

# Evidence-Based Operations (EvBO) in Afghanistan Tactical Rule of Law

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## Battle Space Threat Reduction

- Operations conducted under the Rule of Law (RoL) **require legal action** for continued detention of captured suspects.
- The mission objective is to **kill or convict**—capture is not a finishing action. Reduce the number of detainees returned to the operational environment by following GIRoA legal guidelines.
- Injecting an Afghan prosecutor (Saranwal) into your operations under the concept of **Evidence-Based Operations (EvBO) may increase the number of detainees removed from the operational environment** (court process = several months; conviction = a year or more).

## Steps to Initiate EvBO

**1. Build the EvBO Team:** Staff Judge Advocate/JAG, TF435 (Rule of Law Field Force), law enforcement professionals (LEPs), National Directorate of Security (NDS) or GIRoA prosecutor, Police Advisory Team (PAT), and CJTF Paladin Theatre Explosives Exploitation (TEX) team. Engage SJA, TF435, TEX, and LEPs for assistance/participation. Locate closest GIRoA NDS prosecutor (aka: Anti-Terrorism Prosecution Department [ATPD]). If not at the district level, they are typically at the provincial level. You may also use regular GIRoA Saranwals if no NDS is available. **The Afghan Prosecutor is the key to EvBO.**

**2. The Saranwal outlines what evidence and/or testimony is needed to prosecute cases.**

**3. Identify a functioning court or one secure enough to hear cases:** If the district or provincial court is not functioning or secure, cases may go to the NDS National Terrorism Court in Kabul, which can hear cases from anywhere in Afghanistan.

**4. EvBO team to conduct KLEs:** Meet judges to determine what they require to convict a detainee. Meet ANSF leadership for support (enablers: NDS, Ministry of Interior Investigators, or literate ANSF).

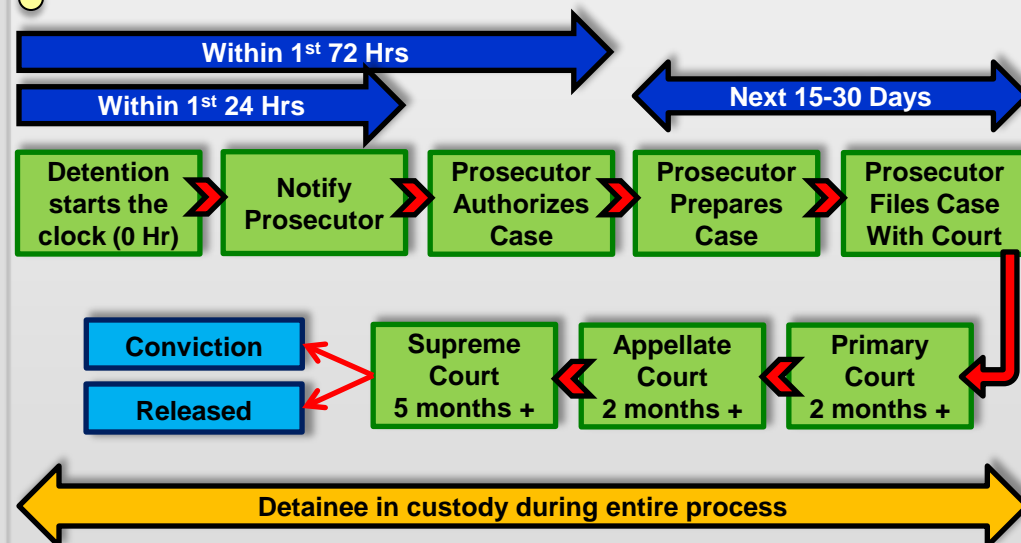
**5. Provide the Saranwal with what is needed and what JUDGES want**—NOT what we think they should get.

### SATISFY:

**Prosecutor Criteria = Detention  
 Judge Criteria = Conviction**

## GIRoA Legal Timelines and Court Process

**Properly filed cases keep insurgents off of the battlefield for several months. A conviction can remove the INS from the fight for several years.**



## GIRoA Case Package

1. Request case package forms from the prosecutor.
2. Obtain instructions and properly fill out the forms.
3. Provide a class for the EvBO team, ANSF and interpreters ("Terp").
4. Use the forms—have ANSF or Terp fill out the forms (not CF).
5. Document and process evidence as requested by the prosecutor. Evidence may be sent to Coalition Force Forensic Laboratories (Combined Explosives Exploitation Cell (CEX-C), Expeditionary Forensics Laboratory (EFL), Armed Forces DNA Identification Laboratory (AFDIL), etc.) and still be used in GIRoA prosecutions.

