way out.[1420]

Despite its trained team of judges, prosecutors and investigators, the Counter Narcotics Justice Center struggled to cope with high-level traffickers. In July 2010, the Senate Caucus on International Narcotics Control found that the "current Afghan judicial system is not capable of handling the prosecution and incarceration of high level drug traffickers."[1421] In 2014, Special Inspector General for Afghanistan Reconstruction John Sopko testified to the Congress that although the Counter Narcotics Justice Center had "made some headway toward convicting more senior Afghan officials"—citing the arrest and incarceration of the Nimroz chief of police for drug trafficking—"these high-profile cases remain rare."[1422] Law enforcement officials have told SIGAR that Afghan

authorities lack the political will to effectively prosecute senior officials—a significant problem, given the high degree of involvement senior officials have with the drug trade.[1423] While they both took pains to note that the Counter Narcotics Justice Center worked better than any other justice system in Afghanistan, two mentors to the Criminal Justice Task Force and the Central Narcotics Tribunal told SIGAR that they suspected there was at least some corruption influencing outcomes there.[1424]

Even when the Counter Narcotics Justice System put high-profile criminals behind bars, they did not always stay there. In 2015, Haji Lal Jan Ishaqzai, one of the most wanted opium traffickers in Afghanistan, was sentenced to 20 years in prison by the Central Narcotics Tribunal.[1425] However, once he left the specialized counternarcotics portion of Afghanistan's judicial system and became a prisoner of the wider system, he was able to bribe his way to freedom.[1426] Stories like this are a powerful reminder that even in a narcotics justice system that is competent, trained, and backed by coalition forces, the wider dysfunction of the Afghan political and judicial systems hindered progress.

The Criminal Justice Task Force was the "most effective judicial organization in Afghanistan."

—Former U.S. Ambassador to Afghanistan Karl Eikenberry

DESPITE ITS COMPETENCE, THE MAJOR CRIMES TASK FORCE WAS CRIPPLED BY POLITICAL INTERFERENCE

Nothing better illustrates the intractable nature of corruption among Afghanistan's political and economic elites than the story of the Major Crimes Task Force. Established in 2009 as a collaboration among the United States, international donors, and the Afghan government, the MCTF was designed to tackle kidnapping, organized crime, and high-level political corruption. Staffed by investigators from the Ministry of Interior and the National Directorate of Security, the task force initially received significant U.S. government support, mainly in the form of training, mentoring and funding from the FBI, with additional support from State, DOD and various coalition law enforcement partners.[1427] As in the cases of the other specialized units detailed in this chapter, FBI mentors worked side by side with their Afghan counterparts in the MCTF.[1428] In order to weed out corruption and security risks, the FBI polygraphed all MCTF investigators, and turned away a number of problematic recruits.[1429] As a result, the task force rapidly developed sophisticated investigative capabilities and built strong cases against high-profile, corrupt Afghan government officials, kidnapping rings, and organized crime syndicates.[1430]

In October of 2009, just a few weeks after it was formed, the task force arrested its first major suspect: Brig. Gen. Saifullah Hakim, a police official in Kandahar, for embezzling funds intended to pay police salaries by inventing "ghost" officers to inflate his payroll.[1431] In the next few months, the task force arrested former Minister of the Hajj

and Religious Affairs Mohammad Siddiq Chakari, the Herat Border police commander, Brig. Gen. Malham Pohanyar, Brig. Gen. Aziz Ahmad Wardak, chief of police of Paktika province, and Colonel Ali Shah, the highest ranked border police officer in Paktika province—all on various corruption and narcotics-related charges.[1432] An FBI mentor who worked with the task force for a year-long tour in 2010 told SIGAR that by the end of his time in Kabul, its investigators were "creating operations plans that were almost as good as those [he] would write in the U.S."[1433]

These early investigations, enabled in part by using the wiretapping system set up by DEA for the CNPA's Sensitive Investigative Unit, revealed to U.S. officials for the first time the true extent of the corruption in the Afghan government.[1434] One U.S. law enforcement official who helped mentor the task force noted in late 2010 that "we looked around and realized how deep this all ran. The corruption went from the top [of the government] to the bottom."[1435] A number of these arrested suspects maintained close ties with President Karzai.[1436]

The law enforcement success of the MCTF turned out to be its political downfall. As the task force continued to arrest allies of then-President Karzai, Karzai became increasingly antagonistic toward the task force's work.[1437] As this relationship grew strained, U.S. officials looked for a test case to assess the Afghan government's willingness to fight corruption within its ranks.[1438] They found such a case in Mohammad Zia Salehi, the head of Karzai's National Security Council.[1439] Investigators from the Sensitive Investigative Unit had recorded Salehi soliciting a bribe from another high-profile corruption subject.[1440] Salehi's arrest was authorized by the Afghan Attorney General's Office, with Karzai's knowledge, under U.S. pressure.[1441] On July 25, 2010, following a prolonged standoff and a firefight between the MCTF and other Afghan police officers that Salehi had summoned to defend him, Salehi was arrested.[1442] Once behind bars, Salehi made a phone call to Karzai; within six hours, Karzai ordered Salehi's release.[1443] Karzai was not shy about his involvement: A month later, he boasted on ABC's "This Week" that he "intervened very, very strongly" in Salehi's case.[1444]

"We looked around and realized how deep this all ran. The corruption went from the top [of the government] to the bottom."

—U.S. law enforcement official

The Salehi case seems to have been the last straw for Karzai's government. Asserting that the MCTF was "essentially run by the foreigners," Karzai ordered a commission to investigate both the task force and the Sensitive Investigative Unit, and directed the Afghan attorney general to suspend the "top up" payments used to augment the salaries of task force investigators—a move that had been taken to reduce the risks of corruption and to attract the best and brightest to the organization.[1445]

Publicly, the United States harshly criticized Karzai's attacks on the task force.[1446] Behind closed doors, however, the U.S. government quietly recalibrated its posture on anti-corruption measures in Afghanistan, concerned that continuing to pursue high-level corrupt Afghan officials would undermine Washington's relationship with Karzai and, by extension, the entire U.S. war effort in Afghanistan.[1447] By late 2010, the U.S. was pursuing a revised strategy of fighting corruption from the bottom up, focusing on anti-corruption efforts targeting functionaries and bureaucrats at the local and provincial levels, rather than high-level officials and Karzai allies in Kabul.[1448]

Meanwhile, the Karzai administration rapidly gutted the MCTF's capabilities.[1449] On August 4, 2010, Afghan Attorney General Mohammad Ishaq Aloko announced that his office would be exercising more intense oversight over task force cases.[1450] Under his control, no further high-profile arrests were approved.[1451] An FBI mentor working with the task force at the time told SIGAR that after the Salehi arrest, investigators got word from the Afghan government that they were no longer allowed to go after high-level government officials.[1452] That same month, two Afghan prosecutors openly defied Karzai and Aloko by releasing the names of 25 senior Karzai officials under investigation for corruption.[1453] They were fired.

The next several years of U.S. government reporting, including SIGAR's quarterly reports to the Congress, describe well-trained investigators continuing to investigate cases, then watching their efforts go to waste as any cases they built were squashed by prosecutors in the Anti-Corruption Unit and the attorney general's office.[1454] In February 2013, two years ahead of schedule, the FBI ended its support for the task force.[1455] The FBI's public statement said that it was withdrawing "having determined that it has met its capacity-building objectives."[1456] Privately, FBI officials suggested to SIGAR that the pullout was motivated by concerns about the safety of FBI personnel as threats against the MCTF increased.[1457]

By 2014, U.S. funding for the task force had stopped, and the task force was depending on the Ministry of Interior for its budget.[1458] From 2013 to 2016, with some exceptions, the task force was often overseen by ministry officials who did not seem to want it to succeed. All investigations had to be approved by Ministry of Interior officials.[1459] On occasion, task force leaders disobeyed orders from their superiors to drop an investigation and proceeded with them anyway. These acts of defiance, many of which took place beginning in early 2016 under the leadership of task force director Brig. Gen. Abdul Ghoyor Anderabi, came at a cost: Task force officers received death threats and were subjected to campaigns of intimidation.[1460] Between 2015 and 2017, five MCTF investigators were murdered.[1461]

Several mentors who worked with the organization during this period noted the task force's technical competence in interviews with SIGAR, but one also joked that the MCTF really should have been called the "Minor Crimes Task Force."[1462] Instead of the high-profile crimes the task force was designed to go after, investigators tracked car

thieves in Kabul.[1463] By that point, in the mentor's view, investigators had learned the limits of what they were allowed to do.[1464]

Attempts to recapture the successful early days of the MCTF failed, including an attempt to sync the MCTF with a specialized anti-corruption court in the style of the Counter Narcotics Justice Center. The MCTF struggled with corruption in its ranks, and the Afghan government did not find the political will required to seriously pursue high-level corruption.[1465] The U.S. government failed to counter that absence of will with political pressure.

POLICE SPECIAL UNITS PROVE HIGHLY CAPABLE UNDER CLOSE INTERNATIONAL TUTELAGE

As detailed throughout this report, the Afghan National Police routinely find themselves outmatched by heavily armed Taliban fighters and narcotics traffickers. The General Command of Police Special Units (GCPSU) was Afghanistan's answer to this dilemma within the police structure. Initially established in 2008 as the General Directorate of Police Special Units (GDPSU) and later renamed, the GCPSU was a specialized subcomponent of the ANP that consisted of a number of special police units with capabilities nearly identical to military special operations forces, but with a policing mandate.[1466]

The GCPSU was formed by unifying three existing paramilitary police special units: Commando Force 333 (created by the British in 2003), Afghan Territorial Force 444 (created in 2006), and Crisis Response Unit 222 (established in 2007) under one roof to centralize the logistics, training, and command and control of these forces.[1467] Collectively known as the "triples," these would later be designated as the GCPSU's national mission units. Like the other specialized units detailed previously in this chapter, the "triples" were set up to deal with areas of concern to international donors: terrorism, narcotics, and later, the Taliban insurgency.[1468] The "triples" became an essential part of American counterinsurgency strategy, with a focus not on civilian crime but on neutralizing insurgents and terrorists. In 2010, General Stanley McChrystal, then commander of the International Security Assistance Force, praised Commando Force 333's capabilities. "You can use normal units to go out and secure areas and secure people, [but] there's a certain percentage of any insurgency or narcotics elements that have to be targeted for arrest or even for killing if they don't want to be arrested," he said. "So the key is, how precise can you be so that you don't harm other people? And that's where it takes units like this."[1469]

In 2021, the GCPSU consisted of six national mission units and 33 provincial special units, formerly known as provincial response companies. The former were widely considered to be among Afghanistan's most capable special operations forces.[1470] Provincial special units were not as capable, but provided similar high-risk arrest, counterterrorism, and crisis response services.[1471] In practice, the line between policing and military operations was frequently blurred by GCPSU units. Although

SIGAR John Sopko meets with Afghan prosecutors and judges at the Anti-Corruption Justice Center and Major Crimes Task Force in Kabul. (SIGAR photo by Charles Hyacinthe)

they conducted high-risk arrests, responded to high-profile attacks, and executed raids against counterterrorism, counterinsurgency, and counternarcotics targets, they were also called upon to directly fight Taliban offensives against government territory.[1472]

Specialized Mentoring Develops National Mission Units into Elite Professional Forces

The national mission units received sustained investment from the U.S. and the international community. The organization's roots can be traced to earlier Afghan units that partnered with coalition special operations forces as far back as 2002.[1473] This mentoring and training by coalition special operations forces took the form of a series of close partnerships, often with the same international units returning to Afghanistan year after year to mentor the same partner units.[1474]

However, coalition partner forces at times focused more on achieving operational impact than on developing independent Afghan special police capabilities. In a 2015 retrospective, RAND researchers described "early mentoring partnerships in which the goal was either to put an 'Afghan face' onto essentially unilateral coalition operations or gradually bring Afghan units up to speed through partnering on advanced ISAF operations."[1475] One mentor with the Crisis Response Units noted that in the early years, when the international force had the mission to take care of security in Kabul, "we were getting bad guys [and] bringing the [Afghan force] with us. We were 50 percent partnering and 50 percent operations."[1476]

