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E.O. 12958: DECL: 08/01/2019
TAGS: PREL PGOV MARR AF
SUBJECT: COMPLAINTS TO GIROA ON PRE-TRIAL RELEASES AND
PARDONS OF NARCO-TRAFFICKERS

REF: REFTEL KABUL 02245

Classified By: DEPUTY AMBASSADOR FRANCIS J. RICCIARDONE FOR REASONS 1.4
(B) AND (D)

¶1. (S) SUMMARY: On numerous occasions we have emphasized with Attorney General Aloko the need to end interventions by him and President Karzai, who both authorize the release of detainees pre-trial and allow dangerous individuals to go free or re-enter the battlefield without ever facing an Afghan court. On July 29th, Legal Adviser Harold Hongju Koh and Deputy Ambassador Frances Ricciardone demarched Attorney General Muhammad Ishaq Aloko about our concern over pre-trial releases and presidential pardons of narco-traffickers (Reftel Kabul 02245) In Spring 2008, Post had previous demarched National Security Advisor Rassoul about our concern over pre-trial releases. Despite our complaints and expressions of concern to the GIROA, pre-trial releases continue. END SUMMARY

¶2. (S) Transfers from Bagram Theatre Internment Facility (BTIF) to the Afghan National Detention Facility (ANDF) began in Spring 2007. During that year, there was only one pre-trial release. In 2008, there were 104 pre-trial releases, almost all of which took place after President Karzai formed the Aloko Detainee Commission in April 2008. From January to March of 2009, there were 12 pre-trial releases; and 23 pre-trial releases between April and June ¶2009. So far in July 2009, there have been 10 pre-trial releases.

¶3. (S) An August 2005 exchange of diplomatic notes between the USG and the GIROA provides the legal basis for the GIROA's detention and prosecution of detainees transferred into Afghan custody. Even though a multi-agency GIROA delegation under the Aloko Detainee Commission screens all BTIF detainees who are transferred to the ANDF and assures the USG that these detainees will be prosecuted in an Afghan court, there have been 150 detainees released from the ANDF without trial since 2007, including 29 former Guantanamo Bay (GTMO) detainees. The total number of transfers to date from BTIF to ANDF is 629 detainees, plus 41 from GTMO.

PROTECTION OF NARCOTRAFFICKERS

¶4. (SBU) In April, President Karzai pardoned five border policemen who were caught with 124 kilograms of heroin in their border police vehicle. The policemen, who have come to be known as the Zahir Five,, were tried, convicted and

sentenced to terms of 16 to 18 years each at the Central Narcotics Tribunal. But President Karzai pardoned all five of them on the grounds that they were distantly related to two individuals who had been martyred during the civil war.

¶5. (S) Separately, President Karzai tampered with the narcotics case of Haji Amanullah, whose father is a wealthy businessman and one of his supporters. Without any constitutional authority, Karzai ordered the police to conduct a second investigation which resulted in the conclusion that the defendant had been framed. Daudzai told DAMB he was ashamed,, of the president for his interference in this case and the case of the Zahir Five.

¶6. (S) In another case, a CJTF investigation concluded that 26 kilograms of heroin seized from a vehicle search belonged to Col. Jaweed, Chief of the Highway Police for Badakshan Province. Jaweed is the nephew of a powerful member of Parliament. Eventually, he was arrested and is currently serving in Pol-i-Charkhi prison. But, there is credible, but unconfirmed, intelligence indicating that President Karzai has signed a letter pardoning Jaweed that has not yet been delivered to the Supreme Court. Daudzai denied any significant pressure in this case.

¶7. (S) Unconfirmed intelligence also indicates that President Karzai is planning to release drug trafficker Ismal Safed, who is serving a 19-year sentence in Pol-i-Charkhi. Safed is a priority DEA target who was arrested in 2005 in possession of large quantities of heroin and a cache of weapons. In 2008, DEA conducted an operation in which an undercover officer purchased approximately three kilograms of heroin directly from Safed. Daudzai told the Deputy Ambassador that President Karzai will not pardon Safed, and that Post,s concerns about this case will reaffirm President Karzai,s decision not to interfere.
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