

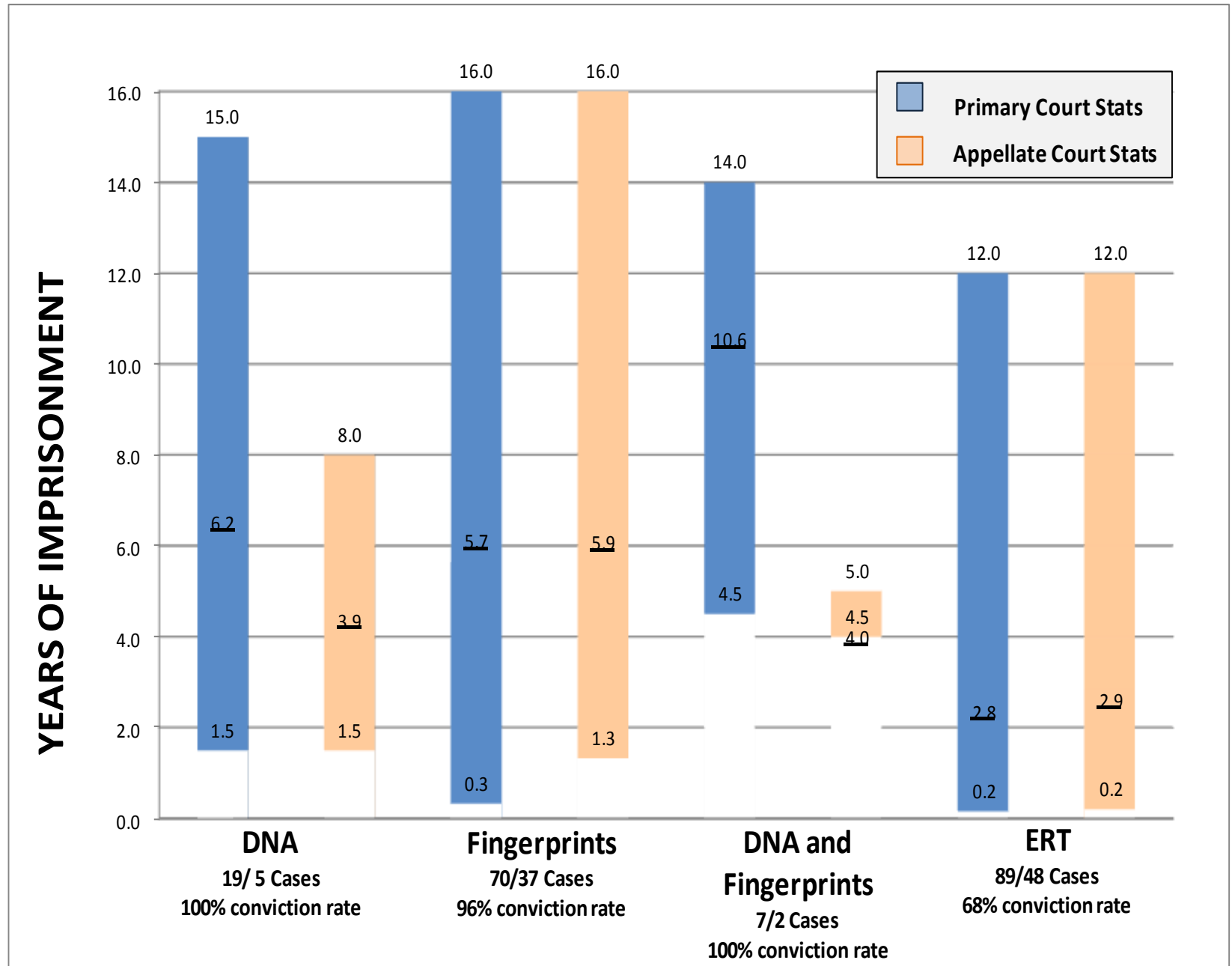


National Justice Complex

Parwan

Rule of Law Field Force-Afghanistan (ROLFF-A)
“Justice for Afghanistan”

