

COIN

COMMON SENSE



SECURITY FORCE ASSISTANCE
THE PROGRESSION OF THE CAMPAIGN

TOWARDS A BETTER WAY TO ENGAGE
INSIGHTS FROM THE FIELD OF NEGOTIATION

UNDERSTANDING & COMMUNICATING
NEUTRALIZING ARGHANDAB'S INSURGENCY

CONTACT WITH CONFIDENCE
EXAMINING THE RULES OF ENGAGEMENT

**MEDICINE &
COUNTERINSURGENCY**

AFGHAN PERSPECTIVES: A CONVERSATION WITH THE CHIEF OF STAFF OF ANASOC

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COUNTERINSURGENCY:

“Those military, paramilitary, political, economic, psychological, and civic actions taken to defeat insurgency.”

- NATO Allied Joint Doctrine (2010)

COIN Common Sense is a publication of the COMISAF Advisory & Assistance Team.

It is written by the troops, for the troops. We are looking for the perspectives of everyone playing a role in the current COIN campaign, specifically those from the front lines (E6 and below, Company Commanders) and from our Afghan partners. If you have a story you think we should consider, please send it to: ISAF_CAAT@afghan.swa.army.mil

Submission Guidelines:

- Articles to be no more than 800 words.
- Photos should be high-resolution (300dpi) and no smaller than 3x5.
- Please submit photo captions, identify photographers, and include a short bio of the author (Name, Rank, Unit, Nation)

FROM THE CSM



CSM THOMAS CAPEL
ISAF, COMMAND SERGEANT MAJOR

It is my honor and privilege to address you as the ISAF Senior Enlisted Leader for the first time in the COIN magazine. You are each filling a critical role at this pivotal moment in the conflict. As the Coalition transitions more terrain and a greater responsibility to our ANSF partners, we still have much to do.

Entering this next phase of the campaign, as we progress and evolve into a Security Force Assistance mission, we will face many new challenges. For the first time in this conflict, the Coalition will not lead the charge. We must remember that now our success is tied to the success of that Afghan officer or enlisted Soldier we are assisting. This is the responsibility of each and every member of the Coalition. When they are able to accomplish their job successfully, we will have also accomplished our job. Our success is measured by the ANSF's ability to effectively protect the Afghan population.

Some things won't change. More than ever before, it is important for us to remember that this is their country. We must respect their culture. Respecting their culture will cultivate a level of humility when approaching the task of advising. We cannot enter upon this mission of providing Security Force Assistance if we are unwilling or unable to first understand their viewpoint; how their mindset and cultural understanding influences their decision-making process. When executing SFA, seek to first understand and build rapport with your Afghan counterpart. It is through trust and understanding that you will have an impact in your work.

We must remember that the assistance focus of this mission necessitates that the Coalition is now in a supporting role. To accomplish this mission with success, we must refrain from taking the lead in the "doing."

What is important now is not our ability or alacrity. It isn't important how fast or how well a Coalition medic can perform his duties under fire, or how effective our logistics system is able to operate. It is how quickly and how effectively the Afghan medic can perform his duties under fire; or how efficient the Afghan logistics specialist is in maintaining ANA supply lines. The Afghan security forces must have confidence in their own support and combat capabilities. Again, their success is inextricably tied to our own success.

We have done a lot, but we still have some work to do. The phrase "Shona Ba Shona" is a good depiction what our role has been, as we have stood alongside our Afghan brothers in arms. Now, that posture is changing. We used to be shoulder to shoulder, but now they must be in the lead. This is their country, and when our boots are no longer touching their soil it will still be their country.

Hooah,

A handwritten signature in black ink that reads "Thomas R. Capel".



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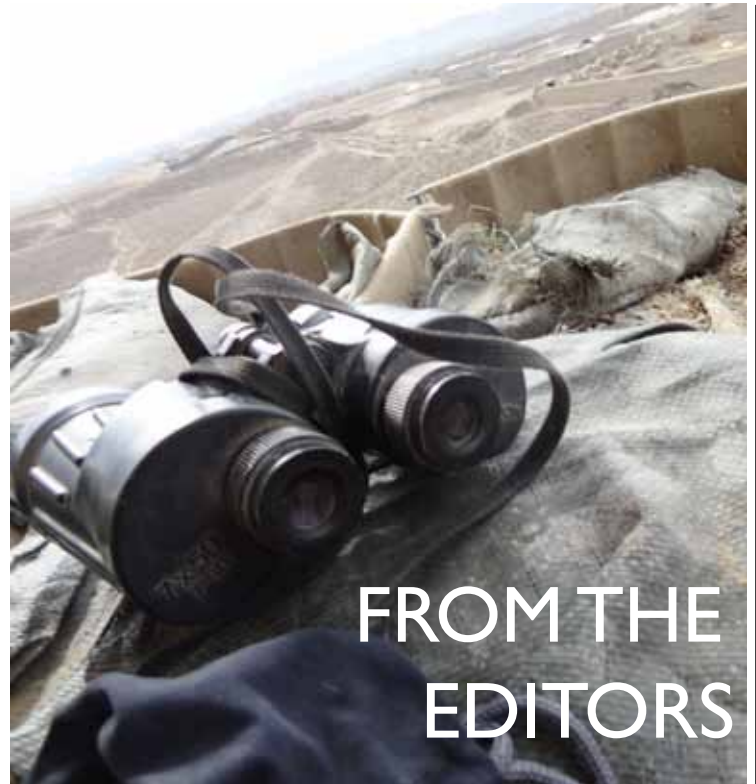
FROM THE EDITORS

You may have noticed some changes to this magazine. In the past we have dedicated issues to a singular topic. Our new goal in producing this magazine is to cover a greater array of topics affecting the campaign and the progression of Transition throughout Afghanistan.

This edition of the *COIN Common Sense* magazine focuses on the mission of Security Force Assistance (SFA). SFA is the new way the campaign will be conducted. In addition to the feature article on SFA, we have also included articles on negotiation tactics, lessons learned in the Arghandab River Valley, the role medicine plays in countersurgency, and an article on steps to ensure better understanding of the rules of engagement.

A new, recurring section that we have implemented is “Afghan Perspectives.” It is our intent to feature the opinions and views of Afghans to a greater extent, as Transition progresses. Our previous issue featured opinion pieces from various members of Afghanistan’s civil society. This issue features an interview with the Afghan National Army Special Operations Command’s Chief of Staff, Colonel Besmelah Waziri.

It is our continued intent that the articles in this magazine are beneficial to you, the troops on the ground.



FROM THE EDITORS

The publication of this magazine would not be possible without the help and assistance of many individuals. The COIN Common Sense Staff would like to thank several people in particular:

Special thanks to Dan O’Shea (CAAT - RC North) for providing most of the photos used in this issue. Thanks to MAJ Gallegos (CAAT - Lessons Learned) for facilitating and conducting the interview with COL Waziri; special thanks to COL Waziri and the mentors at Camp Moorehead; Thanks to LTC Simmering and Mr. Randy Brumit in RC South, and to LTC Malsby for his article on medicine and counterinsurgency. Thanks once again to CJATF Shafafiyat, especially MAJ Aram Donigan for his article on negotiations.

A special thanks to everyone at UNO Printing Press for their continued dedication and support in the publishing of this magazine. Without their work, creating this magazine would not be possible

Lastly, the staff would like to thank Mr. Ken Silvia for his article on the rules of engagement and his service to the mission of the CAAT.

- The COIN Common Sense Editorial Staff



MEDICINE + COUNTERINSURGENCY

Does direct patient care by coalition service members work?



Medical civic action programs throughout the Vietnam War had three overarching objectives: continuity, participation, and improvement. These three objectives stressed that all medical civic action had to have a level of commitment that the local government could sustain after U.S. forces withdrew. Any such program was required to have local government involvement and training participation. Any advanced medical care would be introduced only to the extent and sophistication that the South Vietnamese medical system could maintain. Unfortunately, the majority of these activities involved uniformed U.S. and civilian personnel providing direct patient care to the people of South Vietnam.

Thirty years later America again applies medical support to a counterinsurgency. The question of “weaponizing” medicine has not been answered. Medical readiness and training exercises provided humanitarian assistance to many countries in Latin American and Africa over the preceding decades, building relationships with developing countries of similar interests. The U.S. Navy and Army Special Forces employed such activities for “Operations Short of War” with the flexibility and mobility to offer support to countries across the globe. This was common practice during the 1980s and 1990s with pictures of the USS Mercy and USS Comfort anchored off the shores of developing allies. Like the disaster relief operations of the 1950s and early 1960s, end-states were set with host nation participation and limitations understood. None of these operations were counterinsurgencies though. These concepts, as with Vietnam, were applied to the counterinsurgency in Afghanistan with little actual guidance or evidence of efficacy.

