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United States Senate

COMMITTEE ON THE JUDICIARY  
WASHINGTON, DC 20510-6275

October 19, 2017

**VIA ELECTRONIC TRANSMISSION**

The Honorable Rex W. Tillerson  
Secretary  
U.S. Department of State  
Washington, D.C. 20520

Elaine Duke  
Acting Secretary  
U.S. Department of Homeland Security  
Washington, D.C. 20528

Dear Secretary Tillerson and Acting Secretary Duke:

Today, the Office of the Special Inspector General for Afghanistan Reconstruction (SIGAR) released a report on its review of Afghan security personnel going Absent Without Leave (AWOL) while training within the United States. According to the report, almost half the foreign military trainees that went AWOL while training in the U.S. since 2005 were from Afghanistan, and many have either fled the U.S. or remain unaccounted for.<sup>1</sup> Immigration and Customs Enforcement's (ICE) Counterterrorism and Criminal Exploitation Unit (CTCEU) considers cases of AWOL trainees "high risk" because they involve militarily trained individuals of fighting age who have demonstrated a "flight risk," and have low risk of arrest and detention for absconding.<sup>2</sup> This presents obvious national security concerns, can negatively impact operational readiness, and wastes millions of the almost \$70 billion appropriated to the Department of Defense (DOD) to train and equip the Afghan National Defense and Security Forces (ANDSF).<sup>3</sup>

The report reminds the Committee that concerns with U.S. based training of ANDSF personnel going AWOL are not new, citing a time when Naval Criminal Investigative Service (NCIS) issued a national alert to local and federal law enforcement when 17 members of the ANDSF went AWOL from Lackland Air Force Base, Texas.<sup>4</sup> Later, 39 additional trainees went

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<sup>1</sup> Office of the Special Inspector Gen. for Afg. Reconstruction, Office of Special Projects, SIGAR 18-03-SP, U.S.-Based Training for Afghanistan Security Personnel: Trainees Who Go Absent Without Leave Hurt Readiness and Moral, and May Create Security Risks 3-4 (2017).

<sup>2</sup> *Id.* at 13.

<sup>3</sup> *Id.* at 2.

<sup>4</sup> *Id.*

AWOL from the same base in San Antonio.<sup>5</sup> In 2014, three ANDSF officers went missing and were taken into custody while trying to cross the Canadian border, and two Afghan police officers disappeared from a training at Quantico, Virginia while participating in a sightseeing day set up for trainees in Washington, D.C.<sup>6</sup> In addition, 16 trainees absconded from Ft. Rucker, Alabama, 13 from Ft. Benning, Georgia, and 11 from Ft. Leonard Wood, Missouri.<sup>7</sup> As recently as August 2017, Customs and Border Protection caught four AWOL Afghan trainees in Washington.<sup>8</sup>

According to the SIGAR report, there is a multi-agency process for selecting and vetting foreign trainees, and investigating them once they go AWOL. In addition to DOD selection and vetting, the State Department conducts security and background screening, and ICE investigates a trainee's location once they are officially considered AWOL; a multi-agency, days-long process during a period when time is of the essence.<sup>9</sup> Despite this process, the report found significant issues with coordination that hinder investigatory efforts to locate AWOL trainees.<sup>10</sup>

Of particular concern is the apparent inability of U.S. Citizenship and Immigration Services (USCIS) and ICE to coordinate in a way that mitigates risks in investigating an AWOL trainee.<sup>11</sup> Specifically, the report claims that the components do not generally communicate about individuals before or during the application process for any immigration benefits an AWOL trainee may eventually apply for to avoid deportation and remain in the U.S. For example, if ICE has derogatory information that could aid USCIS in asylum cases, ICE agents enter that information into TECS without guidance on how much detail to include, or when to enter the data to ensure timely use by USCIS.

Additionally, ICE officials told SIGAR that there is no direct opportunity for ICE to present derogatory investigative information to USCIS outside of a courtroom setting, often years into an investigation.<sup>12</sup> Accordingly, SIGAR suggests, and I agree, that to improve coordination between USCIS and ICE, and to assist in preventing AWOL trainees who pose a threat to national security from remaining in the U.S., the components develop policies or procedures that will improve communication during the investigatory and potential application process.<sup>13</sup>

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<sup>5</sup> *Id.* at 7.