This focus on achieving battlefield results while developing nascent special police units did have some benefits: In the process, coalition special operations forces lived and worked alongside their partnered Afghan forces, forging a deep rapport with their counterparts that coalition advisors and partners said was vital to ensuring they could shape the future growth of these units.[1477] At the same time, ISAF special operations forces provided significant support and training to their partnered special police units, and, as noted above, brought them along on ISAF-led operations to build their experience and tactical skills.[1478]

Although such partnered operations developed the basic tactical proficiency of their Afghan partner units, they also placed a ceiling on how capable these units could become on their own, stifling leadership development and the units' independence. A senior mentor commented in 2013 that "[we] have been training for nine years, but we have not been mentoring. . . . With training you are directing them and not giving them ownership, while mentoring is empowering."[1479]

Shortly after the creation of the GDPSU, as ISAF shifted their focus increasingly towards the looming transition of security responsibilities to the Afghan government in 2014, coalition special operations forces partnered with the "triples"—which by then were being officially referred to as National Mission Units—began to focus increasingly on preparing the Afghan units to conduct raids, high-profile arrests, and crisis response missions on their own, even if that focus on developing Afghan capabilities meant sacrificing short-term effects on the insurgency.[1480] Coalition mentors told RAND researchers in 2013 that they sometimes even allowed their Afghan counterparts to fail so that they could learn from the experience. They also worked to limit the number of coalition mentors on Afghan missions, which increasingly occurred with limited or no coalition support.[1481]

To help make this sharp divergence in partnering models work, mentors were able to fall back on the deep rapport that they had built with their Afghan counterparts. Like mentoring efforts with other specialized units detailed in this chapter, ISAF (and later Resolute Support) special operations forces approached the job of mentoring in a fundamentally different way from the ways mentoring worked in the wider ANP. Mentors working with the GDPSU lived and worked with their Afghan counterparts, and mentors completed several rotations with the same unit. Mentors also went out of their way to spend off-duty time with Afghan personnel. One Afghan officer commented of his British counterparts, "I can't see how [the relationship] would be better. The British invited the Afghans here for Christmas dinner. We invited them for Eid."[1482] British forces also sent key Afghan commanders to the prestigious Royal Military Academy at Sandhurst—exposure that RAND observers noted not only improved the Afghans' English language skills and enhanced their understanding of British tactics, but gave them a sense of accomplishment. "These commanders exhibited high pride in their British education," the RAND report noted, "with one commander making a point to show visiting RAND analysts his Sandhurst graduation photos."[1483]

Because mentors were able to build strong rapport, insider attacks were largely a non-issue for coalition forces. Mentors were able to make a point of being unarmed or lightly armed in the presence of their Afghan colleagues, symbolizing and cementing their trust, as well as enabling mentors to give their Afghan partners honest, if sometimes painful, feedback.[1484]

"I can't see how [the relationship] would be better. The British invited the Afghans here for Christmas dinner. We invited them for Eid."

—Afghan officer

Thanks to this investment of resources, the national mission units made progress towards independence.[1485] The national mission units were steadily weaned off targets provided by coalition intelligence, and pushed into targets developed through their own intelligence and based on warrants issued by an Afghan court. (Even though they were paramilitary units, the national mission units were still police, and in most cases needed a warrant issued by an Afghan court to pursue a target).[1486]

Even so, by the end of 2016, the national mission units were still not able to operate truly independently of coalition assistance.[1487] Coalition special operations forces continued to mentor them (and sometimes fight alongside them) even after the transition of security responsibility to the Afghan government. DOD was reporting that GCPSU and its national mission units had independently planned and coordinated responses to high-profile attacks in the Kabul area.[1488] But the same 2016 report noted that GCPSU remained "reliant on coalition enabler support."[1489] As recently as June 2020, a DOD report to the Congress noted that although national mission units often train personnel, and plan and execute operations independently, they still "rely on coalition enablers such as intelligence, air, and fire support."[1490]

Mentoring by special operations forces at the headquarters level of the GCPSU bore fruit as well. Over the years, GCPSU has displayed an increasing capability to unite the national mission units under one roof, instead of leaving them to their own devices. In response to a high-profile attack against the Kabul Intercontinental Hotel in January 2018, the commander of the GCPSU led the overall response and coordinated the activities of two national mission units, resulting in the rescue of more than 150 civilians and the neutralization of all six attackers.[1491]

Despite their capability and prestige, national mission units were not immune to issues endemic to Afghanistan's security forces. They were sometimes misused by higher-ups at the Ministry of Interior, which had a habit of sending elite national mission unit squadrons in response to unnecessary requests for assistance from governors, other ministries, or Afghan National Army commanders. This sometimes resulted in members of this elite paramilitary unit being assigned to mundane duties, such as manning

checkpoints or guarding the headquarters of provincial chiefs of police.[1492] At other times, national mission units were sent to respond to insurgent offensives as traditional combat forces.[1493] While the desire of the Ministry of Interior to use the national mission units in this way made sense, doing so eroded their readiness to do what they were created to do. In recent years, this misuse was reduced.[1494] But this progress was threatened by the Ministry of Interior's promotion of a number of GCPSU officers to provincial chiefs of police, since in their new positions they often reached back to national mission units to conduct tasks outside of their official responsibilities—a practice that demonstrated their own trust in the units' capabilities.[1495]

In 2017, the Afghan government decided to expand the number of national mission units from three to six in recognition of the impressive set of capabilities they provide. ATFs 555, 888, and 999, which worked in Herat, Balkh, and Nangarhar, were operational for several years before the Taliban takeover, and reached full operational capability in March of 2020.[1496]

Provincial Special Units: The Local Counterpart of the National Mission Units

Provincial response companies (which would become known around 2015 as provincial special units), came into existence during the height of the U.S. surge, around 2010.[1497] Like their counterparts in the national mission units, these roughly 100-man units received dedicated mentoring support from embedded ISAF special operations forces, and initially acted as partner forces on ISAF-led operations, though with a more limited emphasis on fostering independence.[1498]

A 2015 RAND study found that in the absence of clear guidance directing ISAF forces to prioritize the training mission, ISAF units defaulted to direct action—in effect, running operations themselves, instead of coaching their Afghan counterparts to do things on their own.[1499] Mentors with the provincial response companies lagged behind their counterparts in the national mission units in encouraging the capability for independent operations in their Afghan partners.[1500] As with the national mission units, mentors at the provincial level dedicated themselves to rapport building. Mentors conducted even minor assignments such as guard duty together with their Afghan counterparts; in their off hours, they sometimes played soccer together.[1501] Repeated deployments by the same units and same personnel also helped foster strong bonds and ensured continuity of effort.[1502] As with the national mission units, the closeness paid off in better communication: One Australian mentor noted that "being a good friend can allow a mentor to push harder without causing offense."[1503]

The provincial response company/provincial special unit program grew significantly over time: In 2013, there were 19 units, but by 2016 that number had risen to 33.[1504] Meanwhile, mentors were drawn from a wider pool: Australian, Lithuanian, Romanian, Estonian, Hungarian, Slovakian and U.S. special operations forces, among others—a total of 13 nations in all.[1505] Several of these international components were partnered with U.S. special operations forces in an effort to enhance the special operations skills

of the contributing Eastern European nations while mentoring the Afghan units.[1506] Not surprisingly, different countries had different approaches: The Australians in 2013 were using more than 200 personnel to mentor a single provincial unit, while the Lithuanians had a 60-person team mentoring two units.[1507] Partly as a result of these varying approaches and other factors, such as the age of a provincial response company, RAND observers in 2013 noted a "high level of variability" in unit capabilities.[1508]

In 2012, the provincial units were pulled under the GDPSU umbrella to increase centralized control over their activities; up to then, they had been accountable only to provincial leaders and their individual mentoring teams.[1509] By taking responsibility for command and control of the provincial units, GDPSU assumed responsibility for their training, manning, and equipping.[1510] After this point, all provincial unit recruits, who were usually drawn from other ANP units, attended selection and basic training at the GDPSU's Special Police Training Center in Kabul.[1511] As of 2018, this course consisted of an extensive 16-week program that teaches a range of subjects, from courses on the rule of law to tactical special policing skills.[1512]

Despite being part of a national system, however, the operational relationship between the provincial units and provincial chiefs of police remained complicated. On paper, provincial special units were assigned to directly support provincial chiefs of police, while remaining under the operational control of GCPSU headquarters—an unwieldy bureaucratic arrangement further complicated by the fact that provincial chiefs of police controlled the payroll systems and salaries for the provincial special unit in their area. As a result, provincial special units were usually more responsive to local officials than to GCPSU headquarters.[1513] In 2015, DOD noted that provincial chiefs of police had a tendency to use GCPSU units in their area for normal police functions, degrading that unit's ability to plan and train for the more paramilitary operations they were designed for.[1514]

As with national mission units, provincial special units grew in capability over time. In November 2013, DOD reported that 14 of the 19 provincial special units in existence at the time were rated as either capable or fully capable (the highest possible capability ratings DOD gave at the time).[1515] Provincial special units were relied on across Afghanistan for their crisis response role, though they have also been used in more conventional combat actions against the Taliban.[1516] As a result, casualty and attrition rates in these units were higher than what was typical for the Afghan National Defense and Security Forces.[1517] Even up to 2019, provincial special units required coalition enabler support to be fully effective, and coalition special operations forces continued to mentor at least some high-priority units.[1518]

The GCPSU Benefitted from the Train, Advise, and Assist Attention of Coalition Special Operations Forces

Above all, the entire GCPSU, from the provincial to the headquarters level, was fortunate to be trained and mentored by coalition special operations forces who were experts in the kinds of missions the GCPSU was tasked with. While elsewhere in this report, SIGAR has been critical of the use of military personnel to train police, in this instance, the match worked well—not because special operations forces know how to police, but because of the fundamentally military special operations focus of the GCPSU.[1519] During a 2018 radio interview in Kabul, the commander of the GCPSU introduced his units to a public audience not by talking about how many suspects they had arrested in the last year, but by how many Taliban they had killed.[1520] However, it is important to note that this mentoring effort did not create a standard civilian police force suited for peacetime, nor was it supposed to.[1521]

The GCPSU was not immune to the wider problems plaguing Afghanistan's police and security forces. In 2019, the Anti-Corruption Justice Center convicted Colonel Abdul Hamid, its former head, to seven and a half years in prison for treachery and forgery in connection with an $80,000 fraud scheme.[1522] Likewise, while the GCPSU had the ability to arrest high-ranking corrupt officials, the Afghan government was not always willing to send the GCPSU after politically well-connected figures. Even when the GCPSU arrested someone, there was no guarantee they would actually go to prison: Suspects arrested by the GCPSU went through the normal Afghan justice system, which had a history of corruption and not holding well-connected officials accountable.[1523]

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT AGENTS TARGET TRANSNATIONAL CRIME IN AFGHANISTAN

In 2012, U.S. Immigration and Customs Enforcement (ICE) became the latest U.S. federal law enforcement agency to develop, equip, and mentor an Afghan specialized police unit. The Department of Homeland Security's largest investigative arm, ICE's Homeland Security Investigations (HSI) is responsible for investigating, disrupting, and dismantling terrorist and transnational criminal organizations that threaten or violate U.S. immigration and customs laws. HSI has one of the largest international footprints in U.S. law enforcement, with special agents assigned to U.S. embassies, consulates, and DOD combatant commands in 53 countries. Its International Operations Division conducts and supports international law enforcement operations, particularly through partnerships with foreign law enforcement partners. HSI also delivers training and capacity-building programs to build foreign partners' investigative capabilities and to enhance information-sharing capacity.[1524] Since creating the agency's first vetted partner unit in Colombia in 2002, HSI has established partnerships with numerous foreign law enforcement units, predominately in Central and South America.[1525]

In September 2011, ICE-HSI officially established the Transnational Criminal Investigative Unit (TCIU) Program. Transnational Criminal Investigative Units comprise trained host nation law enforcement officials, customs officers, immigration officers,

and prosecutors who work alongside HSI to investigate and prosecute transnational criminal organizations.[1526] TCIUs "identify targets, collect evidence, share intelligence, and facilitate the prosecution of transnational criminal organizations through both the U.S. judicial system and in foreign countries." These units enable improved intelligence sharing and communication and facilitate bilateral investigations of transnational criminal activity that falls within HSI's investigative purview.[1527]

