



Building Civilian Counterterrorism Capacity: OPDAT's Role

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The Office of Overseas Prosecutorial Development, Assistance, and Training (OPDAT) is the primary foreign capacity building component of the Department of Justice (DOJ). There are a total of around 60 Resident and Intermittent legal advisors and International Cyber Specialists posted at U.S. embassies around the globe. Approximately one-third of those Resident Legal Advisors are focused on counterterrorism/counterterrorism funding. The remaining two-thirds have a varied portfolio addressing corruption, AML, transnational criminal organizations, trafficking of humans, cyber and intellectual property/counterfeit goods movement, among others.

The State Department is the primary funder for the DOJ legal advisor positions (we also have some Defense Department funding for DOJ legal advisors at specific commands) and it is through interagency agreements that the work plan and focus of each of these positions are determined.

In all circumstances, regardless of the funding source or the focus of the interagency agreement, we are working closely with our foreign, justice sector counterparts to build capacity and to implement change affecting national security—both that of our partners and of course our own.

How, specifically, does OPDAT specifically do this? Two important ways:

Presence. As members of the interagency, we sit in the Embassy and work closely with our State Department colleagues to ensure that we are focused, within our specific funding mandate, on areas of importance as set forth in the Integrated Country Strategy. Presence provides a number of benefits to our capacity building programming:

- We are able to build meaningful and long-term relationships with our important interlocutors. The significance of relationships of trust and confidence cannot be understated—particularly as we engage with case-based mentoring with many of our prosecutive partners whereby we offer expertise and advise on best practices to ensure successful outcomes. We also work with foreign law enforcement partners to help them understand the importance of the investigation to a successful prosecution, and with foreign judges on evidentiary and sentencing considerations in terrorism cases.
- Another benefit of presence or proximity is that most RLAs sit as members of the Embassy country

team, and this offers real insight into the issues of the day or week; thus, we are able to quickly address specific and emerging concerns. This presence, or proximity, and coordination among the interagency have been emphasized in this Administration as an important approach to Counterterrorism capacity building as they recognize that those at Post have the best insight into the problem set.

- We are in situ and therefore we are nimble—we can be immediately responsive. Because of the existing relationships and because we partner with our law enforcement colleagues who are also at post, we can respond very quickly to evolving circumstances. I would like to share a recent example from Kosovo. As a result of a months-long operation—enabled by CT-funded programs implemented by DOJ and Diplomatic Security’s Office of Antiterrorism Assistance (DS/ATA)—five arrests were made and a massive seizure of material evidence, including automatic weapons, drones, rocket grenade launchers, tens of thousands of rounds of ammunition, explosives, and more than \$28,000 USD in cash. The alleged terrorists, who were in direct communication with ISIS, were planning an imminent attack in Kosovo. The months of planning and use of covert measures and surveillance were authorized by a prosecutor who received extensive mentoring from the DOJ Resident Legal Advisor based in Tirana, and the law enforcement components received equipment and training from ATA. This operation is a great example of how a comprehensive capacity building program can create effective counterterrorism law enforcement teams that deliver real-world results.

Expertise. The second way we are working closely with our foreign, justice sector counterparts to build capacity and to implement change affecting national security is expertise and reach-back.

By deploying current DOJ lawyers—either Assistant U.S. Attorney’s or Main Justice component attorneys, we are sending the most up to date legal, prosecutive expertise into the world. Our legal advisors are active prosecutors who not only are current on the legal issues, process, and procedures, they are importantly experienced litigators who can quickly spot evidentiary or procedural concerns whether in a common law, adversarial, or civil law system.

What is meant by reach back? We, as current DOJ lawyers, can access the myriad of resources within the Department. Our partners at the National Security Division, the Money Laundering Asset Recovery Section, Public Integrity, Computer Crimes, and Office of International Affairs, all support our capacity building efforts and have the ability to be operational when necessary. And of course, our law enforcement partners in the federal government also assist with capacity building.

A few notes about our broad global programs funded by State CT.

Our global CT programs focus on defined problem sets.

Each year (COVID interruptions excepted) we, along with our State and other DOJ partners, convene a Lebanese Hezbollah-focused Law Enforcement Coordination Group to discuss lessons learned from recent law enforcement action, prosecutions, and updates on sanctions, etc. This coordinated event usually brings together practitioners from approx. 30 countries and has resulted in newly formed relationships that have netted positive operational results. We also have other LH-focused programs in targeted areas where we work closely with foreign partners to build their capacity to address LH financing and activities.

A second global program is related to Foreign Terrorist Fighters. OPDAT RLAs in critical locations are working with our foreign partners to build capacity on the complex legal frameworks surrounding the prosecution of returning foreign terrorist fighters and the use of collected enemy material also known as battlefield evidence, in trials of these terrorist fighters. By example, we have had tremendous success in the Balkans where OPDAT-mentored prosecutors have prosecuted over 150 FTF cases. As a result of our case-based mentoring and capacity building programs, the average sentence increase in the Balkans has doubled. We attribute this to five factors on which we have focused with our partners:

- Improved use of battlefield evidence in proceedings
- Improved use of evidence gathered from digital device searches,
- Improved legal writing,
- Improved trial advocacy to educate courts about the dangers of terrorism and foreign terrorist fighters, and
- The use of creative charging decisions

We also have a new project working with specific N. African partners to build their capacity to use battlefield evidence as a source for investigative leads and of course the use of critical evidence in FTF prosecutions.

Finally, we are leading a global forum to address racially, ethnically motivated violent extremism (REMVE).

I will leave it at this: much remains to be done. We must constantly make new inroads with our foreign partners because of the diverse and diffuse nature of today's terrorists.