Primary and Appellate Sentencing Statistics by Evidence Type





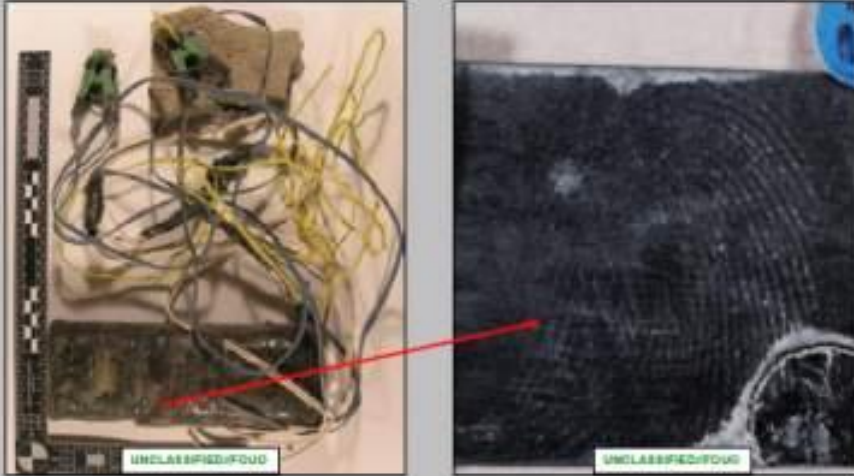
What Makes a “Good” Case?

- Forensic matches to IEDs (e.g. fingerprints / DNA)
- Weapons and IED caches, **IF we can attribute the illegal products to the Detainee**
 - Absent specific proof otherwise, the weapons are presumed to belong to the owner of the compound / vehicle
- Sworn (thumb print) admissions from the Detainee
 - Unsworn statements in TIRs are admissible but of low probative value
- Sworn (thumb print) statements from co-detainees
- Sworn (thumb print) statements from Afghans
- NDS Reports



Examples of “Good Cases”

UNCLASSIFIED//FOUO
Exhibit 2



Latent print L017 developed on the non-adhesive sides of electrical tape wrapped around the exterior of the battery pack.

Case # 0421-07

UNCLASSIFIED//FOUO

Forensic match to IED remnants



Pictures with Detainee in front of a captured weapons cache + APU memo detailing Detainee's association to the weapons



Examples of "Good Cases"