ICE Homeland Security Investigations Develops Afghanistan Transnational Criminal Investigations Unit

In November 2010, the Criminal Investigation Department of Afghanistan's Ministry of Interior, asked for HSI's help in setting up a vetted unit of Criminal Investigative Directorate investigators tasked with combating transnational crime. In August 2012, the ministry assigned 26 investigators to the new unit, selected from 105 applicants. After undergoing strict vetting, the candidates were sent to the ICE Academy (located at the Federal Law Enforcement Training Centers in Glynco, Georgia) in June 2013 to complete a three-week International Task Force Agent Training course.[1528] This course is a country-specific training program that teaches the fundamentals of criminal investigations that fall within ICE's purview, such as financial investigations, cybercrime, smuggling, trafficking, undercover operations, and technical surveillance—candidates must pass the course to join the TCIU.[1529]

The curriculum for Afghan TCIU candidates was developed by HSI Kabul, the ICE Academy, and the Federal Law Enforcement Training Centers. It included instruction on "the U.S. and Afghan judicial systems, informant management, counter-proliferation investigative techniques, undercover operations, surveillance, illicit finance, counterfeit currency, smuggling investigations, defensive tactics, and cyber-crime." The program also taught the progression of an investigation, including investigative methods, interview techniques, evidence processing, and warrant execution.[1530] Instructors taught the investigative methods and processes used by HSI's criminal investigators. However, at least two foreign assistant prosecutors were required to accompany each class of trainees. These prosecutors provided instruction to both HSI instructors and visiting trainees on their country's legal systems, report writing style, and rules on the use of force. They also monitored the entire course and instructed the trainees on how to conduct the same investigative efforts in their own country under their existing laws.[1531]

In August 2013, the Ministry of Interior announced the creation of the Afghanistan Transnational Criminal Investigative Unit. It was the first HSI TCIU in Central Asia, and the 12th worldwide. Like other U.S.-mentored specialized police units, and in contrast to the majority of Afghanistan's illiterate and unprofessional ANP patrolmen, the TCIU was an elite law enforcement unit. All TCIU members were graduates of the Afghan National Police Academy, and had an average of five years of law enforcement experience and two years of formal police training.[1532] The memorandum of cooperation between HSI and the Afghan interior ministry required officers to serve a minimum of two years on the unit, with a recommended commitment of five years.[1533]

To join the unit, candidates had to pass a strict vetting process, which included a background check, a formal interview by a panel of HSI and Afghan interior ministry representatives, and a HSI-administered polygraph examination. TCIU members were also subject to recurring vetting at HSI's discretion, at least once every two years. Both Ministry of Interior and HSI personnel could remove a TCIU official for professional misconduct or unlawful behavior.[1534] Five of the original 26 Criminal Investigative Directorate investigators selected for the unit were removed for poor performance or loss of equipment before attending the international police training course in the United States.[1535]

As with DEA-mentored CNPA units and the FBI-mentored Major Crimes Task Force, the TCIU was trained and mentored by U.S. federal law enforcement officers with the requisite expertise. HSI Kabul was comprised of eight special agents, two intelligence research specialists, and two supervisors who provided daily mentoring and support—a 1-to-5 mentor-to-student ratio, considered a Federal Law Enforcement Training Centers security standard. Using DOD funding, HSI also provided six vehicles, investigative technical equipment, tactical uniforms, and laptops. The Ministry of Interior was responsible for paying salaries, operating funds for TCIU investigations, and providing weapons and ammunition. The TCIU also received assistance from other U.S. agencies, including training and funds from State's Bureau of Counterterrorism, State INL, the ICE Forensics Laboratory, the Embassy's Borders Office, ISAF, and DOD's Office of the Assistant Secretary of Defense—Counter Narcotics and Global Threats.[1536]

HSI mentorship and support enabled the TCIU (and other interior ministry components, such as the Investigative and Surveillance Unit and Counterterrorism Unit) to better enforce border security, to deny terrorists, narcotics traffickers, and insurgents illicit funding sources, and to increase revenue flows to the Afghan government.[1537] In a single year, the TCIU carried out 56 arrests, executed nine search warrants, made 1,506 seizures of various contraband, and completed 46 criminal investigations that were presented to the Attorney General's Office for prosecution.[1538] According to DHS personnel, such seizures and arrests were important not only because they removed dangerous material from the battlefield that could be used against civilians and coalition forces, but they also provided intelligence that could help identify smuggling networks and their tactics. The collected evidence could also be used to develop target packages to support Afghan government, ISAF and U.S. special forces operations.[1539]

As with DEA-mentored police units, the TCIU supported joint investigations with HSI Kabul Special Agents on cases that affected U.S. national security. On a number of occasions, the TCIU also shared narcotics trafficking intelligence with DEA-mentored Sensitive Investigative Unit.[1540]

Despite substantial training and advising by professional U.S. federal law enforcement agents, the TCIU faced challenges common to other Afghan special police units. First, the unit was too centralized: All operational decision-making was concentrated in the unit commander and the interior ministry's senior leadership. Subordinate leaders were not empowered to "maximize unit capabilities," which undermined the unit's effectiveness.[1541]

Second, the TCIU suffered from a lack of coordination and synchronization among all special police units. Aggravating this lack of coordination was the interior ministry's reluctance to co-locate the TCIU at Camp Falcon with the other vetted police units, due to the perception that Afghan units at the base were an extension of the U.S. government, not Afghan-led police units. Instead, TCIU officers operated out of two small offices at the interior ministry's criminal investigations division headquarters, which was not conducive to undercover work, informant handling, witness protection, and evidence handling and processing.[1542] The memorandum of cooperation between the interior ministry and HSI also required TCIU members to be located in "separate facilities away from their respective agency locations, based on the availability of funds."[1543]

Despite its successes, the TCIU—and its special police unit counterparts—struggled to sustain its capabilities in the aftermath of the U.S. military drawdown in 2014. The reduction in DOD protection and HSI personnel diminished HSI's access and the quality of mentorship provided to TCIU officers. Beginning in 2014, HSI Kabul transitioned from a tier-one mentorship model to a "tier-two engagement strategy"—or more traditional advise and assist—that involved two or three advisor engagements per week, a focus on key leader engagement and monitoring, and a shift to Ministry of Interior resources for sustainment. Beyond the reduction in senior civilian law enforcement advising, the transition to an Afghan-led TCIU was hampered by the absence of long-term operational funding.[1544]

AFP photo by Wakil Kohsar

CHAPTER 10

CONCLUSIONS

The collapse of the Afghan government and the Afghan National Defense and Security Forces in 2021 underscores the importance of establishing a trusted and effective police service in stabilizing post-conflict and fragile states. Without a trusted police service to enforce the nation's laws and protect its citizens, a country is at risk for instability and reverting back to conflict.

Yet for the United States and donor community, police assistance remains a weak link in developing a partner nation's security sector and rule of law. After 20 years and over $20 billion in U.S.-provided police assistance, the U.S. government failed to construct a capable national police force in Afghanistan. The Afghan National Police collapsed only months after the U.S. government announced the withdrawal of all military forces. In August, the Taliban took Kabul with no resistance from the Afghan National Defense and Security Forces, which included the ANP. Today, the Taliban are repeating Afghan history by establishing an overmilitarized public security force—one that uses centuries-old punishments while maintaining links to present-day terrorist groups.

The Taliban's first announcement of its official government cabinet named as its Minister of Interior a member of the FBI's Most Wanted List. Other high-ranking Taliban officials are known associates of al-Qaeda figures. Policing in Afghanistan has reverted back to lashing Afghan women in the streets and suspected extrajudicial killings of former

Afghan government officials and supporters of the former government. The future of international assistance to Afghanistan remains uncertain.

This study identified 11 key findings from U.S. and international police assistance since 2002.

1. In many ways, the United States' approach to police assistance in Afghanistan resembled failed efforts by the Soviet Union, other international donors, and former Afghan government administrations. All resulted in an overmilitarized police force incapable of protecting average citizens from internal and external threats.
2. Historically, Afghanistan has been fragmented by ethnic divisions and struggles among warlords. Police have always been perceived as the central government's heavy-handed enforcer and tax collector, not as protectors of the citizenry and maintainers of law and order. The design of the ANP failed to take into account that one of the first steps in reforming the police was to establish a new social contract between the police and the Afghan citizens which would outline the roles and responsibilities of the newly formed Afghan police in relation to society. It would also give that society a role in holding the new police force accountable for adhering to its new standards.
3. The civilian approach was based on the assumption that Afghanistan was a post-conflict state, which would allow for a long-term professional development program that would take years to reach fruition. In reality, security deteriorated quickly after 2005. Without adequate resources, the civilian agencies suffered from reduced freedom of movement and the lack of force protection capabilities required to operate in high-threat environments. For this reason, both the German and U.S. civilian approaches were too slow for the Afghan environment. Neither organization was able to provide consistent training in the field, a widely recognized best practice.
4. U.S. military-led police assistance resulted in an overmilitarized approach that prioritized training the police to engage in combat operations against the Taliban, at the expense of providing law enforcement and community policing. The U.S. military is not organized or prepared for foreign police assistance missions. It lacks an institutionalized mechanism to deploy technical experts in rule of law, law enforcement, and community policing. Instead, the U.S. military deployed soldiers with no experience in policing as police advisors.
5. The police are only one pillar of the overall criminal justice system. Yet police assistance programs were conducted independently from other donor-led programs focusing on two closely related pillars: developing courts and training prosecutors.
6. Afghan police commanders who were effective in combating the insurgency and were supported by large portions of the local population also engaged in criminal behavior: torture of detainees, corruption, and even extrajudicial killings. Police advisors faced a dilemma of how to balance U.S. short-term objectives of combating the insurgency with the long-term objectives of creating a legitimate and professional police force that respected human rights and the rule of law.
7. The establishment of hundreds of isolated police checkpoints provided the ANP the opportunity to prey upon the local population, and provided the Taliban-led

insurgency targets of opportunity. This resulted in an unsustainable number of Afghan police casualties and the loss of U.S.-provided equipment.

8. U.S. and NATO counterinsurgency doctrine discusses the importance of closing the gap between the local population and the government and increasing interaction between citizens and the police. However, absent reforms to the ANP, the counterinsurgency increased the opportunity for a predatory and corrupt police force to abuse local citizens. Locals increasingly opposed the Afghan police presence that followed successful counterinsurgency clearing operations.
9. The failure to create, resource, and integrate a national literacy campaign from the outset undermined the effectiveness of police assistance programs. Low literacy rates in host nations' populations are a major challenge confronting foreign police training efforts. Yet literacy training is often overlooked or is implemented after police have already been deployed. Illiterate police cannot perform basic law enforcement functions, such as writing reports, recording license plate numbers, and obtaining witness statements. Illiteracy among police also limits the amount and quality of evidence that can be used in prosecutions.
10. To address immediate security needs, U.S. police assistance initially prioritized rapidly increasing the quantity of police officers in the ANP over the quality and sustainability of police training. This resulted in poorly trained police being sent into communities. For example, DOD pushed to increase the ANP force strength from 62,000 to over 120,000 police today, while hastily deploying poorly trained local auxiliary forces to fight on the front lines.
11. A best practice for international police assistance is to embed advisors with the required technical expertise and ability to influence and teach as foreign police advisors within host nation police units. This approach was done successfully in Afghanistan with the deployment of DEA agents to support select units of the Counter Narcotics Police, FBI agents with the Major Crimes Task Force, and military special operations forces with the special tactical teams of the GCPSU.