<sup>6</sup> *Id.* at 2-4.

<sup>7</sup> *Id.* at 7.

<sup>8</sup> *Id.* at 13.

<sup>9</sup> *Id.* at 8.

<sup>10</sup> *Id.* at 8.

<sup>11</sup> *Id.* at 12.

<sup>12</sup> *Id.* at 13.

<sup>13</sup> *Id.* at 14.

This is yet another example of ineffective information sharing between components which can enable otherwise ineligible applicants to receive immigration benefits. For years, I have inquired into USCIS and ICE's information sharing capabilities to ensure criminals or those who pose national security risks do not receive benefits simply because USCIS is unaware of derogatory information when adjudicating an application. A particularly egregious example of this occurred when a Deferred Action for Childhood Arrivals (DACA) applicant was granted work authorization despite being under investigation by ICE for child exploitation. After receiving his work authorization, the beneficiary was hired by a summer camp in California where he was eventually arrested for molesting children in his care. Although considered to be a "potentially egregious public safety" risk by ICE months before his arrest, he was nonetheless allowed to work with children.<sup>14</sup> To remedy this potential for miscommunication, USCIS needs to be able to rely on law enforcement partners like ICE for notification of derogatory information that could impact these adjudicative decisions. It is my understanding that the Department of Homeland Security still has not developed formal protocol to assist ICE in notifying USCIS directly about targets of investigations.

In addition to highlighting concerns with component level information sharing, the report recommends State Department officials review whether requiring an in person interview may allow for the collection of more detailed information to be used during an investigation once the trainee is AWOL. Currently, Afghan trainees travel to the United States on A-2 visas issued to diplomats and other foreign government officials.<sup>15</sup> No in person interview is authorized during that process. CTCEU claims that the limited vetting of A-2 visa applicants creates potential national security vulnerabilities for the United States because it limits access to potentially derogatory information important to aid investigators such as ICE who search for trainees.<sup>16</sup>

Unfortunately, despite the numerous national security concerns associated with this high risk group, neither the Department of Homeland Security nor the Department of State seemed to agree with the recommendations offered by SIGAR. To better understand your Departments' responses to SIGARs recommendations, please provide knowledgeable staff to brief the Committee and respond to the following questions no later than November 2, 2017:

Department of State:

1. The SIGAR report recommended the Department make a determination on whether requiring all Afghan trainees to complete an in-person interview prior to being granted an A-2 visa would help to mitigate AWOL occurrences or assist in ICE investigations when AWOLs occur. Does the Department have plans to conduct this review as recommended? If so, please explain. If not, why not?

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<sup>14</sup> <https://www.grassley.senate.gov/news/news-releases/camp-counselor-kept-job-immigration-benefit-despite-being-%E2%80%98potentially-egregious%E2%80%99>

<sup>15</sup> Office of the Special Inspector Gen. for Afg. Reconstruction, Office of Special Projects, SIGAR 18-03-SP at 9.

<sup>16</sup> *Id.* at 12.

2. If the Department does not make this determination, are there any additional tools at the Department's disposal, as SIGAR suggests<sup>17</sup>, that could aid in achieving this end of collecting more detailed information to ensure, to the extent possible, that a trainee is not a flight risk before granting an A-2? Please explain.

Department of Homeland Security:

1. Please detail the process or procedure by which the collected investigatory information is shared directly with USCIS to aid in adjudicatory decisions. Does the Department have a mechanism, apart from TECS or a similar database, ICE can use in flagging possible derogatory information for USCIS? If not, why not? If yes, please explain and provide any relevant policies or procedures.

Thank you for your attention to this important matter. Should you have any questions, please contact Katherine Nikas of my Committee staff at 202-224-5225.

Sincerely,



Charles E. Grassley  
Chairman  
Senate Committee on the Judiciary

cc:

The Honorable Dianne Feinstein  
Ranking Member  
Committee on the Judiciary

The Honorable James Mattis  
Secretary  
U.S. Department of Defense

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<sup>17</sup> *Id.* at 15.