Vietnam marked a revolution in military medicine. This was the first concerted effort to use direct patient care to aid combat operations against an insurgency. The factors that shaped this were: the U.S. losing focus on prior counterinsurgency missions and the principles that had shown success; lack of knowledge to the limits of humanitarian assistance missions; and medical training out-pacing the mission.

As with Vietnam, there is no applicable doctrine available for counterinsurgency medical support for Afghanistan, and what doctrine is available is limited to humanitarian assistance and pertinent only to disaster relief. While humanitarian assistance missions are similar in structure, they do not have the same purpose as a counterinsurgency. Army operational principles and doctrine mention medical care as an issue, but this is not synchronized with counterinsurgency doctrine and is American-centric in its wording. Currently, there is only minimal counterinsurgency training for AMEDD officers, although counterinsurgency is the most common conflict confronted by American forces.

One could argue that this is a Civil Affairs issue and should be left to them for training and doctrine development. Unfortunately, as seen in Afghanistan and earlier in Vietnam, the training of civil medical personnel is inadequate. It would also stand to reason that any medical mission planned by Civil Affairs will most likely be supported by the AMEDD.

Such training is critical because medical education and technology are out-pacing these missions. Previously medical corps officers during the Philippine Insurrection and small wars of the early 1900s focused on sanitation, hygiene programs and infrastructure engineering. This is all that was available at the time. Modalities like antibiotics, advanced palliative care and reconstructive surgery were still in their infancy.

By the 1960s American medical training had progressed and now focused on pharmaceutical therapies for developed countries. The “magic bullet” is now at the core of the American treatment mindset. Basic preventive serves are an afterthought in most medical institutions of training. Altruism is paramount, and doctors are taught that the most important person is the patient sitting in front of them. Such providers then become the subject matter experts for commanders in the field as they are assigned as division, brigade and battalion surgeons. In the absence of any doctrinal training, naturally these professionals fall back to their basic core training; “treat the patient in front of you.” They instinctively ask the question, “What kind of technology can I bring to bear to solve this clinical problem?” There is none in a counterinsurgency.

Direct patient care programs demonstrated no positive outcomes, despite hundreds of millions of dollars expended. This means of non-lethal combat power persisted with as much vigor during the first seven years of OEF as during the MEDCAP programs of Vietnam. U.S. planners attempted no significant change in this program and the same amount of money was wasted proportioned to the times. One must ask, “Is medicine the right weapon?” Like any targeting, one needs the right weapon for the right effect. **C**

LTC Robert “Rob” Malsby has been a residency trained/board certified Family Physician in the US Army for 16 years and holds additional qualifications as a Flight Surgeon, Diving Medical Officer and Military Historian. He is currently the Regional Command-South Surgeon and has held multiple duty positions in operational medicine to include four deployments to Afghanistan in support of Special Operations and two additional deployments to Kosovo/ Macedonia and Haiti.



UNDERSTANDING & COMMUNICATING

NEUTRALIZING THE ARGHANDAB RIVER VALLEY INSURGENCY

OBSERVATIONS FROM THE FIELD

Over ten years after the United States and our coalition partners intervened in Afghanistan to prevent the country from remaining a terrorist safe haven, there is some debate whether progress has truly occurred. In reality, the coalition’s military and civilian efforts helped forge a strong central government with representation from throughout the country. Villager by villager, the coalition worked hard to forge enduring political solutions around a framework of governance the people of Afghanistan could accept. In certain areas, Afghanistan National Security Forces maintain security independently. While some may hesitate to guarantee mission success at this point, progress in select areas is undeniable. The Arghandab District in Khandahar Province is one such area of marked progress. Over the last year, we witnessed a 90% reduction in enemy activity despite drawing down the number of ISAF and ANSF Army units in the valley by almost 50%. Achieving progress and the prospect of enduring stability here has not been the result of happenstance but instead is a direct result of an ability to understand the human terrain and to effectively communicate and implement a system for governance that ties the villagers to the District using a vision they helped create.

Over the last thirty years the Arghandab District has been home to some of Afghanistan’s most fierce fighting and its most infamous leaders. During the Soviet invasion, the people of the Arghandab soundly defeated a Soviet Division’s onslaught that left the region badly scarred. Usama Bin Laden walked the streets of the Arghandab at one time during the Taliban regime. The Taliban’s seat of government (and Mullah Omar’s house) lies a mere thousand meters from the Arghandab’s southern boundary. In 2001, key personalities in the area negotiated the withdrawal of the Taliban from Khandahar City. Regardless, an insurgency developed in the region that forced the coalition’s hand, resulting in a surge of forces into the region. As recently as last year, Arghandab District found itself garrisoned with nineteen different company-sized U.S. and Afghan Army elements along with almost 400 Afghan Uniformed Police (AUP) and 170 Afghan Local Police (ALP).

Today, the Arghandab District records the lowest number of attacks per month tracked since 2006. The number of units positioned in the area has been cut in nearly half from the height of the surge in October 2010. The people of the district largely support GIRoA, and the security forces and government officials demonstrate to their partners on a daily basis that Afghans are preparing to assume the lead for both security and governance. This massive change in both the attitude of the populace and the capabilities of the ANSF is a direct result of two factors – understanding the area and communication between all parties to achieve enduring stability. This progress was a result of the ability to listen and communicate with the people, the ability to understand grievances, and the ability to negotiate, arbitrate, and compromise to

“The fractures in political and social dynamics of the country serve as a basis for the insurgency in Afghanistan...”

achieve an enduring Afghan solution that resolves the root causes of instability. We followed basic COIN doctrine (focus on the population, enable indigenous forces, etc.); however, our attention to specific aspects of COIN doctrine tailored for the Afghan environment allowed us to make unexpected inroads more quickly than expected. Although we learned some hard lessons along the way,

we followed some simple guidelines. In our opinion, broad application of these guidelines to each contentious district in Afghanistan could result in a decrease in violence.

➡ UNDERSTAND THE PEOPLE

As with all insurgencies, the fractures in political and social dynamics of the country serve as a basis for the insurgency in Afghanistan. The failure to achieve an adequate long term political settlement at the conclusion of major hostilities continues to serve as the basis for grievances at the strategic and operational levels. Whether ideologically, religiously, or politically motivated, hostilities will ultimately end through political means. In the Arghandab, these longstanding and unresolved grievances served as the basis for tensions and violence among the tribes, villages, and various political factions – some related to the mujahideen rivalry period of the early 1990s. Until recently, we did not understand the implications of these long standing grievances at the tactical level in the Arghandab; we underwent a massive effort to understand the human terrain and the history of the district.

As a military force, the tendency of patrols outside the wire is to ask “where are the bad guys?” Others will say “please come to the next shura” in an effort to strengthen governance at the lowest levels. However, our approach differed somewhat. Our primary questions were “tell me about your village...tell me about the people...tell me about the history of the area.” Done on a massive scale, the development of a true, deeper understanding of the local history allowed us to piece together the social and political dynamics of the District, map the human terrain below the village level, and more clearly understand the various competing factors that needed to be balanced to achieve enduring stability.

➡ FOSTER A SUSTAINABLE GOVERNMENT SYSTEM AT THE DISTRICT LEVEL

At its very core, a government exists for one reason: to maintain security for a collective group of people. After mapping the human terrain, understanding the grievances of the populace, and placing the people at the center of the solution, we created a system-based solution for enduring governance that kept grievances to a level such that the indigenous security forces would be able to combat the residual violence independently. With the help of district leadership, we mapped the human terrain into thirty three village clusters (or sub districts) of people who identified themselves as a distinct area. Within each of the 33 areas, we convinced these clusters, through negotiation, to formally (through village shuras) choose a malik (district representative) whom the District governor approved. We further grouped the 33 village clusters into 11 police sub zones that divided security responsibilities for the entire area. The AUP appointed an Afghan police commander for each area to settle grievances at the lowest level. From there, we created a representative council at the district level, with leaders from the 33 different sub-districts. This enduring governance mechanism provides a forum for communication and dispute resolution that helps maintain security.

➡ ENABLE THE AFGHANS TO SETTLE INTERNAL GRIEVANCES

After 30 years of war, no one understands the implications of violence more than the Afghan people. By focusing on the political and social dynamics of the region, we were better able to understand the underlying causes of insurgent activity in the area. Further, by focusing on enabling the Afghans to settle these differences, the insurgency within the region quickly dissipated. Given that the Arghandab has an effective District Governor and an effective District Chief of Police, we focused heavily on creating solutions that put them at the forefront. While we used our human terrain maps to create a system for sub-district governance, we used the district leaders to ultimately tie the villages to the district level. Routine visits to remote villages by our district leaders slowly built momentum in governance and security.