CRIMINALITY, LAWLESSNESS, AND THE TERROR THREAT LIKELY TO CONTINUE, AS MANY CONTRIBUTING FACTORS REMAIN

Criminality was not merely a function of the Taliban-led insurgency, and will persist regardless of who controls the Afghan government. Crime levels have been steadily rising for years—most noticeably in Kabul, which for years had relatively low crime rates for a capital of an impoverished, war-torn nation. By 2020, however, crime was the biggest concern for residents of the city, where crime has not only expanded into previously safe central neighborhoods, but has become increasingly brazen and violent.[1545]

Poverty, High Unemployment Rates, and Other Socioeconomic Factors Fuel Lawlessness

High crime rates in Afghanistan are rooted in the same socioeconomic factors that plague many societies—poverty, high unemployment rates, and rapid population growth and urbanization. Afghanistan's already feeble economy was further devastated in 2020

by the COVID-19 pandemic. According to the World Bank, the poverty rate rose from 55 percent in 2019 to 72 percent in 2020, forcing two-thirds of Afghans to live on less than $1.90 a day. In addition, an estimated 37.9 percent of the population was unemployed in 2020, up from 23.9 percent from the previous year.[1546] According to aid agencies, nearly half of the population required humanitarian aid in 2021—almost six times the number of people as four years ago—in large part because of the health and socioeconomic strain created by the pandemic.[1547]

Yet while economic opportunities contract, Afghanistan's population grows larger. The population of Kabul has more than doubled since 2000; it is a city of about 6 million, designed for a fraction of that number.[1548] Young men, long overrepresented in Kabul, offer a ready supply of recruits for criminal groups.[1549] The same may be said for the rest of the country: Approximately 62 percent of the population is under 25 years old.[1550] According to a November 2018 international report, Afghan men constitute more than 80 percent of the workforce, and "there is a significantly lower rate of labor force participation in urban areas due to limited employment opportunities for women, youth, and the elderly."[1551] Youth unemployment, specifically, has been on the rise in Afghanistan. From 2019 to 2020, 25 percent of young men (ages 15 to 24) in urban areas were unemployed—a percentage that has risen during the COVID-19 crisis.[1552]

Explosive population growth has also increased competition over land and resources. In recent years, registered and undocumented Afghans living in Iran and Pakistan have faced growing hostility and pressure to go home. In 2016, Pakistan's concerted campaign of deportation threats and police abuse drove out an estimated 365,000 registered refugees and more than 200,000 undocumented Afghans in what Human Rights Watch called "the world's largest unlawful mass forced return of refugees in recent times."[1553] In 2020, nearly 860,000 Afghans returned from Iran, one-third of whom were deported—a record for undocumented migrants returning to an insecure environment.[1554] Europe, too, is increasingly closing its doors to Afghan asylum seekers.[1555]

Indeed, land disputes—a primary driver of violent conflict among Afghans—will remain a dominant feature in Afghanistan.[1556] In 2013, a former UN Development Programme advisor to Afghanistan's minister of rural rehabilitation and development called land disputes "the next big conflict in Afghanistan," and a "really unmanageable" one, too.[1557] These risks will not diminish until the current Afghan government establishes a comprehensive national land titling program, reforms its land administration system to recognize customary and communal ownership, and develops a strong enforcement capability—long-term goals even in a relatively secure environment.[1558]

In its 2019 country report on human rights, State documented the persistence of land grabbing—the illicit occupation or sale of state or private land by powerful officials of the former Afghan government, local powerbrokers, or armed groups in exchange for profit or patronage.[1559] The international military drawdown in Afghanistan has left behind "a legacy of land disputes" between landowners and the state, according to the *New York Times*. As the U.S.-led coalition withdrew from the last of its estimated 1,000

military installations across the country, many of the bases were transferred to Afghan security forces—not returned to the local villagers whose property was occupied, often without compensation. Villagers who made temporary lease agreements with coalition forces remain vulnerable to land-grabbing by the local strongmen who brokered these deals.[1560]

Unquestionably, organized crime groups and common criminals will be emboldened by the absence of international troops. In fact, insurgent violence has long camouflaged private feuds between rival tribal or ethnic factions. In postwar Afghanistan, such targeted killings will continue, but will likely be disguised as criminally motivated attacks or, increasingly, police violence.

Narcotics trafficking and drug-related criminality will persist, if not expand, as Afghanistan remains the world's largest opium producer and exporter—and may soon dominate the global methamphetamine market. Afghanistan is also an increasingly important narcotics consumer, evident in the growing rates of domestic drug abuse, especially among women and children. In 2015, an estimated 10 percent of the population identified as drug addicts; the number is likely far greater today. Drug addiction not only directly motivates criminal behavior, such as theft or selling children into marriage, but also contributes to crime by dragging families into vicious cycles of unemployment and poverty. A senior UN Office on Drugs and Crime program officer has warned that drug addiction "will pull down, today or tomorrow, the entire economy."[1561]

LESSONS

Our examination of the U.S. and international police assistance mission in Afghanistan from 2001 until present has distilled 10 lessons.

1. **The U.S. and donor community lack an expeditionary police assistance capability with sufficient numbers of qualified and trained police assistance experts required for most stabilization and reconstruction missions in nations suffering from high levels of violence.**

   Foreign police assistance is often a civilian-led task, but civilian agencies lack the force protection and mobility to operate in areas where there is significant violence, and most civilian-led agencies do not have a cadre of experts on standby who can rapidly deploy. In the United States, offices responsible or foreign police assistance at State and DOJ lack the government staffing required to execute and oversee large-scale police assistance programs, and therefore rely heavily on contractors. This means that in high-threat environments that require a lot of resources, the military is likely to be asked to assume a lead role.

   Yet the United States military, like most foreign militaries, lacks the technical expertise to develop a civilian police force and associated ministries. Since military

advisors are likely to train the police on what they know best, which is military tactics, this increases the risk of overly militarizing the host nation's police.

The United States could consider using its relationships with allies who have unique police assistance capability. Some European countries have police forces with military status, known as gendarmeries. Although gendarmeries provide a unique capability better suited for high threat environments, they are also responsible for core police tasks in their home country. This also means that the supply of deployable cadres of advisors from gendarmerie forces is therefore limited.

The United Nations, European Union, and NATO have developed doctrine and policies for "stability police" tasks—police assistance tailored for post-conflict environments. This capability is in its infancy within NATO, and so far alliance members have not agreed to authorize creating this capability. These capabilities are widely unknown to many military and civilian officials in the United States, which has also contributed to it being underutilized.

2. **Predeployment training and education for international police advisors should include an understanding of a host nation's legal traditions, the historical relationship between police and populace, the extent of police corruption, the command and control organization of the host nation's police forces, frameworks to hold the police accountable to the rule of law, and the host nation's policy and planning documents for police operations.**

   International advisors who are familiar with the history and current practices of the host nation's police forces and their governing institutions will be better equipped to advocate for training and reforms that align with the host nation's needs. This knowledge will also help advisors avoid interjecting police concepts that may run counter to the host nation's criminal justice system—as, for example, when U.S. advisors tried to import common law concepts to Afghanistan, where the legal system is based on civil law traditions entwined with religious and customary law.

3. **Country-wide stabilization and reconstruction assistance plans should include police assistance programs and strategies across the spectrum of security, governance, and rule of law programming.**

   Many U.S. plans for foreign assistance, stabilization, and reconstruction often divide tasks along various lines of operation: security, governance, development, and rule of law. Police assistance, however, cuts across all of those lines of effort, and programs should include elements of each. The ultimate security goal for post-conflict nations is to improve security to the point that police are the primary security actor, the most visible day-to-day symbol of government presence. As the first and most active pillar of a nation's criminal justice system, the role of the police is to investigate and deter criminality, which is key to establishing a nation's

rule of law. If the police are seen as corrupt or predatory, that perception will transfer to perceptions of the government as a whole.

Unfortunately, in stabilization and counterinsurgency operations, police are often stuck within the security pillar, with little or no cross-cutting programming related to developing effective governance or implementing the rule of law. Even within the security pillar, as seen in Afghanistan, police assistance is viewed as secondary to developing military capabilities, despite the key role police forces play in stabilizing countries currently involved or emerging from conflict. This is likely to occur when the U.S. military assumes the primary responsibility for police assistance.

4. **To effectively reform a host nation's criminal justice sector, police assistance programs must be coordinated and developed simultaneously with the other pillars of the justice sector, such as courts and prisons.**

The police function exists within a justice ecosystem that includes the legal system, the prosecutorial and judicial system, and the corrections system—as well as a country's underlying legal philosophy and traditions. Without a stable and fair legal system backing them, police are ultimately powerless to enforce the rule of law. With an underdeveloped justice system to hold them accountable, police may engage in predatory behaviors. With an unreformed prison system, arrested suspects can use political connections or bribes to obtain pre-trail release from custody. With a corrupt court system, defendants can escape justice by bribing the judge. Even reformed and well-intentioned police officers will struggle to provide effective law enforcement if the other parts of the justice ecosystem remain underdeveloped or corrupt.

Improving working relationships between the various entities—police, prisons, and courts—is a crucial part of improving the entire justice sector, which requires integrating police assistance with international assistance plans. In Afghanistan, international police advisors were usually left out of programs or activities related to the other pillars of the justice system—and those advisors usually also failed to include other actors in activities related to police development. This fractured approach had an adverse impact on justice in Afghanistan, since the basic task of investigating crimes requires close coordination between the investigating prosecutor and the police.

In rare instances, the United States and the donor community did develop comprehensive criminal justice development programs in Afghanistan. The U.S. and donor community created the Counter Narcotics Justice Center, a specialized narcotics court that was supported by a dedicated group of vetted prosecutors and police units. This enabled the various criminal justice elements targeting the narcotics trade to work closely with each other, resulting in a high conviction rate. This approach was mirrored in the creation of the Anti-Corruption Justice Center, which established a close professional relationship between judges, prosecutors,

and members of the Major Crimes Task Force. This alternative approach was successful in creating a more comprehensive and professional approach to narcotics and major corruption investigations.

5. **Embedding U.S. and international advisors with the required technical expertise for an extended period of time improves the effectiveness of police assistance programs.**

   International police assistance programs range from ad hoc and infrequent drop-in engagements with host nation police units to actually living, working and sleeping in close proximity to their host nation counterparts. The latter has proven to be the best way of improving the advisor's situational awareness, oversight of reforms, and his or her ability to assess the progress of police units. Embedding also improves rapport and trust with the advisor's host nation counterparts, and reduces the risk of corruption and predatory behavior. For units involved in high-profile cases, embedded advisors can also help shield police from political interference.

   Many police assistance missions do not embed due to concerns about insider attacks. Yet many advisors who have embedded believe that doing so was key to the police unit's professional development and the overall success of the police assistance mission. In Afghanistan, units that benefited from an enduring embedded relationship with international police advisors became the most capable and trusted of the Afghan police units.

   High rates of advisor turnover and poor coordination between advisors undercut the effectiveness of police assistance programs. U.S. and international police advisors were routinely deployed to Afghanistan for tours of a year or less, and frequently had little to no contact with their predecessors or successors, making smooth transitions impossible. Advisors have said repeatedly that these issues undermined their effectiveness by creating large gaps in institutional memory, unpredictable shifts in the priorities of police assistance programs, and advisor fatigue and distrust on the parts of their Afghan counterparts. New advisors typically have to spend several months building trust and rapport with their counterparts before they can be effective, meaning that advisors on short tours often had only about six to nine months of effective advising time available. Advisors deployed to Afghanistan for longer periods, typically those working with specialized Afghan police units, frequently cited their extended presence and the relationships that it built as major drivers of the success of their advising efforts.

6. **Police assistance missions that require new recruitment and training of a large majority of its force should include a field advising component from the outset to reinforce core training concepts, provide oversight to ensure new police are enforcing the rule of law, and to make sure that what is taught in the classroom is put into practice in the field.**

Field advising—providing on-the-job training following initial basic training—has been a widely recognized best practice for international police assistance missions for over two decades. Field advising allows the international police assistance organization to ensure that police are providing proper law enforcement in the communities and to ensure reforms are being implemented throughout the command structure of the police. Field training and monitoring was an integral feature of international police missions in Panama, Haiti, and the Balkans. Such programs enable international advisors to evaluate whether newly trained officers are applying their training to reform their local environment, or are simply being reabsorbed into the same unstructured and corrupt structure. From 2002 to 2005, however, neither Germany nor the United States instituted any comprehensive program to monitor recent Afghan police graduates.