Signed, thumb-printed confession



Captured camera shows video of Detainee mixing HME



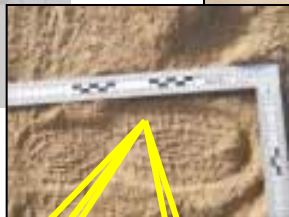
Evidence Collection

TF Raider – ISNs 4632, 4633, 4634

1 Hand drawn map made by soldiers on scene



2 Shah Wali
EXPRAY POSITIVE
Shoe prints at IED Location

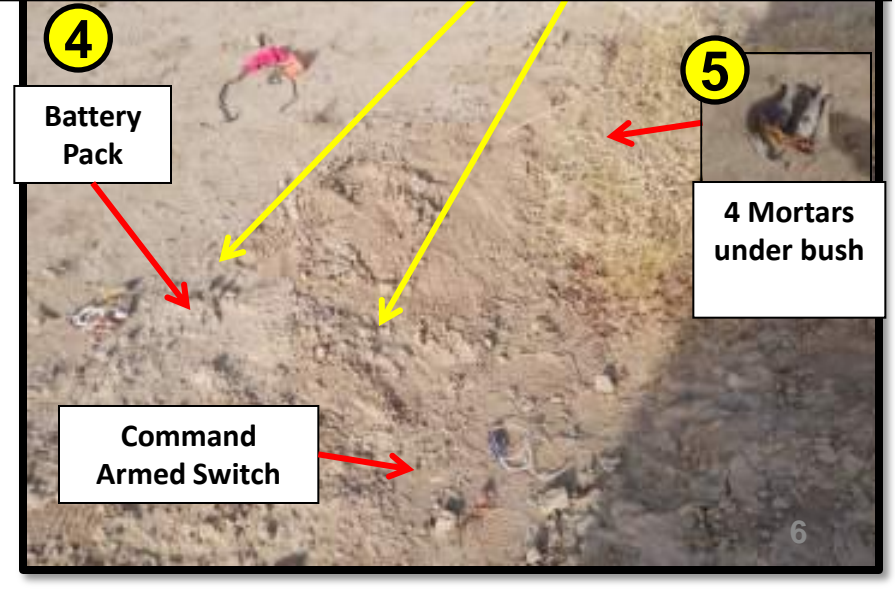
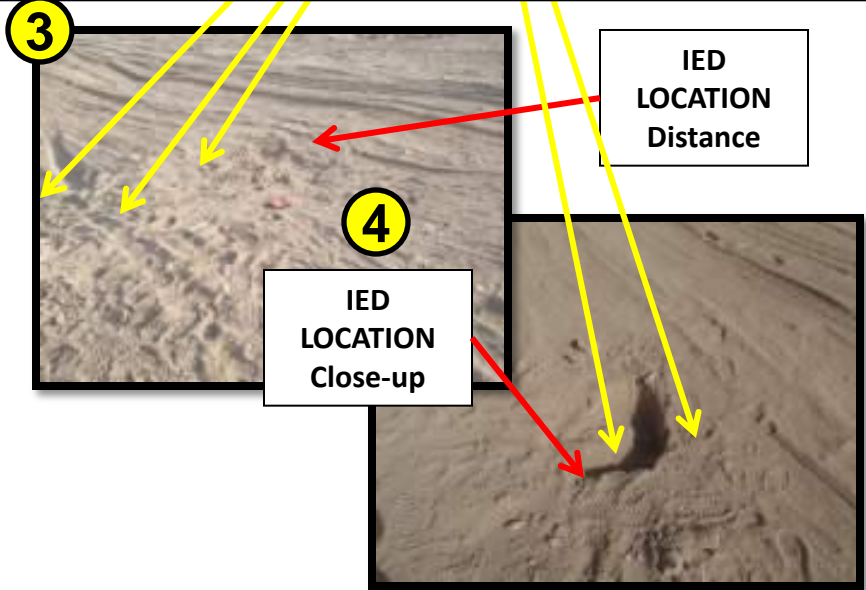


2 Azad
EXPRAY POSITIVE
Shoe prints at POC



Shoe impressions are documented with high resolution photos and a ruler to document scale.

Meticulous documentation of multiple shoe impressions and evidence as it was found.





Improving Use of Evidence

RoLFF-A and JCIP-I



Issue

- Only about 16% of detainees are recommended for transfer to Afghan prosecution from Detainee Review Boards - principally due to the lack of prosecutable evidence collected by Capturing Units
- Often there is prosecutable evidence, but it is missing amplifying information that could either ensure a conviction or increase the sentence
- DRB statistics show that evidence collection at the point of capture needs improvement
- A concerted and coordinated effort is required to affect change



Areas for Improvement

- Documentation of disposition of physical evidence (e.g., was it collected or destroyed?)
- More information contained in statements by Afghan partner units
- More plain English and less military jargon in statements
- Use photographs more to document how the detainee looked at the point of capture (especially if wearing a disguise)
- Use field explosive residue testing (ERT) more
- Photograph the results of the ERT with the detainee
- Use tactical questioning to eliminate innocent explanations of explosive residue (e.g., have you eaten preserved meat recently?, what type of fertilizer do you use (if farming)?)
- Use field gunshot residue testing, if the suspect was firing a weapon



Ways to Get to Improved Evidence Collection

- Increased outreach to BSOs
- Tactical Site Exploitation Course at Sabalu-Harrison
- Mobile training teams from LOD and LEPs
- Distribute pocket-sized evidence guide to ATO
- Train troops before leaving the U.S.