➡ ENABLE THE POPULATION TO PROTECT THEMSELVES

The ALP program served as a basis for allowing the people of the Arghandab to secure themselves. This CJSOTF-run program is too often left up to the SOF community to execute unilaterally due to the sheer size of the country. In our district, the approach differed. All battlespace owning units had a responsibility to execute Village Stability Operations (VSO). All units had the responsibility for establishing a shura, malik, and village counsel in each of the village clusters. When the opportunity presented itself, all units had the responsibility for coordinating the growth of ALP and enabling this SOF-run, MoI-driven program. Currently, the Arghandab has nearly 300 ALP established in

the district. Additionally, these ALP were subordinated to the existing police force through the sub-zone check point commanders. This approach allowed the locals to select those who secure their villages, but legitimized those selected by partnering them under the district police leadership.

➡ WHERE THE POPULATION CAN'T PROTECT ITSELF, ENABLE THE AFGHAN SECURITY FORCES

Police were positioned into areas where we anticipated that the creation of ALP would ultimately not happen because of the social dynamics of the region. Where the 383 man police force for the district could not maintain security unilaterally, we positioned ANA forces. US forces were positioned to enable partnered operations between all indigenous forces with a focus on training the ANSF to lead operations. During lulls in enemy activity, ISAF forces sacrificed security patrols to train the ANSF. The ANSF, in turn, understood that the departure of ISAF from the region was inevitable, and they needed to be prepared to maintain security in the area. While enabling ANSF can prove difficult because of continuing sustainment challenges, the gains made from legitimizing them in the eyes of the populace only served to strengthen our governance efforts.

“By focusing on the political and social dynamics of the region, we were better able to understand the underlying causes of insurgent activity in the area...by focusing on enabling the Afghans to settle these differences, the insurgency within the region quickly dissipated.”

➡ EVERYTHING IS GEARED TOWARDS TRANSITION

ISAF forces will remain in Afghanistan for a finite amount of time. Given the time constraint, our team established a long term campaign plan that, based upon the desires of the district leadership, worked towards a vision of enduring stability. Primarily, we are not here to combat the Taliban or Haqqani networks. We are here to help the people combat their enemies until a political solution can be achieved. Using the human terrain as a basis, we established a final vision of security in the Arghandab where the 383 police and 400 ALP maintain security in the area on their own. We sold that plan to the Afghan leadership, and then we sank all of our effort into enabling transition towards this enduring vision rather than on the enemy. By focusing on strengthening governance and enabling the ANSF, the people began to slowly view GIRoA as an alternative to the days of violence that litter Arghandab's past. Even key figures that freely admit supporting the Taliban only two years ago now openly interact with the District Government on a daily basis.

➡ ENABLE COMMUNICATION BETWEEN EVERYONE TO BUILD THE TEAM

In the end, we are all trying to create a self-functioning, Afghan sustainable team that we can leave behind for the Afghans to perpetuate of their own accord. The Afghans must do this together. Unity of the population became the theme for everything. “One Team” serves as the motto for all of the security forces – ISAF, AUP, ANA, and ALP. Making the local people identify with successes in the Arghandab became the focus for the entire district. By settling differences, by having the Afghans communicate the need for unity, by creating the governance and security mechanisms for them to do it by themselves, and by the constant drumbeat of inclusiveness, we brought tribes and villages together that had fought for years.

None of these aspects of our unit's counterinsurgency operations differ from the COIN doctrine that the US Army has learned over the last decade. Our application of the doctrine differed in the emphasis placed on understanding the people, creating a long term mechanism for stability at the district level

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SECURITY FORCE ASSISTANCE

THE PROGRESSION OF THE CAMPAIGN





THE NEXT PHASE IN THE ISAF CAMPAIGN TO ESTABLISH A SUSTAINABLE AFGHAN SECURITY CAPABILITY

FEATURE ARTICLE

SECURITY FORCE ASSISTANCE

In October of 2011, the International Security Assistance Force (ISAF) issued a revised campaign plan that shifted the focus of ISAF's mission. This mission changed from one of conducting counterinsurgency operations in partnership with the government of Afghanistan, to supporting the government of Afghanistan to conduct counterinsurgency operations. Thus, the ISAF mission has progressed from coalition-led operations, to a campaign which supports the development of the Afghan security forces, both army and police, enabling them ultimately to conduct independent operations. The impetus for this natural evolution in the manner of accomplishing ISAF's goals is the evolving relationship between the international community and the government of Afghanistan. This progression does not mark a change in the international community's goals. Rather, ISAF and the international community remain committed to the irreversible transition of security responsibility to the government of Afghanistan. As the capabilities of the Afghan security forces mature, so too must the manner and processes by which the international community provide support; Security Force Assistance is therefore the way in which ISAF will develop the Afghan security forces. The overall aim of Security Force Assistance is to support the transition process and assist the government of Afghanistan in taking the lead with an improved security capability. Together, the Afghan security forces and ISAF will deliver an enduring solution in Afghanistan.

MISSION

ISAF's mission remains the protection of the people of Afghanistan by supporting the sovereign government of Afghanistan in the development of a national security force capable of assuming the lead responsibility for security operations. The objective of this mission is the transition to an enduring partnership between the international community and the Afghan government, which is intended to provide political and practical support to Afghanistan over the long-term.

TRANSITION

As ISAF progressively transitions security responsibilities to the Afghan government, a change in our collective thinking is required. ISAF must now seek ways to enable the Afghan security forces to shoulder the burden for security operations. Security Force Assistance is linked to the Transition process strategically; transition to an ANSF lead does not, however, confer an immediate reduction of Coalition forces and resources at the tactical level. Afghan security forces have begun to assume the lead in delivering security for the people of Afghanistan with ISAF providing advice and assistance; advice on how to deliver security and how best to utilize ISAF's technical, military, training, and material assistance. Once an area enters the Transition process, the Afghan security forces become the

supported command. ISAF will retain military assets in that area and will, when required, fight alongside the Afghans as their partner of choice. However, ISAF assistance will reduce over time; the conditions for this reduction are linked to improving security, developing governance, rule of law, and the increased proficiency of the Afghan security forces.

The transition of security responsibility is not merely a reallocation of responsibility from ISAF to the Afghan security forces, but a shift in primacy within the security forces from the military to the police. Once the security situation allows ISAF to withdraw from the key regions and population centers, the burden to sustain stability will fall upon the Afghan police forces, the natural providers of community-based security solutions. Security Force Assistance takes into account police primacy as the norm in the post-transitional security environment. Thus the international community will need to ensure that greater emphasis is placed on developing and assisting the Afghan police.

A change of mindset is required. Coalition troops must change the manner in which they develop and support the Afghans through Transition. Therefore, ISAF and the international community must ensure that our collective approach is unified and all-encompassing. Such an approach must take into account the varying needs of the Afghan army, police, and other security forces.

WHAT IS SECURITY FORCE ASSISTANCE?

Security Force Assistance is defined as the unified action to generate, employ, and sustain Afghan security forces to support the government and people of Afghanistan. Therefore, Security Force Assistance is the manner (defines the ways) in which ISAF will support the Afghan military and police, through the transition process, to accomplish the established campaign goals. While advisory and assistance teams are mechanisms (the predetermined means) in which Security Force Assistance is delivered, it should not be inferred that Coalition forces will not be called upon to engage the enemy and fight alongside their Afghan security force counterparts when required. Security Force Assistance is the logical progression in the execution of ISAF's campaign objectives. Ultimately the transition of security responsibilities to the security forces of Afghanistan enables Afghan civil authority.

Security Force Assistance is conducted from the Afghan security ministries all the way down to the squad on patrol.

Security Force Assistance is delivered across the entire breadth and

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COMISAF's SECURITY FORCE ASSISTANCE PRINCIPLES

Security Force Assistance is the single most important concept that ISAF will implement in more than ten years of the campaign--it reflects a fundamental milestone in the campaign and a change in relationship with the ANSF.

- General John Allen, USMC

MISSION

SFA THE WAY TO ACHIEVE MISSION SUCCESS. SFA is the way in which we will achieve the irreversible transition of lead security responsibility to the Afghans. The sovereign nation of Afghanistan will own the battle space and ISAF will support ANSF operations in accordance with their plans.