When DOD assumed the lead for police assistance in Afghanistan, the U.S. military deployed field advising teams to mentor and train existing and newly formed police units. Although the U.S. military was able to deploy nationwide, it still struggled to staff the field advising units with the required personnel. As a result, the U.S. military was unable to advise Afghan police units on a regular and consistent basis. In Afghanistan, the absence of regular and consistent post-training visibility led many Afghan officers to revert to previous predatory behavior.

7. **In countries that suffer from government corruption and political interference in police activities, a sustained international police assistance mission can make it easier for the police to investigate politically sensitive crimes such as official corruption and organized crime. Corrupt officials may be less likely to interfere in an investigation that is conducted under international oversight.**

   Vetting and monitoring by international mentors, including through polygraphs, can reduce corruption within a partnered police force, as demonstrated by U.S. efforts with the Counter Narcotics Police of Afghanistan and the Major Crimes Task Force. However, even police units relatively free of corruption are vulnerable to undue outside influence from prosecutors, judges, politicians, and high-ranking officers. In high-profile cases, sustained political pressure, sometimes from the highest levels of the U.S. government, is required to make sure these vetted police units are allowed to do their jobs, and to ensure that criminals are arrested, tried and convicted. Without this sustained pressure on their behalf, corruption-free units are likely to go the way of the Major Crimes Task Force: competent, but ultimately powerless.

8. **Counterinsurgency doctrine calls for greater contact between the police and the populace, but if the police are predatory or corrupt, this increased contact can undermine government legitimacy and contribute to the insurgent cause.**

According to U.S. military doctrine, a host nation's police force is often the face of the government at the subnational level, on the front line of any counterinsurgency campaign. The ultimate goal for these missions is to establish "police primacy"—meaning that the police, not the military, are providing security. But when police are corrupt or rapacious, placing them in increased contact with the populace actually does the opposite, creating grievances that may be exploited by the insurgents. In Afghanistan, many Afghans sought to distance themselves from the Afghan police forces. When forced to engage via joint U.S.-Afghan operations, local Afghans often opposed the redeployment of police forces near their district or village. The Taliban exploited this dynamic by targeting Afghan police units or by providing "protection" to a village from the Afghan police units located nearby.

9. Counterinsurgency and stabilization missions require the various security forces to be distinguished between those responsible for fighting the insurgents and those responsible for community policing and enforcing the rule of law.

In the midst of a violent conflict, clear roles and responsibilities among the various security forces are often blurred, and police can become militarized for their own survival. The Afghan government, in coordination with the donor community, developed strategic plans that outlined the various roles of each security force. In theory, the military was responsible for clearing operations against the Taliban; the gendarmerie—the Afghan Civil Order Police—was responsible for providing public security as a police unit in high-threat environments; and the uniformed civilian police were responsible for providing law enforcement in more stable environments. In reality, these lines were blurred, and all elements of the security forces engaged in combating the insurgents in high threat areas. As a result, the uniformed civilian police became overly militarized, which hampered them in addressing the needs of Afghan civilians facing threats from non-insurgent related criminals. Ordinary crime often went unaddressed. Security assistance planning must include a way to transition overly militarized police to an appropriate civilian role as hostilities decrease.

10. International police advisors may face a moral dilemma when advisors are asked to support a police official who holds an official government position, but who is also a militia or factional leader who does not adhere to international human rights standards or uphold the nation's rule of law. Without clear guidance from senior leaders, international advisors must ensure that international assistance does not reinforce behaviors that run counter to international standards.

International police assistance that does not hold partner forces accountable for abiding by international norms will be perceived as emboldening and supporting those practices. For over a decade, U.S. financial support to the Afghan police had no conditions, creating a culture of impunity. In part of Afghanistan, militia

leaders—supported by the local populace for enforcing strict justice but also known to be human rights abusers—rose to prominent positions in the Afghan police forces. Based on the importance of these officials to the stability of Afghanistan and the fight against the Taliban, DOD often sought waivers or workarounds to continue providing international assistance, despite known violations of international standards. Although international police advisors must demonstrate flexibility in adapting the police assistance activities to match the local environment, these advisors must maintain adherence to international police standards related to human rights, due process, and opposition to coerced statements.

RECOMMENDATIONS

Based on these lessons, we have identified 10 recommendations designed to improve the efficiency and effectiveness of U.S. foreign police assistance in future post-conflict and fragile states.

Deficiencies in U.S. and international police assistance stem from several factors: a complex legislative framework, the lack of ownership among the executive branch agencies for developing core policing capabilities in fragile and post-conflict nations, limited staffing of trained police development experts, and shortage of an assessment, monitoring and evaluation tool to improve program oversight. These deficiencies have been recognized for decades, but legislation, congressionally mandated commissions, and presidential directives have had limited impact.

The U.S. approach to police assistance programs needs an overhaul, and that will require mutually reinforcing action by the legislative and executive branches. The section below provides recommendations for each of the various actors. Although the implementation of recommendations by even one actor might be an improvement, in itself it will not be transformative.

Matters of Consideration for the Congress:

1. **The Congress may wish to consider passing legislation to reform the U.S. government's approach to foreign police assistance. This legislation would clarify roles and responsibilities of the multiple executive branch agencies engaged in assisting police forces in fragile and post-conflict states, mandate the use of monitoring and evaluation systems, and require professional training for all police assistance personnel.**

   In 2017, the Congress passed legislation aimed at reforming DOD's approach to security cooperation. The 2017 legislation contained several provisions to improve the efficiency and effectiveness of the U.S. government's approach to security cooperation. It required the Secretary of Defense to establish an assessment, monitoring, and evaluation program for security cooperation programs and to

establish a continuing professional education program for the security cooperation workforce. It also required DOD to submit annual reports on the use of its security cooperation authorities.[1562] A similar legislation aimed at reforming the civilian agencies' approach to foreign police assistance would be valuable.

2. **The Congress may wish to consider reviewing Section 660 of the Foreign Assistance Act, an amendment passed in 1974 prohibiting foreign police training abroad except by special waivers, to determine its applicability today, based on the current U.S. approach to international assistance.**

Section 660 of the Foreign Assistance Act was enacted in 1974 in response to allegations that USAID's Office of Public Safety provided training and equipment to Vietnamese police forces accused of human rights violations. In the ensuing four decades, the Congress has created numerous exceptions to Section 660 restrictions. One exception was in 1986, when the Congress created the International Criminal Investigative Training Assistance Program, housed within Justice's criminal division. Initially, ICITAP's mission was to develop criminal investigative capabilities in Latin America.[1563] Today, it has 134 trainers and technical advisors overseas. Its members are attached to 17 field offices at U.S. embassies, and it has funded programs in 34 countries. Other exemptions include reconstituting civilian police authority in post-conflict countries of a nation emerging from instability, maritime law enforcement, improving customs laws, and police forces in the Eastern Caribbean.[1564]

Recommendations for Executive Branch Agencies:

3. **The Secretaries of State and Defense and the U.S. Attorney General should review agency budgets to ensure that those departments responsible for foreign police assistance receive the required funding to staff their departments with the appropriate numbers of program managers, technical experts, and monitoring and evaluation professionals.**

Civilian agencies responsible for foreign police assistance are significantly understaffed for the mission they are required to perform. Despite the growth of international police assistance missions overseas since 2001, the Departments of State and Justice have not expanded their staffing and internal budgets for those bureaus and divisions responsible for overseeing these programs. This has created an overreliance on contractors to implement police assistance programs in Afghanistan.

4. **The Secretary of State should create an organization responsible for foreign police assistance that focuses on developing core police capabilities in fragile and post-conflict states. Currently, State's lead organization for foreign police assistance, the Bureau of International Narcotics and Law Enforcement Affairs, focuses primarily on developing specific investigative components like counternarcotics units, with less institutional expertise**

and focus on developing the core policing tasks required in most police reconstruction and reform missions.

There is currently no bureau at State with a core mission to develop community-based policing capabilities to help stabilize fragile states. Instead, community-based police development programs are overseen by the INL, where the shortage of law enforcement experts on staff has hindered its performance as the lead agency for international police assistance. INL's internal mismanagement was documented in a 2005 inspection report by State's inspector general's office, which described INL as an "embattled" bureau struggling to meet the pressing demands of its new high-priority programs in Afghanistan and Iraq. Before the United States embarked on its latest wars, INL managed a modest portfolio focusing on counternarcotics initiatives in Latin America. In 1996, the bureau had 75 permanent staff managing programs totaling $115 million dollars. By 2004, its 125 permanent staff were now responsible for $2.2 billion dollars—a 17-fold increase. Today, INL still lacks a dedicated unit focused on developing community-based policing capabilities.

5. **The Secretary of State should instruct INL, or the new organization created based on our recommendation above, to include, as part of its initial program design phase, assessments of critical components of the target nation's police force. This includes the history of police, legal system and traditions, the nature of criminality in the county, levels of corruption in the criminal justice system, existing accountability mechanisms, the level of transparency within the police service, previous training received, and institutional capacities and state of current policing capabilities.**

   At the beginning of any foreign police assistance mission, INL should deploy a cadre of police assistance professionals with expertise in law enforcement, community policing, institutional capacity building, and criminal justice reform to provide a baseline assessment of the host nation's current capabilities and future requirements related to training and reforms. This team should consist of personnel from DOJ, the Drug Enforcement Administration, the Department of Homeland Security, the FBI, and DOD. At a minimum, the initial assessment should document the current structure of the host nation's police forces and examine its legal traditions. It should also assess current levels of corruption with the police force, the nature of crime in the country, and challenges the host nation faces with implementing effective and efficient justice.

6. **The Secretary of State should direct INL, or the new organization created based on our recommendation above, to coordinate all police assistance activities with the DOJ's International Criminal Investigative Training Assistance Program and other foreign police assistance key stakeholders (such as the Drug Enforcement Administration, the U.S. Customs and Border Protection, the U.S. Marshals Service, the Department of Homeland Security, and the FBI) to ensure the United States is providing a whole-of-government**

solution tailored to the targeted nation's policing requirements.

There are several federal agencies with responsibilities for developing foreign police capabilities. Some agencies, like DEA and U.S. Customs and Border Protection, are focused on specific law enforcement functions, while others, such as ICITAP, are focused on developing institutional capacities within foreign police units. All of these agencies rely heavily on State for funding and authority for overseas operations. As the focal point for foreign police assistance, INL should be responsible for coordinating and synchronizing the various efforts by each of the agencies into a single comprehensive plan. Without a comprehensive long-term police assistance strategy, agencies will engage in individual activities that may not be aligned with other U.S. government efforts, programs will suffer from lack of long-term funding, and some agencies may be left out of the process altogether.

Following the initial assessment, an initial design plan should be developed by experts in the areas in which the U.S. plans to target its assistance mission. Using a whole-of-government approach, this plan should clearly define the mission scope and identify which U.S. executive branch agencies are best suited to assume responsibility for key mission requirements (such as assigning DEA the lead for counternarcotics training). The budget requests should identify how U.S. congressional appropriations will be used to fund the various interagency partners responsible for implementing police assistance programs. The initial design plan should also outline program milestones to measure progress

7. **The Secretary of State should direct INL, or the new organization created based on our recommendation above, to coordinate all foreign police assistance activities with international partners also engaged in police assistance activities in the same country. INL should ensure that police assistance programs in a specific country are mutually reinforcing.**

Since the United States does not have a police assistance capability that can rapidly deploy to stabilize fragile or post-conflict states or robust enough to address the requirements to reconstruct a foreign police force from scratch, INL should establish close relationships with ally nations and international organizations that have a specialization in police assistance. The UN and the European Union have standing police assistance capabilities, while the European Gendarmerie Force and NATO have unique police assistance capabilities within the gendarmerie units which increase their ability to operate in high-threat environments. Countries like Italy have a readily available police assistance capability within its 2nd brigade of the Carabinieri. Each of these organizations and countries deployed to Afghanistan, yet the coordination among the various entities varied. At times, the military-led NATO and the civilian-led European Union police assistance program prioritized different capabilities within the ANP.