End State

Improved collection of evidence to support criminal cases against detainees and terrorist networks throughout the battlespace IOT off-ramp captures to the Afghan criminal process and transition the maximum number of detainees to GIRoA control.



Recommendations

Request CJIATF 435 Support to:

- Expand and formalize BSO Outreach initiatives: Mobile Training Teams, Director's Memos, and VTCs
- Support FRAGO directing LEPs and Soldiers to attend LOD training on evidence collection and Afghan criminal procedures, or giving specific guidance in the FRAGO on evidence collection improvement
- Dissemination of updated Theater-wide Evidence Collection Guide
- Provide training to units preparing for deployment



Evidence Collection Checklists



All serial #'s on this AK were filed off





WEAPONS CACHES INSIDE RESIDENCES

____ If the weapons are hidden, photograph them in place before removing them, or if in boxes/containers, make sure the lid is open so the picture shows what is in the container or box.

____ Photograph the room and/or area where the weapons or contraband were found.

____ Photograph each suspect and the weapons together.

____ If more than one suspect, also take a picture of all the suspects together with the cache.

____ Take close-ups of the weapons, grenades, detonation cords, antitank rockets (RPG rockets), ammunition, etc.

____ Take a photo of the exterior of the suspect's house (courtyard, wall, entrance and exit points, and any major landmarks).

____ On the appropriate forms (evidence/property, witness statement, and apprehension), list all weapons and contraband found at the site.

____ Take at least two witness statements.

____ Draw a sketch of the house and specifically the room where the contraband is located.

____ Collect and tag evidence.



KINETIC EVENT/FIRE FIGHT

Weapons recovered after an attack on CF and /or AF.

- _____ Gunshot residue test - Photograph detainee to show results of test.
 - _____ Close-up photos of weapons, grenades, detonation cords, RPG rockets, ammunition, where they are found.
 - _____ Photos of EKIA's.
 - _____ Sketch of the area of the kinetic event, specifically noting where the enemy was firing from, the location of any EKIA and weapons and the location of the detainee in relation to those things.
 - _____ At least two witness statements - statements should CLEARLY indicate if detainee was observed firing, if he was captured in a place with others who had been firing, if he was captured w/ weapons or in a room w/ weapons.
- .



WEAPONS CACHES OUTSIDE RESIDENCES

___ If weapons are hidden, photograph them in place before removing them, or if in boxes/containers, make sure the lid is open so the picture shows what is inside the container.

___ Take a photo of each suspect and the weapons found.

___ If more than one suspect, take a picture of all the suspects together with the cache.

___ Take close-ups of the weapons, grenades, detonation cords, RPG rockets, ammunition, etc.

___ Take a photo of the suspect's house and where the weapons cache was located in relation to the house (Note: This photo is used to establish distance from the home and that the suspect owns the property. The suspect's house should be in the background).

___ If the cache is located in the suspect's courtyard, take a picture of the courtyard wall (Note: This photo is used to show that the property is not easily accessible).

___ Take a picture of the courtyard (Note: This photo is used to show the layout of the property).

___ On the appropriate forms, (evidence/property, witness statement and apprehension) list all weapons and contraband found at the site.

___ Take at least two witness statements.

___ Draw a sketch of the house and specifically the room where the contraband is located.

___ Collect and tag evidence.



WEAPONS INSIDE VEHICLES

- ___ Take photos of the weapons inside the vehicle before removing them.
- ___ Take a photo of the entire vehicle.
- ___ Take a photo of the license plate of the vehicle.
- ___ Take a photo of the weapons, vehicle, and suspect together.
- ___ Take close-ups of all weapons and contraband found. If contraband is in a container, make sure it is open, and take photographs of what is inside.
- ___ Take a photo of the area showing where the car was stopped.
- ___ Take a close-up of the car registration.
- ___ Take a close-up of the vehicle's identification number (VIN). The VIN could be under the driver's side windshield or inside the door panel.
- ___ Remember to identify the driver and passengers in the witness statements.
- ___ Take a photograph of the car registration and the driver and passenger identification (ID) in order to prove ownership of the vehicle.
- ___ On the appropriate forms (evidence/property, witness statement and apprehension), list all weapons and contraband found at the site.
- ___ Take at least two witness statements.
- ___ Draw a sketch of the vehicle in relation to nearby landmarks to include roads.
- ___ Collect and tag evidence.