ONE COMMAND AND ONE MISSION. SFA is conducted from the ministries down to the squad on patrol. Do not build alternative chains of command or ad hoc organizations. Use simple and unambiguous command and control systems that mirror the Afghan's chain of command and then support them at every level.

SFA DOES NOT EQUAL SFA TEAMS. The Afghans' success is our success. All elements of the force deliver SFA. SFA is the way to achieve success (ends) and SFA teams are one of the means; but they do not represent the only means.

MINDSET

UNDERSTAND IN ORDER TO ADVISE. Understand the security force that you are assigned to assist and where it resides on the path to self-sufficiency. Advise and assist from the perspective of unified action, do not become solely focused on any one entity at any one time.

THERE IS NO SINGLE APPROACH. ISAF will provide assistance to all the ANSF security elements. Do not solely focus on the ANA because it is comfortable to do so. The ANP are not the ANA, nor are they the NDS. SFA requires a fundamental change of mindset, a different way of doing business; be comfortable with change and relish this unique opportunity.

ONE AFGHAN ONE ADVISOR. Define the sphere of influence for every Afghan unit, official, and leader. Avoid multiple and overlapping advisory chains. Determine who owns the relationship and then allow that individual to develop it. The appropriate individual with the connections to the appropriate resources can deliver far more than a fully manned team without direction. Do not confuse quantity with quality.

THEIR FAILURE IS NOT YOUR FAILURE. Have the confidence and patience to allow your counterpart to lead. Learning through self-discovery and to determining their own shortcomings are essential to lasting development. The Afghans will get the occasional bloody nose and you must ensure that they learn from the experience. However, ISAF must not stand by and watch them being knocked down.

BETTER THAT THE AFGHANS DO SOMETHING ADEQUATELY THEN WE DO IT PERFECTLY. Ask and then listen to how the Afghans will conduct operations, and then assist them accordingly; increase their capability along the way. Your effect is measured by how well the ANSF develop, not the number of times you successfully complete a task, acquire resources, or the number of suggestions you make.

APPROACH

THIS IS AFGHANISTAN. Don't template assistance based on your background or prejudice. Approach every problem from an Afghan perspective. Your counterpart will always take an Afghan approach or seek an Afghan solution. Observe and understand the cultural norms. Your counterpart will always take an Afghan approach or seek an Afghan solution. Observe and understand the cultural norms, their systems, and processes before offering advice. Sustainable solutions will be ones that Afghan can embrace as their own. Enable and then ensure there is accountability.

SFA IS BASED ON AFGHAN NEEDS. Afghan needs and requirements are just that. Their solutions must be durable, consistent, and sustainable. The goal of effective SFA is self-sufficiency. Developing professionalism and leadership will have far greater and a more lasting effect than developing tactics. The emphasis should be on the "why and how" we do this, rather than on the "what to do".

DON'T ALLOW CULTURAL DIFFERENCES TO DIVIDE US. Operating according to Afghan priorities and timelines may involve periods of relative inactivity, be comfortable with this. Relationships are incredibly valuable. Chatting and drinking chai isn't a distraction or an unproductive use of your time; view it as the time where you arrive at a mutual understanding of where you're going and how you are collectively going to get there.

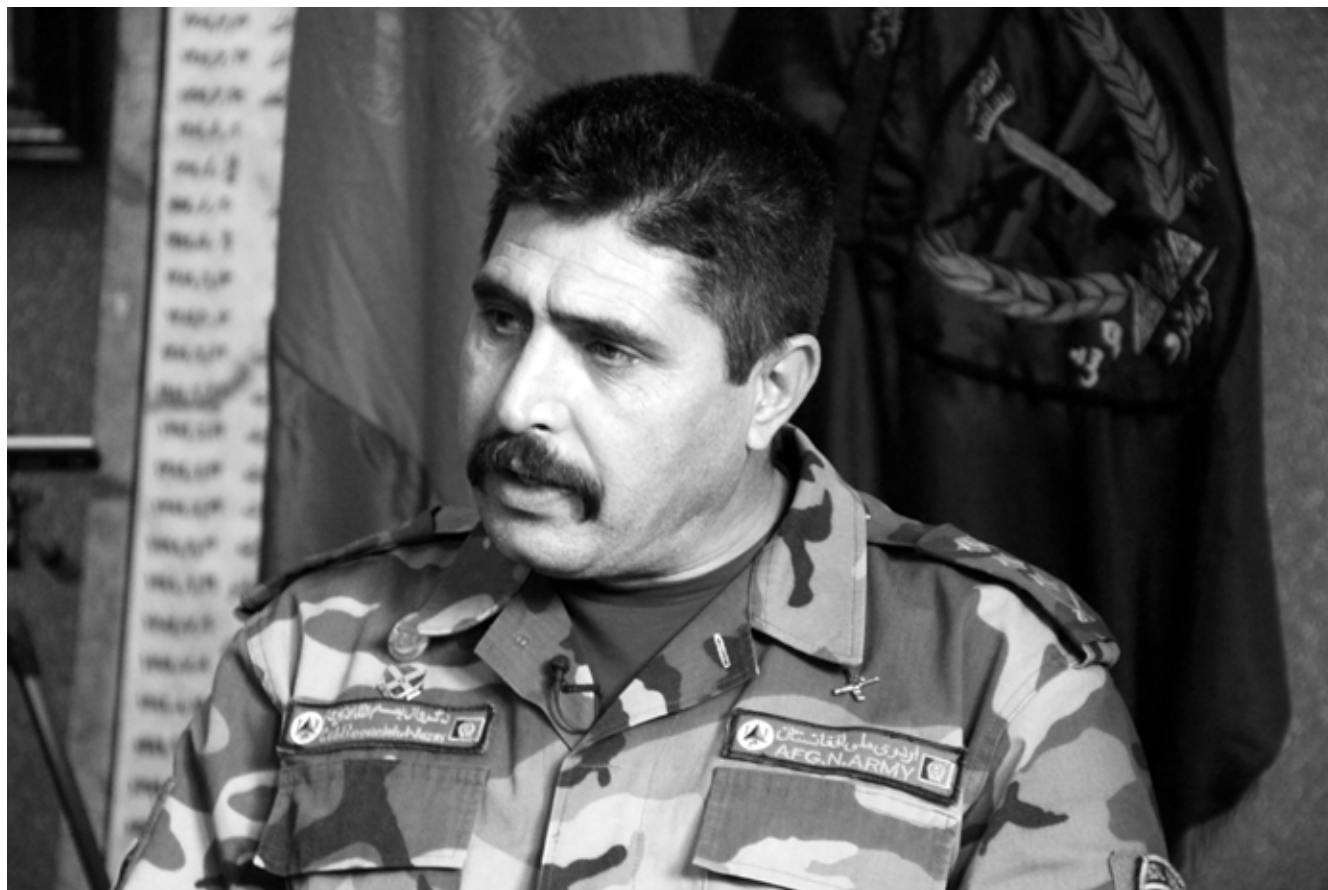
MAINTAIN THE SENSORY NETWORK. As force levels reduce, our traditional situational awareness will decline. Make up for any shortfalls by viewing the Afghans as the primary sensors. Develop and maintain the sensory network. Locals have an advantage, culturally and linguistically, over ISAF and can access information that you will never leverage.

AFGHANS IN THE LEAD DOES NOT MEAN AFGHANS ALONE. Live, eat, advise, and if required, fight alongside the Afghans. Assisting on the ground will deliver the greatest rewards, but there are associated risks. Remember you are part of a far larger force. Know your adjacent units and understand how that operational network provides support.

IT IS OK TO SAY "NO." Don't provide enablers that the ANSF will not have access to, post-transition. The routine provision of these assets will only stall the ANSF's ability to develop their own enablers. Keep the ANSF focused on the mission; force them to operate independently; build their confidence by offering a safety net to ensure their success.

LEARNING ORGANIZATION. Share best practices; explain to others what has worked in your sector. It is important to realize where the ANSF are along the continuum from dependency to self-sufficiency. Ensure continuity, chart progress, and pass this information to your replacement so that they can tailor their pre-deployment training to accurately reflect the events on the ground.





ADVISING AND ASSISTING THE AFGHAN NATIONAL SECURITY FORCES

A CONVERSTATION WITH COLONEL BESMILAH WAZIRI

COIN Common Sense recently sat down with Colonel Besmilah Waziri, Chief of Staff of the Afghan National Army Special Operations Command, to get his perspective on ways Coalition Soldiers can advise and assist the Afghan security forces in the transition to a Security Force Assistance model.