8. **The Secretary of State should create a fully resourced assessment, monitoring, and evaluation unit responsible for evaluating the efficiency and effectiveness of U.S. foreign police assistance activities. State should partner with other U.S. government agencies responsible for police assistance programs (such as ICITAP, DEA, the Department of Homeland Security, and U.S. Customs and Border Protection) to develop universally accepted measures of effectiveness and performance to evaluate foreign police assistance programs.**

   In Afghanistan, performance evaluations of foreign police assistance programs were mostly conducted through contract reviews (since most police assistance activities are completed by contractors) or through performance metrics used by DOD to assess the Afghan National Army. The United States does not have well-defined metrics for evaluating foreign police assistance. Performance metrics for police assistance missions should include crime rates, public calls for assistance and police response times, arrest and clearance rates, and population surveys that assess the public view of police action and its impact on security.

   During stabilization operations, freedom of movement for civilian personnel is restricted. The Secretary of Defense should develop a rapidly deployable capability that can provide transitional police assistance activities during the early period of U.S. intervention in fragile and post-conflict countries where military forces operate, but civilian police experts have yet to deploy. Law enforcement professionals within the military should be responsible for this assignment and should provide training only on basic policing tasks, crowd control, public order, and patrolling. They should also plan a quick transfer to civilian-led agencies once they deploy. This deployable military police capability will fill the security gap, stabilizing the environment until civilian actors can take over.

   Former ambassador Neumann has recommended moving the monitoring and evaluation of security forces outside of the military chain of command. Instead, he suggested, interagency teams comprising State, CIA, DOD, and other civilian personnel with basic language skills should independently monitor and evaluate police effectiveness, and should remain in country for longer than one-year tours.[1565]

9. **The Secretary of Defense should develop a capability that can quickly identify and deploy soldiers with civilian police expertise. These capabilities are traditionally found in the U.S. Army Reserve and Army National Guard, where soldiers often possess unique civilian skills, such as serving in a U.S. law enforcement agency or as a police officer.**

Although the U.S. military does not have the required authorities and institutionalized role in foreign police assistance, it has been involved for the last 20 years in police assistance missions in post-conflict states. Because the military can move freely through moderate- to high-threat environments, it may be called upon again to engage in police assistance activities. Yet since the U.S. military does not consider police assistance as a core task, staffing for these assignments are often based upon what military officer or unit is up for its next deployment. As a result, soldiers with no police experience or expertise are often assigned to the mission.

During the transition from warfighting to stabilization, the U.S. military should leverage the civilian law enforcement expertise to be found in reservists and members of the National Guard. This expertise, not usually found in the active duty ranks, represents a potential resource for police development missions, but it is not tracked in existing personnel data systems. The U.S. military would benefit from personnel management reforms that can rapidly identify civilian skill sets within the military components.

Another method for identifying and organizing civilian law enforcement experience could be through reorganizing the U.S. Army Reserve Security Force Assistance Brigade to focus on foreign police assistance. These brigades are the U.S. military's effort to form units specifically for training, advising and assisting partner forces. Although most deploy as units of up to 800 members to partner with foreign military forces, the reservist Security Force Assistance Brigade can be structured to deploy in 10- to 12-member teams to support its active duty counterpart. This would allow the U.S. military to provide tailored and comprehensive security assistance to the full spectrum of a host nation's security forces.

10. The Secretary of Defense, in coordination with the Secretary of State and the U.S. Attorney General, should staff INL and ICITAP liaison officers within each of the geographic combatant command's policy, plans, and operations staff. This will allow foreign police assistance expertise to become part of initial contingency planning decisions, to better prepare the U.S. government for "golden hour" operations and to coordinate when police advisors will need to be deployed.

Since the U.S. military is often the primary tool for the U.S. government to stabilize conflict zones, most early operational planning occurs at the combatant command level. Because the initial mission is often a military-led operation, planning for post stabilization civilian-led activities are often an afterthought. Embedding liaison officers from the police assistance offices will allow civilian agencies to have early input into the critical requirement to deploy civilian police experts and establish rule of law. Input from ICITAP and INL personnel could include drafting police assistance sections for security cooperation plans.


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APPENDIX A: DRAFT RECOMMENDATIONS TO IMPROVE POLICING IN AFGHANISTAN (PRE-WITHDRAWAL)

Matters of Consideration for the Afghan Government:

1. **The Minister of Interior should consider realigning the ANP's nationwide force posture to comply with long-standing Ministry of Interior planning documents outlining the roles and responsibilities for various police units. According to these plans, the Afghan Uniform Police should be stationed in low-threat environments. As it is, the Afghan Uniform Police continue to operate from remote checkpoints in violent districts where they continue to suffer from high casualties. The Afghan government should consider recreating a national gendarmerie force—trained in police tasks but operate with military status—to assume the lead role in policing high threat environments.**

   Longstanding Ministry of Interior strategy defines the roles and responsibilities of each of the ANP units. Before its disbandment, the gendarmerie force, the Afghan National Civil Order Police, was responsible for public security in high-threat areas not ready for community police activities. Ministry of Interior documents note that the civilian Afghan Uniform Police is ill-suited to police contested or high threat territories and instead should focus on policing permissive environment where core policing tasks can be accomplished. However, the Afghan Uniform Police operated checkpoints in high-threat territories. The Ministry of Interior and the ANP are unable to provided tailored police tasks in many of the contested territories.

   The ministry should move Afghan Uniform Police to secured territories, then retrain and equip the ANP assigned to high-threat environments with the force protection capabilities and military equipment it needs to survive. Even with these advanced military capabilities, the ANP in these environments should continue to focus on core police tasks, such as the collection and preservation of evidence, and leave military operations to the Afghan National Army. The role of the police in high-threat environments should resemble the role of many European gendarmeries.

2. **The Minister of Interior should consider abiding by the checkpoint reduction strategy. This will reduce targets of convenience for the Taliban and criminal networks that has resulted in unsustainable casualties and thefts of equipment, and also will remove an avenue for corrupt Afghan National Police officers to prey on the local population.**

The majority of the ANP occupy a dispersed network of isolated checkpoints within Afghanistan. Checkpoints were often created as a symbol of government control or to create a perception of security. However, these checkpoints have become a primary target for Taliban attacks. Because they are staffed with lightly equipped police who may not have received government assistance (such as food, water, or pay) for days or weeks at a time, ANP occupying these checkpoints are often unable to resist the Taliban's offensive attacks. The ANP either retreat or suffer high casualties. Police have also used checkpoints to engage in criminal activities such as extortion and theft, undermining local support for the Afghan government. The ministry should consider dramatically reducing these checkpoints and instead establishing a robust police presence at police stations and headquarter units in secure environments where the need for law enforcement remains high but the threat of insurgent attacks is reduced.

3. **The Minister of Interior should consider establishing a national law enforcement hub for counterterrorism cooperation that brings together the Afghan Uniform and Border Police, the Crisis Response Unit 222, the National Directorate of Security and other relevant units tasked with investigating, detaining, or prosecuting terrorist suspects.**

Afghan law enforcement and intelligence units are on the frontlines of responding to, and investigating, terrorist incidents in Afghanistan. These range from the elite Kabul-based anti-terrorism police unit, the Crisis Response Unit 222, to patrolmen operating checkpoints at the district level. Inadequate mechanisms for information-sharing and cooperation among Afghan National Police units and the National Directorate of Security hinder the effective investigation, prosecution, and arrest of terrorists. As two decades of international police assistance have shown, a similar lack of cooperation among donors also undermines the development of effective law enforcement units and their capacity to enforce the rule of law.

The Afghan Ministry of Interior should create a combined hub for law enforcement cooperation—akin to the U.S. National Counterterrorism Center—that brings together these various units. A combined hub would consolidate diverse expertise, allow units to work joint cases, and facilitate the sharing of law enforcement reporting, intelligence assessments, and investigative techniques. International donors will be able to concentrate technical support, capacity-building, case development advising, and sharing of investigative leads and intelligence into this single hub, enabling more effective oversight of funds and programming. Past failures in police assistance—such as siloed lines of efforts, uneven resource allocation, and conflicting strategic guidance—will be minimized by this proposed mechanism.

Afghanistan-Specific Recommendations for U.S. Government Agencies:

4. **The Secretary of State should direct the Bureau of Counterterrorism to partner with the FBI and the Afghan National Police to establish a Joint Terrorism Task Force for Afghanistan.**

   In February 2020, the State Department and the FBI partnered with the government of Kenya to create the first Joint Terrorism Task Force to be located outside the United States. Joint Terrorism Task Force – Kenya investigators receive counterterrorism training and mentoring from FBI agents, including training to handle sensitive intelligence that U.S. law enforcement personnel share with the Kenyan government. According to a DOJ indictment from December 2020, the JTTF-K assisted international partners in the capture and extradition to the United States of a Kenyan al Shabaab operative who had been planning a 9/11-style attack on a major U.S. city.

5. **The Secretary of State should direct INL to develop a transition plan for assuming a lead role in foreign police assistance following the withdrawal of the U.S. military.**

   Current Biden administration policy has directed the U.S. military to draw down forces by September 2021. Since State is traditionally the lead for foreign police assistance, and since DOD did transfer police responsibilities back to State in Iraq, State and DOD would benefit from planning for a similar transfer in Afghanistan. One step in this process should be a lessons learned conference with senior U.S. military and civilian officials responsible for the transfer in Iraq, to learn what worked well and what did not. A transition plan will then serve as a working document that can be updated and modified, based on changes to U.S. policy and U.S. force posture in Afghanistan.

   The 2005 transfer of police assistance in Afghanistan from State to DOD was managed poorly, according to a Government Accountability Office audit: The transfer of a large contract for civilian police advisors took six years to complete. In Iraq, INL reassumed responsibility police development from DOD in 2011. The Special Inspector General for Iraq Reconstruction found that, despite two years in which to plan for the transition, INL lacked any comprehensive plan or useful metrics. DOD and INL should coordinate to ensure that the future transition of responsibilities is effective.

   U.S. allies have unique police assistance capabilities that INL should leverage to provide a comprehensive international police assistance strategy. Germany has a longstanding relationship with the Afghan police; Turkey, as a Muslim country with strong roots in Afghanistan, has the capability to continue its international police assistance mission beyond the withdrawal of NATO operations; Italy and Romania have gendarmerie forces that have actively supported the U.S. efforts for decades in Afghanistan and Iraq. INL should deconflict its plans with these key donors (and others) to ensure that the U.S. plan

supports the efforts of other donor programs, and that conflicts are resolved before the start of any future police assistance mission. As the NATO mission ends, and the various police assistance activities transfer from an international coalition to individual embassies, the donor community will become even more important to the success of the mission.

6. **The Secretary of State should direct INL to identify what police assistance programs are at risk following the drawdown of U.S. and international forces. INL should identify what police assistance programs and activities are dependent on continued international assistance and identify the risks associated with not continuing assistance to those activities.**

   In Afghanistan, police capabilities often regressed when the international police assistance presence and associated funding diminished. As the U.S. military footprint shrinks, the ability of some police assistance programs will be curtailed even further. DOD and State should identify these dependencies and the risks associated with a loss in Afghan police capabilities in order to effectively plan future police assistance activities.

7. **The Secretary of State should condition future police assistance on the Afghan government's willingness to aggressively investigate corruption and prosecute offenders within the Ministry of Interior and the ANP.**

   Corruption within the ANP and Ministry of Interior has been prevalent over the past 18 years. In 2018, Afghan President Ashraf Ghani described the Afghan Ministry of Interior as the most corrupt ministry in Afghanistan. Police corruption depletes popular support for the government and the criminal justice system, and also damages the effectiveness of donor assistance. Without a serious effort to hold Afghan police accountable for corrupt and criminal behavior, future police assistance money is likely to be wasted.

8. **The Secretary of State should direct INL to continue to provide international assistance to the development and oversight of key Ministry of Interior governing functions required to sustain the force. These include human resource management, logistics, and sustainment of equipment.**

   The ministry's ability to continue providing key governing functions to ANP units is required to keep the ANP functional after the withdrawal of U.S. and international forces. It needs to continue recruiting, training and paying ANP personnel, provide ANP units with the necessary food, water, ammunition, and medical support, and maintenance, and to repair ANP vehicles and equipment. Without these core functions, ANP units will be unable to maintain its ability to operate, and attrition and corruption will likely increase. The NATO-led Resolute Support Mission had dozens of advisors dedicated daily developing Ministry of Interior governance capacity. INL will need to deploy experts in security sector governance to take over many of these tasks.