## SJAs, TF435 and LEPs

The use of SJAs/JAGs, PATs, TF435, CJTF Paladin and LEP personnel can greatly support EvBO efforts, assisting in KLEs to form relationships with AF judges, prosecutors, and investigators. These assets may also be available to assist in mission planning and execution. On the objective, they can assist in the proper documentation and/or preparation of the EvBO case file.

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# Show an Afghan Presence on the Case

## ANSF Participation

The GIRoA legal system prefers Afghan witnesses to foreign (CF) witnesses. Position your ANSF counterparts to be the primary witnesses whenever possible (i.e., put an Afghan face on the case).

**Ask your Afghan Prosecutor for guidance on how best to utilize ANSF on the objective.**

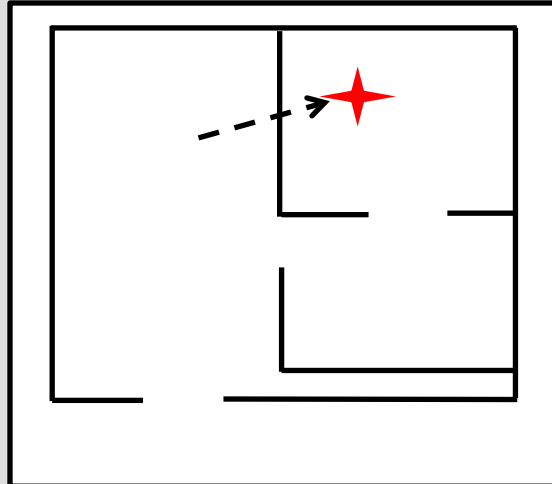
## Photos



Photo ideally depicts detainee standing next to ANSF (use ANSF to hold evidence). Do not put detainee in submissive pose (avoid old money shot). Photograph items where found or at least centrally collected. Try to have ANSF in each photo (Afghan Face). Have ANSF sign and thumbprint photo for case file. **Ask the Saranwal for the best way to photograph for the case.**

## Scene Report/Site Sketch

Use ANSF or Terp to fill out all forms for GIRoA Case package **in the local language**, including lettering or numbers. The Afghans may refer to the site sketch document as a *scene report*. This form can also include witness statements and evidence lists. **Ask your prosecutor for guidance on site sketch and scene report preparation.** Document the objective with a site sketch. Draw the outline of the objective and indicate where individuals and seized items were located. If ANSF/Terp drew the sketch, have him sign and place a thumbprint on each sketch. Document the owner of the site/compound where contraband or detainees were found, as the owner is legally liable for all materiel/persons on site as per GIRoA law. Attempt to have the detainee acknowledge by signature and thumbprint on evidence custody documents what was owned by/seized from them. Always complete accurate biometric collections of all detainees and/or arrestees. **Use GIRoA forms and follow local GIRoA guidance on completing all forms.**



## Capture Video/Photographs of Bulk or Dangerous Evidence Requiring Destruction

Bulk or dangerous evidence may need to be destroyed on site. Examples may be RPGs, mortar rounds, large amounts of HME, chemicals or drugs. Such actions must be documented, ideally by video or photographs. In the photographs, show your ANSF counterparts handling, destroying or present at the destruction of the evidence. Have ANSF give a verbal accounting of the destruction on videos and a written statement signed and thumbprinted to accompany photographs. Take a sample or safe portion of items destroyed for submission to the court as physical evidence. **UNCLASSIFIED//FOR OFFICIAL USE ONLY**

## Witness Statements

Witness statements should be obtained from ANSF or GIRoA personnel who were on the objective. Use an interpreter for illiterate ANSF. Both ANSF and interpreter (if used) personnel are to sign and thumbprint **each** statement. Attempt to use the same ANSF for both witness statements and in the photos. **Ask your Saranwal for statement preparation guidance and how many witnesses are needed.** If in doubt, seek two ANSF/GIRoA witnesses.

## Put Signatures and Thumbprints on ALL Documents

Thumbprints are very important to the GIRoA judicial process. Have witnessing Afghan ANSF personnel and Terps **both sign and thumbprint all photographs or forms (to include evidence custody documents)**. If a CF member is a witness, or fills out any forms, he is also to apply his signature and thumbprint.



GIRoA practices and forms may vary by location—ensure proper use beforehand. Complete your mission by adapting to local procedures and practices.

*Always remember the objective:  
Kill or Convict.*