Q : What are the three things that Coalition Forces can do better in assisting the Afghan National Security Forces as they take the lead in Afghanistan and Coalition Soldiers assume a supporting role?

A : First of all, coordination. Coordination between the ANA, NDS, and ANP with the coalition forces. Second, mentorship at the tactical level. Especially at the battalion, company, and brigade levels. We need the coalition's help through mentorship; and third, for the long-term, maintenance. Not just for the vehicles but also for the weapons. We must train specialists in maintenance for weapons, vehicles, and other equipment. We need the Coalition's support for these three things.

Q : What are your thoughts on coordination between the ANA, ANP, NDS, and CF?

A : We must be thinking about our coordination between Coalition Forces and all the security forces. Also, we need the mentorship. We have learned a lot of things from our Coalition mentors. I worked in the past in the regular Army also, not like now, because I learned a lot in the planning process, how to make good plans. We must think about our QRF, we must think about our economy, about each shop. Now we are able to make plans and do operations, but again, we need advisory and mentorship at the tactical level, at the company level, the battalion level, and the brigade level.

Q : Tell us about your experiences with Coalition advisors when you were in an infantry kandak commander in RC South.

A : When we went to the Zabul area for the first time with our ATT mentors, without weapons, without a lot of equipment, we learned from our mentors what problems we should solve. We had problems with the vehicles, but with the help

of the Coalition we learned how we should solve our problems. My battalion had five vehicles. We had to use another battalion's vehicles for temporary purpose, for supply, and the mission and other things. The other thing was the planning process. This is not easy, especially for the combat mission and fighting, if you want to send a unit into combat. We must think a lot about this and be able to make good plans for successful missions.

Q: Can you give us some examples of the maintenance needs of the ANA?

A: We have very good weapons. We have the M16 and M4, these are very good weapons. But we must be thinking about the maintenance and spare parts of the weapons. Same with our night vision goggles. We must be thinking about the maintenance, and with the Coalition Force's help, we must train our forces to provide that maintenance. Right now we have a lot of contracts for maintenance and we send them our trucks for maintenance; maybe after some time the contract becomes very expensive. Why don't we use our soldiers, our specialists to maintenance our vehicles and weapons.

Q: What are some good examples of how Coalition Forces can better coordinate with and assist the ANSF?

A: We have a lot of Coordination Centers, in each RC. We must use them. We [ANA, ANP, and NDS], along with Coalition Forces, must send them our intelligence. The important thing is that we much trust each other. The ANA must support the ANP. The ANA must support the NDS.

Q: Tell us about your experiences with Coordination Centers?

A: We need to work more with the Coordination Centers. We have coordination centers throughout Afghanistan. We try our best to work together, especially in the planning process. If we have good coordination during the operational planning, we will be successful.

Q: Based on your experiences, how do you see the relationship between the ANA and ANP?

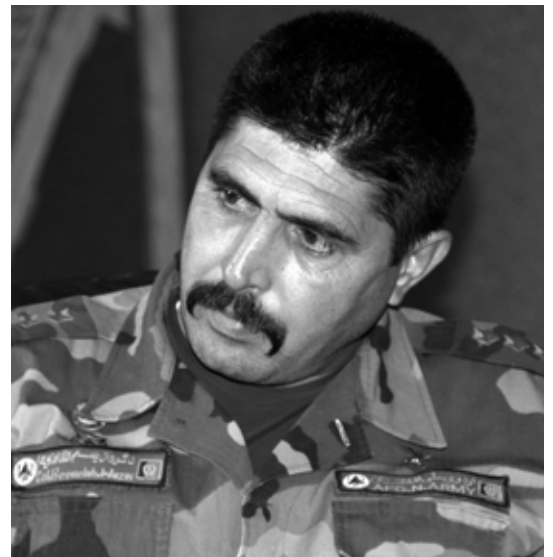
A: The ANA, as the army, is the big brother of the ANP and NDS; we must help in training the ANP, we must teach them about the law and our responsibility. We cannot punish the people, we are the responsible guys.

Q: In your opinion, do you feel the ANSF are prepared to take the lead for security in Afghanistan?

A: Yes. About ninety percent; the Afghan security forces are able to control the situation, and have very good knowledge and experience. In the past ten years they have learned from their mentors and advisors. Some of our officers, some of our NCOs have very good experience. There are a lot of changes coming in the leadership, and they know about their responsibility. I think about ninety percent are ready for the task.

Q: What advice do you offer Coalition Soldiers as they advise and assist the ANSF security forces?

A: As I said earlier, we need the mentorship, especially during the planning process, to assist us in finding our goal and our objective. With regards to intelligence, our army, police, and NDS have their own intelligence shops, their own sources. But for the long-term, we must train our officers and NCOs to help us in the future with the intelligence.





TOWARDS A BETTER WAY TO ENGAGE

LESSONS FROM THE FIELD OF NEGOTIATIONS

“My Soldiers are starting to hate Afghans and I am looking for help.

Why am I not surprised? After all, many ANSF seem to care less about succeeding than we do; most of the people are “fence sitting” and not DOING anything to fix their country; and it seems that all the elders and GIRA officials in my districts are corrupt.

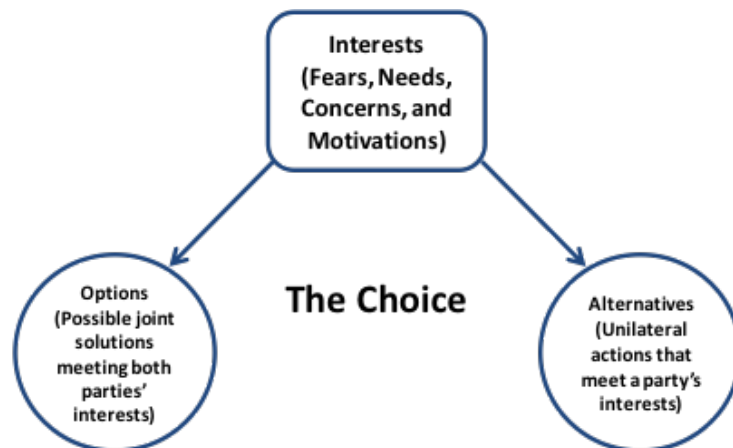
What can I do to shape my Soldiers’ attitude? Is it a lost cause? I’m out of options, and I’m hoping that others have experience and ideas on how to help Soldiers stay positive toward Afghans over the long haul of this deployment.”

- A recent post to the U.S. Army’s platoon leader forum

Text in red from field observations of former West Point Negotiation Project (WPNP) students.

The challenge of influencing Afghans to take action is real, and the resulting frustration, and even resentment, is certainly understandable. Soldiers working tirelessly to help Afghans rebuild their country are faced far too often with a people unwilling to engage, never mind take any action. Worse yet, the more nothing happens, the more the tendency there is to push harder, coerce and even, at times, to try to use threats to convince Afghans to make change. This in turn causes even more pushback from the Afghans, taking the form of ignoring recommendations, agreeing to consider them and then doing nothing, or just rejecting them out of hand. Unfortunately, or perhaps fortunately, the answer to the platoon leader’s post above lies in the reasonableness of the perception that “they don’t care” and the strategies employed to try harder to change that. No Soldier is going to change their feelings or approach because they are told to or lectured on why they should. A Soldier is only going to change their feelings if they develop a new – and different - understanding of why Afghans often choose not to take action, and if they have a new set of strategies for persuading them to do otherwise.

The solution begins with the most basic tenet of negotiation – people do what *they* perceive to be in their best interest. If they believe a proposal is less satisfying than the benefits derived from their walkaway (doing nothing, stalling, doing what they have always done before, waiting for someone else to take action first, etc.), they will always say, “No.” They are not evil, nor crazy. They are simply acting in their self-interest. Our job then is to first understand how they view our proposal, and then find a way to change their choice. To do this effectively involves skillfully implementing five strategies.



STRATEGY #1:

UNDERSTAND THEIR CHOICE AND WHY IT’S IN THEIR INTEREST TO SAY “No”

The most effective way to make people take action is to fully understand their choice. If you can put yourself in your counterpart’s shoes and understand the question they believe they are being asked, and the perceived consequences of saying ‘yes’ versus the benefits of saying ‘no’, you will be able to better understand why he is making a certain choice, and how you can influence his decision.