VEHICLE BORNE IED

- ___ Take several photographs showing the damage once scene is cleared by EOD/CIED.
- ___ Take a photograph showing damage to the road.
- ___ Take a photograph of the vehicle remnants, including license plate, registration, and VIN, if possible.
- ___ Take several photographs of the aiming points, if any were used by the suspects.
- ___ Take photographs of the aiming point showing the damaged vehicle in the background.
- ___ Take photographs of where the suspects were captured in relation to the aiming point (Note: this photo is used to show distance).
- ___ Take a photograph of where the suspects were first observed by USFOR-A or ISAF after the detonation (Note: this is used to show distance and viewpoint of the IED placement).
- ___ Take a photograph of the detonation device, if recovered.
- ___ Take a photograph of the detonation device and the suspect if the device is recovered.
- ___ Conduct explosives testing on all suspects and the vehicle and record the findings. Put findings on all sworn documents.
- ___ Take photographs of the explosive testing conducted on the suspects.
- ___ Ensure number of photographs were taken and who took them is documented.
- ___ Draw a sketch.
- ___ Take at least two witness statements.
- ___ Collect and tag evidence.



UNEXPLODED VBIED or IED

Only take pictures if safe to do so. As a minimum, EOD/IEDD should be consulted prior to any attempt to collect evidence from any IED scene.

- ___ Take several photographs showing the IED.
- ___ Take a photo showing the IED and where it is located in relation to the road.
- ___ Take several photographs of the aiming points used by the suspects.
- ___ Take photographs of the aiming point showing the IED site in the background (Note: this photo is used to show distance).
- ___ Take a photograph of where the suspects were captured in relation to the aiming point (Note: this photo is used to show distance).
- ___ Take a photograph of where the suspect was captured in relation to the IED site (Note: this photo is used to show distance).
- ___ Take a photograph of where the suspect was first observed by the unit after the IED was discovered (Note: this photo is used to show distance and viewpoint of the IED placement).
- ___ Take a photograph of the detonation device, if recovered.
- ___ Take a photograph of the suspect and the detonation device if the device is recovered.
- ___ Conduct explosives testing on all suspects and record findings. Put findings on all sworn statements.
- ___ Take photographs of the explosive testing that was conducted on the suspects.
- ___ The witness statements should state how many photographs were taken and who took them.
- ___ Draw a sketch of the scene.
- ___ Take at least two sworn statements.
- ___ Collect and tag evidence.



EXPLODED IED

- ___ Photograph the location of the attacks and/or assaults (Note: these photographs should also include any damage to vehicles or property)
- ___ Photograph all weapons and contraband, to include close-up photos of the model and serial numbers, if applicable.
- ___ Photograph all suspects with weapons and contraband seized.
- ___ Photograph shell casings.
- ___ Include medical records and or letters from the hospital on all injuries sustained.
- ___ If there are personnel KIA, a copy of the death certificate needs to be filed for each person killed.
- ___ Prepare two sworn statements.
- ___ Draw a sketch.
- ___ Collect and tag all evidence.



PROPAGANDA

- ___ Photograph all computers, cell phones, palm pilots, thumb drives, CDs, DVDs, cameras, video equipment, and disks.
- ___ Photograph paper propaganda materials, such as night letters.
- ___ Photograph the location where evidence was obtained.
- ___ Photograph the suspect with the evidence.
- ___ Photograph and seize all suspects' IDs, visas, passports. Make copies in case any items are lost.
- ___ Prepare two sworn statements.
- ___ Draw a sketch.
- ___ Collect and tag all evidence.