APPENDIX B: UNDERSTANDING CRIME AND JUSTICE IN AFGHANISTAN

Afghanistan's pluralist legal system

Afghanistan's pluralist legal system is an amalgamation of Islamic law (Sharia), customary law, and statutory law (see Figure 3). According to Islamic clerics, Sharia is fixed and universally applicable to all times and places. It rejects innovation as illegitimate. Customary law, on the other hand, is an oral tradition rooted in local values that can and do change.[1566]

Although customary law is not strictly based on Sharia, it is "steeped in what are perceived as deeply Islamic norms and practices." The two systems, while distinct, are commonly and sometimes deliberately conflated. This blurring of legal traditions stems in part from the fact that, in the words of Islamic law scholar Hamid Khan, "most local religious leaders resort directly to personal interpretations of the Koran" instead of the body of religious law compiled over centuries—a practice that amounts to a kind of "folk Sharia." At times, tribal leaders deliberately conflate customary and Sharia law as a way of cloaking local customs with the authority of Islam.[1567]

Moreover, rural Afghanistan's "deserved reputation for its adherence to Islam" promotes the impression, particularly among non-Afghans, that customary and religious law are one and the same. In reality, they often conflict. Islamic law is routinely limited or ignored in informal dispute resolution in deference to local tradition and, sometimes, as a means to maintain patriarchal and tribal authority. At the same time, Afghanistan's Islamic clergy have long used their influence to impose Sharia interpretations over customary law as a way of bolstering their authority.[1568]

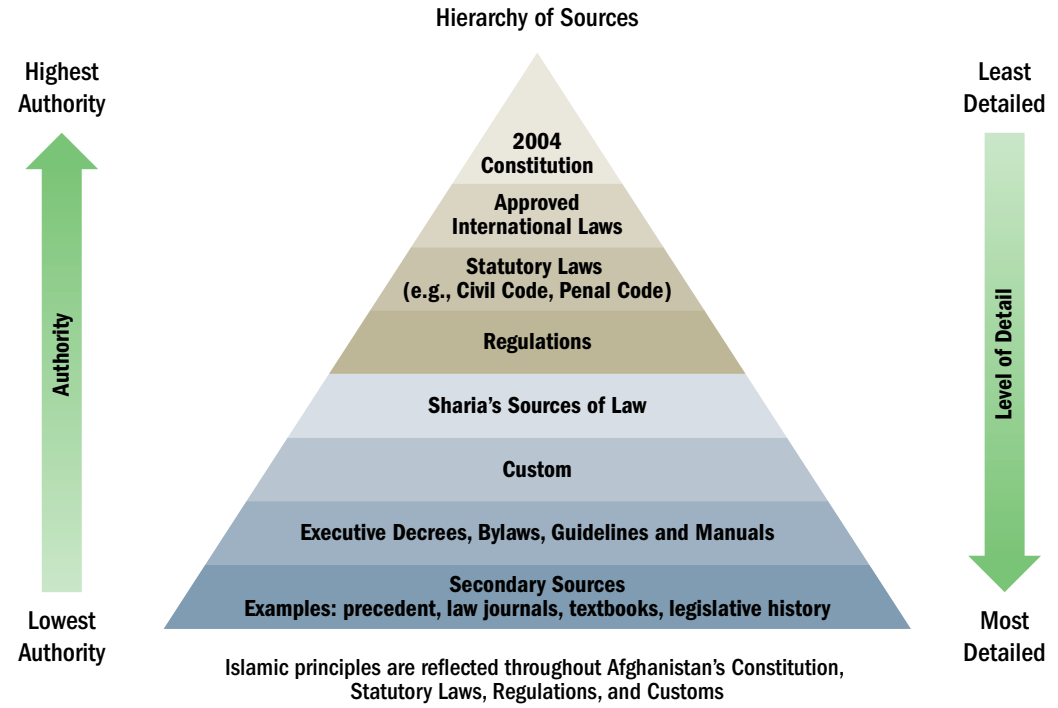
Afghanistan's formal justice system has the difficult task of blending Islamic and those customary legal traditions that do not conflict with Islamic principles within a defined constitutional order, and has long struggled to establish its enforcement authority.[1569] The formal system recognizes both Sharia and customary law in its established hierarchy of legal sources: first, Afghan statutory law, followed by Hanafi Sharia, and then general custom, as long as it does not contradict state law or Islam—a hierarchy that virtually precludes any reference to custom in formal dispute resolution. As a result, customary law "seeks to shield disputes and their outcomes from state authorities as a way to insulate their communities from state control or exploitation."[1570]

Defining Justice and Crime in Sharia

In Islamic jurisprudence, concepts such as individual rights and human dignity are not derived from a secular understanding of intrinsic "human rights," as in the West, but rather from a person's status as God's creation and representative on earth.[1571] The meaning of justice, like the meaning of crime, is defined in terms of what benefits

FIGURE 3

Hierarchy of Sources



Source: Afghanistan Legal Education Project, *An Introduction to the Laws of Afghanistan*, 4th ed., Standard Law School, 2017, p. 43.

the community the most—not as something crime victims are entitled to. Likewise, punishments reflect first and foremost the needs and safety of the community. Islamic law aims to protect two fundamental rights—God's rights (*huquq Allah*) and the individual's rights (*huquq al-'ibad*). God's rights—better understood as society's rights—refer to all matters concerning the larger public interest, such as order and security. The rights of man, on the other hand, refer to private interests that do not directly endanger the community.[1572]

In this worldview, the ultimate purpose of the law is to fulfill justice—and Sharia, as God's divine law, is seen as the only version of law that is completely attuned to justice.[1573] Islamic law defines five universal necessities: life, offspring, property, religion, and intellect. Crime is defined as committing an act explicitly forbidden by Sharia, or disobeying instructions stipulated by Sharia—especially the transgression of the five universal necessities. To preserve life, Sharia sanctions retribution for murder or bodily injury; to preserve offspring, it punishes adultery; to preserve religion, it punishes apostasy; to preserve property, it punishes theft. To preserve intellect, sharia punishes the consumption of alcohol. (Alcohol is also considered the gateway to other sins such as adultery and murder.)[1574]

The severity of a crime in Islamic law corresponds to the degree that it is perceived to harm society as a whole, and is divided into three categories. *Hudud* offenses are

specifically proscribed in the Koran and Sunnah and are considered crimes against God's rights. These include adultery or fornication (*zina*), theft, highway robbery, apostasy, defamation, rebellion, and consuming alcohol. Because they are perceived as causing the greatest damage to Islamic society, these offenses result in the most severe punishments, including death. Certain evidentiary conditions must be met, however, to apply the prescribed punishments. Adultery, for instance, requires four eyewitnesses or the confession of one of the offenders. If the specific requirements are met, prosecution of hudud offenses is mandatory and must follow the punishments prescribed in the Koran and Sunnah.[1575]

Qisas are violent offenses such as assault and murder, and, like hudud offenses, are defined in the Koran and Sunnah. Qisas are punishable by retaliation—an "eye for an eye"—although an alternative punishment is the payment of blood money. In contrast with Western perceptions of crime, murder falls into a category of lesser crime because the harm focuses on an individual, rather than society. Viewed as a personal act, the punishment for murder or bodily harm is left to the victims or their families to decide: They may forgive the perpetrator, demand blood payment, or retaliate with violence.[1576]

Ta'zir offenses—for example, minor theft, usury or bribery—are the least serious in Islamic law. Because they are not mentioned in the holy texts, ta'zir punishments are determined by a ruler or legislator, and often left to the discretion of a judge. Therefore, from an Islamic law perspective, only ta'zir crimes may be punished under statutory law, which the 1976 Penal Code also stipulates in its first provision. Nevertheless, most hudud and qisa offenses—such as adultery, theft, and murder—are also regulated by the penal code, which obfuscates the boundaries between Sharia and statutory law. "The concept of crime" in Afghan society, writes one Islamic scholar, "differs from the definition provided by the Penal Code of 1976 [amended in 2014] to Article 130 of the Afghani Constitution . . . to the concept of crime identified by the tradition and jurisprudence of the courts which go beyond Shari'ah and secular law."[1577]

In general, ta'zir punishments are implemented whenever the specific evidentiary requirements for hudud punishments are not met. It is in other cases, such as those pertaining to apostasy and blasphemy, where the fragmentation of the Afghan legal system is most apparent. In 2006, for example, a Kabul court sentenced a Christian convert to death for apostasy. Apostasy is not a crime under Afghan statutory law, but the court invoked Article 130 of the constitution to apply the death penalty, as prescribed in the Sunnah. International practitioners argued that Article 130 should only apply to civil cases; most contemporary Islamic scholars argued that the absence of prescribed punishment in the Koran itself disqualifies apostasy from hudud punishment. Meanwhile, most of the Afghan judiciary believed that apostasy warrants the death penalty.[1578]

PASHTUNWALI AND INFORMAL JUSTICE IN AFGHANISTAN

Afghanistan's formal justice system and traditional customary justice systems approach crime, guilt, and punishment differently. According to Thomas Barfield, "the focus of the formal system was to deliver justice and to create consistent rules to be followed throughout the land, whereas the focus of the informal system has always been equity—to resolve disputes according to local conceptions of fairness so as to restore harmony to the community." The communal focus of informal justice, in theory, serves the purpose of preventing minor disputes from becoming politically charged controversies between clans or other larger social groups. The formal court system, in contrast, is concerned with punishment, not reconciliation. This fundamental disconnect is the main reason traditional communities, especially in the periphery, typically seek to avoid state intervention in criminal and civil disputes.[1579]

Informal justice is a series of mechanisms—such as jirgas and shuras—that local communities use to settle disputes outside of the state's direct control.

The best known and most developed of Afghanistan's diverse customary law systems is Pashtunwali, the unwritten rules that regulate the behavior of Afghanistan's largest ethnic group: Pashtuns. Pashtunwali is often conflated in the literature with the broader concepts of customary law and informal justice—even though customary law is, by definition, a set of *local* traditions, and therefore varies across the country's numerous ethnic communities. The considerable influence of Pashtunwali on other forms of law in Afghanistan is partially due to the fact that Pashtuns are the majority ethnic group, and nearly every ruler over the past three centuries has been a Pashtun.[1580] Pashtunwali even played a significant role in the U.S. invasion of Afghanistan following September 11, 2001: "When the Taliban hosted [al Qaeda] and then failed to give them up after 9/11, it may not have been immediately clear to the international community that the honor code of Pashtunwali prohibits surrendering guests to outsiders."[1581]

The concept of honor lies at the heart of Pashtunwali. In Pashtun (and many other communities), honor is a kind of social currency that is preserved through social practices, such as revenge, hospitality, sanctuary, consultation, and observing gender boundaries. Only men can accrue honor, although both men and women can lose it. A Pashtun man's honor is therefore interdependent with the honor of his close female relatives—the underlying foundation of traditional norms concerning women's rights in Pashtun society. He accrues honor by providing for women, which is made possible by denying women the potential to provide for themselves. Under Pashtunwali, in contrast with Islamic law, women may not own property.[1582]

The premium placed on defending one's honor sanctions—even compels—victims or their relatives to retaliate against an injury, and the failure to do so is often perceived as a sign of the moral weakness of not just the victim, but his kin as well. Informal justice mechanisms largely developed as a means to persuade wronged individuals to give up their right of retaliation, which might harm communal harmony.[1583]

The introduction of Islam actually revolutionized the status of women in tribal societies whose laws designated women as mere property. Islamic law accords women equal religious status before God, and specifically grants women the right to own and inherit

Village elders in Shah Joy applaud during the Afghan Local Police validation ceremony at the Shah Joy District Center. (U.S. Central Command photo)

property, the right to divorce, and the right to consent to marriage. These rights, however, are routinely ignored in deference to traditional customary norms.[1584]