“The major project for several months was the building of a new school. It was just about finished when it was destroyed one night. We engaged with the villagers to understand who had destroyed the school. At first, I tried offering food and clothing in exchange for information. They gladly took these items but offered no credible leads. I then tried being extra persuasive by explaining how this school would be beneficial for their children. They seemed to understand and even agree, but still would not give me any information. Finally, in frustration, I yelled that any additional help for this village would be conditional on their cooperating with us. At this, they walked away. We never

found out who had destroyed the school and could not get the funding again to build a new one. The enemy achieved their goal; we did not. After some reflection, I realized that my offer had not met their true fear: protecting their families from the enemy that operated in their village. Because I did not inquire about or creatively work to meet this concern, nothing else that I tried to do mattered. Their alternative (not angering the enemy and risking harm to their families) to working with me (taking the food and clothes in exchange for information that might result in death) was clearly the better solution from their perspective.”

Leaders are often unaware of the choice the other party has, as well as how to manage that choice. Had this leader spent the time to consider why the villagers were saying ‘no’ to his proposal, the outcome may have been different. The Currently Perceived Choice (CPC) Tool can enable leaders to systematically think about why their counterpart might be saying no to a proposal.

Currently Perceived Choice

Decision Maker: Villager

Decision: *Shall I today Tell the ISAF soldiers who destroyed the school*

If “yes” <i>I might experience the following consequences</i>	If “no” <i>I will likely experience the following consequences</i>
- Those that burned the village down will inflict harm on my family	+ The US will continue to offer more (possibly better) goods in exchange for the information
- The enemies of the soldiers will kill me for turning them in	+ My family and I will be safe when the soldiers leave
- The soldiers will eventually leave our village and the school will be burned down then, anyway	+ Those who destroyed the school will see me as loyal and will protect my family
- The soldiers’ reaction will escalate to conflict in our village	+ They may not rebuild the school, so I have nothing to gain
- Even if the school is open, nobody will feel safe sending their children there	+ I can always say ‘yes’ tomorrow
<u>However, we also may experience:</u>	<u>However, we also may experience:</u>
+ The people that destroyed the school may be punished and justice can be served	- The soldiers may leave and take with them the food and clothing

**STRATEGY #2:
DEVELOP OPTIONS THAT MEET THEIR INTERESTS WELL**

If you understand the reason your counterpart might say ‘no’ to a proposal and are able to recognize his concerns, you can then develop options that address those concerns and meet both of your interests. In the CPC above, the left column contains the interests and concerns of the villagers that are not met by the proposal. To change their choice, any option would need to meet those interests well. The best approach to developing good options is by engaging with your counterpart, acknowledging his or her concerns and interests, and jointly coming up with solutions that meet his interests and yours. Developing creative solutions and asking ‘what would be wrong with this?’ allows for a productive conversation that can lead to jointly beneficial agreements.

**STRATEGY #3:
TEST THEIR ALTERNATIVES AND FIND WAYS TO WEAKEN THEM**

Of course, you would never agree to an option that was not better than your walkaway - your alternative to an agreement. In the CPC, the right column lists the villagers’ alternatives to working with the platoon leader. When the walkaway is better than the perceived option, the choice is easy. Understanding and testing the villagers’ walkaway would have provided an opportunity to weaken the alternatives, thereby making the option to work with the Soldiers more attractive. In the example above, would the Soldiers leaving lead to the Taliban con-

tinuing to terrorize the village? Would their families likely be more at risk? What other negative consequences might there be to this alternative? What if the Soldiers created a fading opportunity and said they would leave the village if no information was turned in by a hard deadline? If we do not test our counterpart’s alternatives, we lose the chance to weaken their perception of them. Only when the left hand column of the CPC looks like a better situation than the right can we know that the option of engaging with us is better than the alternative, and that’s what we need to persuade them to make the right choice.

**STRATEGY #4:
MAKE IT EASY FOR THEM TO DEFEND THE AGREEMENT**

Just as you would not agree to an option that your boss and colleagues would disapprove of, your counterpart will not commit to something that he cannot defend to his commander or constituents and, even if he does, it is unlikely that he’ll be able to follow through with it.

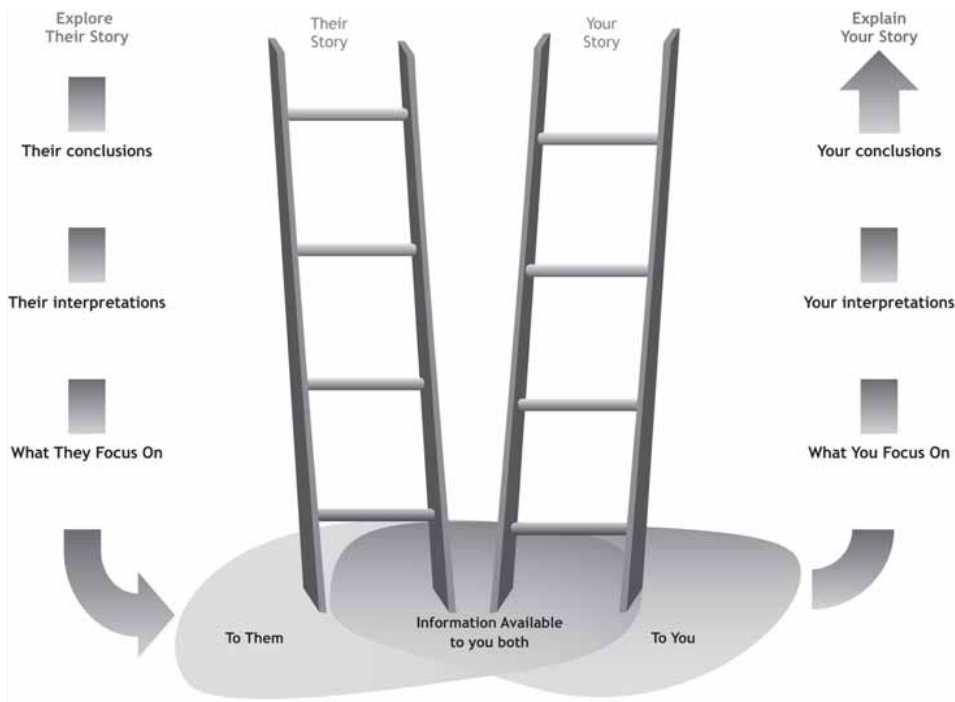
“Prior to our arrival in the district, the local government had very little presence. Tribal elders and the sub-governor no longer met on a regular basis. Strong enemy pressure in the area had prevented the weekly shura from occurring. Our initial engagements with the sub-governor and chief of police were aimed at improving governance in the district by getting the Afghan National Security Forces to patrol on their own through the neighboring villages.

Previous efforts to achieve this outcome had proven unsuccessful due to the lack of confidence on the part of the Afghan forces to patrol on their own. They wanted coalition forces’ support at all times. It took some effort to understand their concerns and to then brainstorm ways that we might meet what initially appeared to be conflicting interests. One solution we eventually decided to try was that the Afghans would patrol on their own to the village, while my platoon patrolled to the east approximately 2-3 km away. We were far enough away so they would have to deal with immediate issues on their own but close enough that we could quickly support them if needed. We also agreed to a communications plan involving a star cluster to signal us in case they made contact. We were both able to defend the solution to our commanders because not only did it meet both our needs, but it also served to demonstrate to the local population that the Afghan forces had the capability of patrolling alone.”

In the case above the platoon leader engaged his counterparts in a meaningful dialogue, worked to understand their concerns, and asked them for ideas about how those concerns could be met. Just as importantly, he recognized that his counterparts could only agree to an option that they could defend. As you put options on the table, it’s important to discuss how they can be defended to you and your counterpart’s teams, bosses, and constituents. If you are not able to do so, you may end up with an agreement that you will not be able to implement, and there is really no point to coming to an agreement if it doesn’t lead to the necessary action.

**STRATEGY #5:
TAKE THE TIME TO UNDERSTAND THEIR PERSPECTIVE AND SHARE YOURS**

Having this type of productive conversation is not necessarily simple. It requires an open mind and curiosity. It is not enough to understand your counterparts’ answer – you need to understand their story. Even if you do not agree with their conclusion, learning how they came to it can uncover important interests and concerns and allow you to come up with better options. It also gives you an opportunity to explain your story and how you have reached your conclusions, thereby helping them understand the interests that are important to you. At a time when our ability to coordinate with our Afghan partners is challenged



The Ladder of Inference is based on the work Argyris and Schon, building on S.I. Hayakawa.

See C. Argyris, R. Putnam, and D. Smith, *Action Science* (Jossey Bass, 1985).

and increasingly essential, it is critical to explore their perceptions and put yours on the table. The Ladder of Inference is a tool for exploring your counterparts reasoning path and perspectives and explaining yours.

CONCLUSION

Frustration leads to resentment, and resentment to anger, and there is plenty of frustration when faced with what feels like an untenable choice – (a) pushing harder and harder on the Afghans to take action, when this strategy has so often failed in the past, or (b) giving up, declaring it “their problem” to fix, and failing the mission. There is, however, a third choice. This choice is rooted in making it our problem to understand theirs (their perspective, diagnoses, goals, etc.), and using those insights to persuade. The leader needs to stop trying to figure out the answer to sell to the Afghans, and instead work to fully understand why they are rejecting our recommendations, proposals or assistance. Once our leaders do this, they can use what they have uncovered (Afghan interests, fears, and objectives) to build new proposals that better meet those interests, while providing ways to help the Afghans assess and defend saying “Yes” to one or more of these new options, and at the same time demonstrating to the Afghans that their walkaway (doing nothing, keeping the status quo, etc.) is far less satisfying than these potential agreements. Building and testing understanding with the Afghans while taking each of these steps is not only critical for success, but also has the very real potential of leading to Afghans taking on a new role in “the conversation” – from one of acceptor or rejecter of requests for change, to one of working jointly with leaders to invent, critique, select, defend and implement new ideas. **C**

Strategies for a Better Way to Engage	Key Pieces of Advice
Understand their Choice and why it's in their interest to say "No"	Try to look at the proposal from your counterpart's point of view Use the Currently Perceived Choice (CPC) Tool to understand the question they are hearing and why they might be saying 'no' Test your filled-out CPC with an Afghan friend to get an additional perspective
Develop options that meet their interests well	Use the left hand side of the filled-out CPC to identify the interests and concerns that the current proposal does not meet Brainstorm options and ask for criticism – “What would be wrong with this?” Ask your counterpart to jointly brainstorm options – “What other solutions might meet your concerns and my objectives?”
Test their alternatives and find ways to weaken them	Use the right hand side of the filled-out CPC to identify the walkaway alternatives that your counterpart believes are better than the proposal Suggest ways that the alternatives may not actually be so attractive – “It seems to me that the implications of that are X,Y, and Z...am I missing something?”
Make it easy for them to defend the agreement	Jointly identify the people that need to agree with the solution in order for action to be taken Consider people who may be against the agreement, and determine what their concerns might be and how you could address them
Take the time to understand their perspective and share yours	Explore their story and understand their perceptions and how that is leading to their conclusion Stay curious – even if you don't agree with them, you can always benefit from understanding their story and hearing their interests and concerns


For more information on negotiation training, tools, and organizational support, please contact the West Point Negotiation Project at wppn@usma.edu, Major Aram Donigian at aram.donigian@us.army.mil, Professor Weiss at jweiss@vantagepartners.com, or Mr. Petitti at ppetitti@vantagepartners.com. You may also visit the WPNP website: www.wppn.org or read “Extreme Negotiations” by the authors in Harvard Business Review, November 2010.

The authors would like to give a special thanks to West Point Cadet DJ Taylor who highlighted the platoon leader's question and asked the critical questions of “What would be your insight and response to this problem; how would you move your platoon past this?”

continued from page 6

and communicating that vision to bring people together.

The enemy is out there. To us, he presents a challenge, but is not the greatest threat we face. Focusing on alleviating the conditions throughout the battlespace that allow the enemy to exist and operate is the key to long-term stability. If a political solution is to be achieved in Afghanistan, then mechanisms to allow a political solution to take hold must be created at the grass roots level. Long term, inclusive and representative governance must be created at the village and district levels using the Afghan leaders to do it – that is a key to Afghanistan’s future success..

Our experiences in the Arghandab have taught us that significant progress is possible...with the help of the population. We continue to focus on enabling the Afghan government and Afghan security forces to maintain this fragile peace. We aren’t perfect. There are still attacks here, although we believe that the solutions we have achieved to secure peace will hold over time if the district government and security forces remain on their current course. With a 90% reduction in enemy activity in a one year period, it is evident the effects of our operations and the operations of units before us have begun to set the conditions for enduring stability in the Arghandab District. 

LTC Michael J. Simmering assumed command of 1st Combined Arms Battalion, 67th Armor Regiment, 2nd Brigade, 4th Infantry Division stationed at Fort Carson, Colorado in November, 2009. The 1-67th deployed in support of Operation Enduring Freedom in May, 2011.



continued from page 9

depth of the ISAF coalition, at every level of interaction with an Afghan counterpart. In order to deliver advisory and assistance support, incoming troops must have a thorough knowledge of the Afghan entity they are to advise, the situation on the ground, and understand the level of the development their Afghan counterparts have already attained.

Security Force Assistance is not limited to advisor teams.

Security Force Assistance also provides support to the Afghan security ministries in building institutional capacity, the Afghan training bases to provide education and professional development, and the long-term sustainment of the Afghan security force. Security Force Assistance is the responsibility of each and every individual supporting the ISAF mission, both military and civilian.


SFA requires unified action.

In practical application, SFA-like activities are already occurring often based on new and novel approaches to force application and employment. Even so, these techniques lack clarity and unity of effort across the force. Failure to rectify this will negatively impact the Afghan security forces’ ability to develop and reach their full potential, and subsequently, ISAF’s ability to accomplish its mission. SFA requires unified action, ensuring that support is applied evenly across the Afghan security forces. Establishing unified action begins during the pre-deployment training of troop-contributing nations, to ensure seamless coordination between troops entering and departing Afghanistan. Forces already in Afghanistan have a responsibility to prepare their replacements, so that they understand their Afghan security force counterpart’s progress towards self-sufficiency along with the areas where they require further development. This must be a cyclical process, with observations from the battlefield informing pre-deployment instruction and training.

Common approach.

It is also essential to develop a common framework of understanding which translates the doctrinal concepts of Security Force Assistance into a language readily understood and accepted by the military and civilian agencies supporting the Afghan security forces. All troops and civilian advisors must understand and be able to articulate the Security Force Assistance concept. The primary shift in focus is that collectively the international community must first understand the requirements of the Afghan security forces before delivering support. This requires those forces already deployed in Afghanistan to shape the mindset of the incoming force, ensuring that it is correctly aligned to, and supports the Afghans’ actual requirements. Therefore, Security Force Assistance must be understood both in Afghanistan and in each troop-contributing nation.

SUMMARY

The successful evolution and implementation of Security Force Assistance will ensure the international community’s objective of a secure Afghanistan is achieved by the end January 1st, 2012. This objective will be characterized by a military and police force that has taken the lead for security operations across Afghanistan and enabled the civil authority of the Afghan government. 

CONTACT WITH CONFIDENCE

Examining the rules of engagement.



Recent events have once again put the Rules of Engagement (RoE), Escalation of Force (EoF) and the Law of Armed Conflict (LoAC) at the forefront of the ISAF mission. In question is the ability of Coalition Forces (CF) to effectively exercise tactical patience and to limit civilian casualties (CIVCAS) and infrastructure damage while effectively carrying out their mission.

The RoE and the EoF contain the same principles that are similar to the concept of ‘force continuum’ employed by law enforcement professionals to describe the levels of force applied in the execution of police duties. Whether in police work or on the battlefield, the exercise of good judgment in the application of force for action on the objective is an imperative. Lack of clarity on when to use force and to what degree can pose a problem for individuals and units in theater, as well as for law enforcement. Clear understanding on how to respond to general situations must be acquired before units ever leave the wire.

All service members are indoctrinated and exposed to RoE and EoF as well as to LoAC during pre-deployment training; however without continuous review, knowledge acquired during pre-deployment can too easily be lost or forgotten, especially in the heat of a high-pressure situation such as is experienced during an ambush. One way to prepare troops for the decisions they will face on the ground is to review possible situations ahead of time or to study reports of actual incidents and analyze the actions that were taken.

The New York City Police Department uses “Legal Bureau Bulletins” that review recent court cases and police actions as a tool to prepare their officers for situations they might face on the street. The scenarios presented in these bulletins provide the officers realistic context for the application of rules and legal principles, as well as guidance as to what courses of actions could be valid in

given situations. Officers themselves are able to act with more confidence, having taken the time to think out possible responses to events ahead of time, and armed with the knowledge of what actions were taken in prior responses which have been fully reviewed and deemed proper and legitimate.

A similar playbook of RoE/EoF principles presented in the context of actual situations could be made available to troops and commanders for review and to promote discussion before they actually leave the wire. Like the legal bulletins, this playbook would help warfighters and commanders place themselves mentally in the action prior to the moment in which an irreversible decision must be made. It would allow all participants utilizing deadly force the “time and distance” necessary to make more informed decisions in order to produce more predictable and desirable outcomes.