Afghans typically justify un-Islamic local traditions, including some practices common in Pashtunwali, on the grounds that they contribute to the social cohesion of the broader community. These include forced and underage marriage and honor killings. Particularly popular forms of customary dispute resolution are the practices of *baad*—giving a female relative to the victim's family as restitution—and *badal*, an exchange of girls or women between families for marriage. These customs violate a woman's right under Islam to consent to marriage. Since the time of Amanullah Khan, the Afghan state has made several efforts to declare certain Pashtunwali customs as un-Islamic. Even the predominately Pashtun Taliban outlawed some customary practices that they deemed contrary to Islamic law. In 1998, for instance, the Taliban issued decrees banning the practice of baad, as well as levirate marriages—the marrying off of widows to their husband's male relatives.[1585]

Traditional justice disproportionately disadvantages women, not only because their basic rights under state law are often ignored, but because women rarely, if ever, participate directly in jirgas or other informal mechanisms. The persistence of these customary practices has made the human rights community wary of informal justice systems—which, in turn, has intensified international donor reluctance to engage with informal institutions as part of judicial reform.[1586]

This is not to say that the formal state system always safeguards women's rights. Afghan women are often disenfranchised and abused by both justice systems in many parts of the country. A notable example of formal justice's failure to protect Afghan women is the persistent practice of jailing women for "moral crimes," which generally means running away from forced marriages or domestic violence.[1587]

A Tale of Two Justice Systems

Despite their differences, the formal and informal systems have coexisted for more than a century, with neither fully recognizing the legitimacy of the other.[1588] To facilitate this coexistence, formal and informal legal actors have adopted the Islamic doctrine of *huquq Allah* ("the rights of God") and *huquq al-'ibad* ("the rights of man") to rationalize these separate spheres of legal authority. This doctrine carves out for the state a limited sphere of authority to adjudicate disputes concerning only "the rights of God." All other disputes, perceived as private matters, discourage direct government intervention. According to classical Islamic jurists, the more an injury damaged the community at large, the more Islamic law sanctioned direct government intervention. However, Islamic legal jurists also recognized that few legal disputes can be neatly divided into purely public and private interests. Therefore, this jurisdictional divide cannot fully resolve the tensions between the two systems.[1589]

In reality, neither system alone can fulfill the people's need for justice. Although the informal system is entrenched and widespread, it has its limitations. For one, traditional mechanisms are usually unable to resolve inter-community disputes, especially between communities from different ethnic or sectarian groups. Jirgas and shuras are also voluntary institutions, and their legitimacy depends on the strength of a community's social cohesion. Informal justice mechanisms have little impact on powerful militia commanders, for example, who use guns, not community consensus, to maintain power.[1590]

Traditional justice systems also lack the power of coercive enforcement, barring exile.[1591] One exception is the arbakai in Afghanistan's southeastern provinces, which can be raised to enforce jirga decisions.[1592] Tribal elders or other mediators may also threaten formal litigation to convince disputants to seek mediation—a backhanded signal of the perceived illegitimacy and corruption of formal courts. However, tribal leaders cannot punish individuals for asserting their right to revenge, even if this creates problems for the community. Traditional justice may therefore indirectly sanction violence by giving individuals the power to seek their own justice.[1593]

Customary law, such as Pashtunwali, conflicts with Western norms in several ways. Its "eye for an eye" concept of honor makes it difficult for Pashtuns to delegate enforcement of justice to other actors, especially the state.[1594] While the restorative justice characteristic of the jirga system ostensibly makes the victim whole again, state punishment deprives the victim of any personal role in the process. For that reason, formal justice is often seen as inadequate retribution, and a person sentenced to prison often remains a target even after his release.[1595]

Afghanistan's formal and informal justice systems each have advantages and limitations. As one U. S. Institute of Peace report put it, formal justice holds a comparative advantage "in urban areas, in criminal law, and in protecting citizens' rights. The strength of informal mechanisms is in their low cost, physical proximity to citizens, and ability to achieve consensus."[1596] Analysts also generally conclude that the informal system is better equipped to handle civil matters.[1597] Nevertheless, the pervasive corruption in the formal system has diminished these comparative advantages.

APPENDIX C: ACRONYMS

Acronym	Definition
ANDSF	Afghan National Defense and Security Forces
ANP	Afghan National Police
ANSF	Afghan National Security Forces
ASFF	Afghan Security Forces Fund
ATA	Antiterrorism Assistance Program
CAAT	Capabilities, Analysis, and Assessment Team
CENTCOM	U.S. Central Command
CFC-A	Combined Forces Command – Afghanistan
CFT	Countering the Financing of Terrorism
CNPA	Counter Narcotics Police of Afghanistan
COCOM	Combatant command
CPATT	Civilian Police Assistance Training Team
CSPA	Child Soldiers Prevention Act of 2008
CSTC-A	Combined Security Transition Command – Afghanistan
CT	U.S. Bureau of Counterterrorism and Countering Violent Extremism (State)
CTPF	Counterterrorism Partnerships Fund
DEA	U.S. Drug Enforcement Agency
DHS	U.S. Department of Homeland Security
DOD	U.S. Department of Defense
DOJ	U.S. Department of Justice
FBD	Focused Border Development
FBI	U.S. Federal Bureau of Investigation
FDD	Focused District Development
FLETC	Federal Law Enforcement Training Centers
GAO	U.S. Government Accountability Office
GCPSU	General Command of Police Special Units
GDPSU	General Directorate of Police Special Units
HIS	Homeland Security Investigations (DHS)
HMMWV	High Mobility Multipurpose Wheeled Vehicles
ICE	U.S. Immigration and Customs Enforcement (DHS)
ICITAP	International Criminal Investigative Training Assistance Program
ILEA	International Law Enforcement Academy

Acronym	Definition
INL	U.S. Bureau of International Narcotics and Law Enforcement Affairs (State)
IPCB	International Police Coordination Board
ISAF	International Security Assistance Force
JTTF-K	Joint Terrorism Task Force – Kenya
KhAD	Afghan State Information Agency
LEAD	Law Enforcement Academy Development program
LEGAT	Legal Attaché (FBI)
LOTFA	Law and Order Trust Fund for Afghanistan
MCTF	Major Crimes Task Force
MOU	Memorandum of understanding
NTM-A	NATO Training Mission – Afghanistan
OPDAT	Office of Prosecutorial Development Assistance and Training
POMLT	Police Operational and Mentoring Liaison Team
SIGAR	Special Inspector General for Afghanistan Reconstruction
SIGIR	Special Inspector General for Iraq Reconstruction
TCIU	Transnational Criminal Investigative Unit
TVPA	Trafficking Victims Protection Act
UNAMA	UN Assistance Mission to Afghanistan
USAID	U.S. Agency for International Development

APPENDIX D: METHODOLOGY

SIGAR conducts its Lessons Learned Program under the authority of Public Law 110-181 and the Inspector General Act of 1978, as amended, and in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation* (commonly referred to as the "Blue Book"). These standards require that we carry out our work with integrity, objectivity, and independence, and provide information that is factually accurate and reliable. SIGAR's lessons learned reports are broad in scope and based on a wide range of source material. To achieve the goal of high quality and to help ensure our reports are factually accurate and reliable, the reports are subject to extensive review by subject matter experts and relevant U.S. government agencies.

The research team drew upon a wide array of sources. Much of the team's documentary evidence focused on publicly available material, including reports by DOD, State, Justice, FBI, DEA, GAO, other inspectors general, NATO, ISAF, coalition partner nations, and congressional testimony from government officials and experts. The team also consulted material from an archive maintained by former Secretary of Defense Donald Rumsfeld. These official sources were complemented by hundreds of nongovernmental sources, including books, think tank reports, journal articles, press reports, academic studies, and analytical reports by international and advocacy groups.

The research team also benefited from SIGAR's access to material that is not publicly available, including thousands of documents provided by U.S. government agencies. State provided cables, internal memos and briefings, opinion analysis reports, and planning and programmatic documents. A body of classified material, including U.S. embassy cables and intelligence reports, provided helpful context; however, as an unclassified document, this reports makes no use of that material. Finally, the team also drew from SIGAR's own work, embodied in its quarterly reports to Congress and its investigations, audits, inspections, and special project reports.

To enhance our coordination and cooperation with the international community, in December 2019, SIGAR signed an official memorandum of cooperation with the NATO Stability Police Center of Excellence. With that memorandum executed, SIGAR and NATO research teams deployed to Afghanistan to conduct fieldwork that included several meetings with personnel involved in the application and oversight of the police assistance mission. The two organizations had also completed joint field work in Europe as well. With the outbreak of the COVID-19 virus, the two organizations transitioned from a combination of face-to-face and virtual engagements to strictly virtual meetings monthly via video teleconference to discuss research topics, analyze data received from various sources, and to formulate conclusions for this study.

While the documentary evidence tells a story, it cannot substitute for the experience, knowledge, and wisdom of people who participated in the Afghanistan reconstruction

effort. Therefore, the research team conducted 50 interviews and consulted hundreds of prior SIGAR-led interviews with individuals with direct and indirect knowledge of facts on the ground that affected U.S. and international efforts to train, advise, assist, and equip the Afghan National Police. These interviews and informal roundtable discussions were conducted with U.S., Afghan, and other international experts from academia, think tanks, NGOs, and government entities; current and former U.S. civilian and military officials deployed to Afghanistan; and personnel from DOD, State, Justice, and the Department of Homeland Security.

Interviews provided valuable insights into the rationale behind decisions, the debates within and between agencies, and the frustrations that spanned the years. Due in part to the politically sensitive nature of developing foreign police forces, many of those interviewed wished to remained anonymous. For those still working in the government, confidentiality was particularly important. Therefore, to preserve anonymity, our interview citation often refers to a "senior U.S. official" or "special agent." Since the majority of the interviews conducted for this report were done during the peak of the COVID-19 pandemic, the interviews were completed virtually through various collaboration programs.

This study reflects careful, thorough consideration of the wide range of sources, but it is not an exhaustive treatment of the topic. Given the timeline and scale of U.S. engagement in Afghanistan and the number of organizations involved in developing elements of the Afghan National Police and Ministry of Interior, the report does not aim to fully address how tens of thousands of U.S. civilian and military officials dealt with the police assistance mission on a daily basis since 2002. Rather, the report focuses on certain approaches the U.S. and international community took in developing Afghan police capabilities and provides the relevant context, policies, initiatives, and competing priorities. From these, we derive lessons and recommendations to inform current and future contingency operations.

The report underwent an extensive process of peer review. We sought and received feedback on the draft report from four of the premier subject matter experts on foreign police assistance. These experts included individuals whom had significant experience working on or in Afghanistan or had significant experience working on police assistance and reform issues in fragile and post-conflict states. These reviewers provided thoughtful, detailed comments on the report, which we incorporated, as possible.

Over the course of this study, the team engaged with many officials at DOD, State, and Justice to solicit formal and informal feedback on our preliminary findings to improve our understanding of the key issues, as viewed by each department. Those agencies, as well as the Department of Homeland Security, the FBI, DEA, and the U.S. Marshals Service were given an opportunity to formally review and comment on the final draft of the report. The Department of Justice, FBI, DEA, and the U.S. Marshals Service provided feedback to this study. We discussed comments received with the respective agency and incorporated those comments we deemed appropriate. The analysis, conclusions, and recommendations of this report remain SIGAR's own.

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The National Defense Authorization Act for FY 2008 (P.L. 110-181) established the Special Inspector General for Afghanistan Reconstruction (SIGAR).

SIGAR's oversight mission, as defined by the legislation, is to provide for the independent and objective

- conduct and supervision of audits and investigations relating to the programs and operations funded with amounts appropriated or otherwise made available for the reconstruction of Afghanistan.
- leadership and coordination of, and recommendations on, policies designed to promote economy, efficiency, and effectiveness in the administration of the programs and operations, and to prevent and detect waste, fraud, and abuse in such programs and operations.
- means of keeping the Secretary of State and the Secretary of Defense fully and currently informed about problems and deficiencies relating to the administration of such programs and operation and the necessity for and progress on corrective action.

Afghanistan reconstruction includes any major contract, grant, agreement, or other funding mechanism entered into by any department or agency of the U.S. government that involves the use of amounts appropriated or otherwise made available for the reconstruction of Afghanistan.

Source: P.L. 110-181, "National Defense Authorization Act for FY 2008," 1/28/2008.

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