Below is a condensed version of an NYPD Legal Bureau Bulletin that addresses probable cause and Fourth Amendment issues:

OFFICE OF THE DEPUTY COMMISSIONER - LEGAL MATTERS
LEGAL BUREAU BULLETIN
 Vol. 11, No. 4 July 1991

I. SUBJECT: FORCIBLE STOP PURSUING A FLEEING INDIVIDUAL

II. QUESTION:

- 1) What level of suspicion is necessary before a police officer may pursue a fleeing individual he seeks to question?
- 2) May the flight of the person sought to be questioned raise an officer's level of suspicion?

III. ANSWER:

- 1) An officer must reasonably suspect that a person is committing, has committed or is about to commit a felony or misdemeanor defined in the Penal Law before he may lawfully pursue a person he wishes to question.
- 2) Flight of an individual approached on less than reasonable suspicion may, when coupled with other factors, raise an officer's level of suspicion to reasonable suspicion and thereby justify a pursuit of the person. *People v. Martinez*, 80 N.Y.2d 444 (1992).

IV. DISCUSSION:

A. Introduction:

In *New York State*, a police officer must reasonably suspect someone is committing, has committed or is about to commit a felony or misdemeanor defined in the Penal Law before the officer can use force to stop and lawfully detain that person for questioning. This is the law regarding what is commonly referred to as "stop, question and frisk." The Court of Appeals has declared that pursuing a fleeing individual sought to be questioned is, for constitutional purposes, identical to using physical force to detain that person because both equally restrict a person's freedom of movement. Therefore, a pursuit of a person sought to be questioned must be based upon reasonable suspicion.

B. Facts:

On April 7, 1989, two plainclothes officers were patrolling a high-traffic area of Manhattan in a marked radio-car when they saw the defendant, Martinez, crash up and enter a

NYPD LEGAL BUREAU BULLETIN VOL. 10, No. 4 PAYTON V. NEW YORK, RIDDICK V. NEW YORK

FACT PATTERN (PAYTON CASE): After two days of investigation, detectives established probable cause to believe that the defendant had murdered a gas station manager. Six police officers then went to his apartment in order to make the arrest, however the officers had not obtained an arrest warrant. When nobody responded to the knocks on the door, the officers broke open the front door and entered the apartment, seizing a shell casing as evidence. The defendant eventually surrendered to police, was indicted for murder, and moved to suppress the evidence which was taken from the apartment.

FACT PATTERN (RIDDICK CASE): The defendant was arrested for two armed robberies committed three years earlier. A detective accompanied by three other officers went to the defendant's home and were let in by the defendant's three-year old son. The police entered the premise, arrested the defendant, and seized an amount of narcotics and related drug paraphernalia. The detective had not obtained an arrest warrant. The defendant was subsequently indicted.

DECISIONS: In both cases the Court held that the Fourth Amendment prohibits police officers from making a warrantless and non-consensual entry into a suspect's home in order to affect a "routine felony arrest." The decisions in these two cases provide that a police officer cannot enter the home or residence of a suspect simply to make a routine arrest, unless one of the following three conditions is present:

1. The officer can set forth facts indicating that exigent circumstances exist (i.e., Hot Pursuit or Emergency Situation); OR
2. The officer has the consent of a co-occupant of the premise; OR
3. The officer has an arrest warrant.

Unless one of the above conditions is present, any evidence obtained or any confession secured as a result of the arrest may be suppressed.

ARRESTS WERE NO GOOD. EVIDENCE WAS INADMISSIBLE.

POINTS TO REMEMBER: Although both cases involved what the Court termed "routine felony offenses" the rules set forth by the Court is also applicable in non-felony cases as well.



Similar guidance using findings from TIC After Action Reviews could be published to highlight certain aspects of RoE, EoF, and LoAC for forces in Afghanistan. The following is an example of how a “RoE Bulletin” could look.

Rules of Engagement Bulletin Vol. 2 No. 9 - Current RoE, EoF, and LoAC indoctrination challenges the warfighter to accurately interpret abstract rules and use them to guide actions in the moment. A “RoE Bulletin” could provide a source of examples that would help the warfighter to quickly recognize similar situations in the field and identify best responses. It would empower both the soldier and commander to act with confidence, and support decisions that lead to more predictable and desirable outcomes.

A Rules of Engagement Bulletin can be used on a small scale within a Regional Command or on a larger scale nationwide. The countless TICs that are recorded each day in theater can be reviewed by RC legal advisors where effective firearms discipline, tactical patience, and effective counter fire was utilized can be highlighted. Pointing out effective practices can be counterbalanced by constructive critique of tactics that were less than desirable or ill advised. These Rules of Engagement Bulletins can be placed on bulletin boards, read and reviewed during pre-mission briefs and used during in service training while in theater. Continuous review of this sort places the soldier as well as the commander mentally in the action ahead of time better preparing him or her for when critical decisions on effective fire have to be made.

Now more than ever, there is a need to prevent CIVCAS whenever possible. The minimization of CIVCAS relies on the ability of ground troops to clearly understand RoE, EoF, LoAC, and tactical patience in order to apply their rules and principles to situations encountered on the ground. Review of published TICs would keep fresh in the minds of all warriors the importance of their actions and disciplined adherence to the RoE and EoF. ©

Ken “Supercop” Silvia is the CAAT Law Enforcement Advisor and a former NYPD Detective.

[EXAMPLE] RULES OF ENGAGEMENT BULLETIN VOL. 2 No. 9 MOUNTED PATROL/DENSELY POPULATED VILLAGE

FACT PATTERN: A mounted patrol was travelling through a remote but densely populated village in eastern Afghanistan partnered with a squad of Afghan National Police (ANP). The village was well known by the ANP and CF to harbor Insurgents (INS) protecting the poppy crop and, having previously been ambushed by those INS, the patrol was expecting a repeat.

Almost by appointment the INS engaged the patrol with Small Arms Fire (SAF). Maneuverability of the vehicles was made difficult by their size and the narrowness of the unimproved roadway. Visibility was restricted due to the thick vegetation of trees and agriculture making Positive Identification (PID) and, therefore, effective engagement with the INS difficult.

The platoon leader ordered his vehicle to dismount and move on the enemy firing positions in order to (IOT) gain PID. The dismounted squad quickly took up positions of cover and was able to positively identifying the enemy firing positions. They began engaging the INS using their own small arms, effectively suppressed the enemy’s fire. This enabled the Mine Resistant Ambushed Protected (MRAPs) vehicles to adjust to a more prudent speed, based on terrain and road conditions.

The dismounted patrol was then ordered back into their vehicles while the mounted gunners continued suppressing the enemy with crew-served weapons. The INS broke contact and the patrol continued movement towards a second object and dismounted.

Unknown to the patrol the INS regrouped and paralleled the roadway using a dry riverbed to set up a second ambush. INS engaged the patrol again, with both SAF and Rocket Propelled Grenades (RPG). This time the INS fired across an open farm field that was occupied by several female villagers. The dismounted soldiers took cover but due to the unarmed civilians, refrained from returning fire.

At this point the ANP began firing their AK-47s. The platoon leader gave the command to cease fire on account of the presence of unarmed civilians in the field of fire. Once the civilians fled the field of fire, CF and the ANP began returning fire using SAF as well as mounted crew-served weapons.

The ANP employed the use of their arsenal of RPGs. The Platoon leader called for fire but requested only “smoke” and Combat Air Support (CAS) as a show of force. Within a few minutes the requested smoke deployed overhead and was shortly followed by a B2 Bomber fly-by, fast and low. The INS once again broke contact.

Battle Damage Assessment (BDA) concluded that the INS suffered three enemy killed in action (EKIA) with no CIVCAS and no CF/ANP casualties.

DECISION AFTER REVIEW: The After Action Review (AAR) concluded that the platoon leader effectively maneuvered his troops against the enemy using the restrictive terrain and vegetation to his advantage and answered the enemy SAF with his platoon’s own compliment of SAF, minimizing the risk of CIVCAS and out-maneuvering the enemy.

During the second engagement, the platoon leader was able to move his men to safe cover, protecting them from enemy fire while allowing enough time for unarmed civilians to flee to safer surroundings. Once it was verified that civilian non-combatants were clear did he order his men to return effective fire. Once again, using the openness of the terrain to his advantage, he was able to call for effective smoke and the use of a fast flyer as a show of force.

NO CIVCAS, NO CF/ANP CASUALTIES, FIREARMS DISCIPLINE, AND TACTICAL PATIENCE EFFECTIVELY USED RESULTING IN THE DEATH OF THREE INS.



COIN

What does COIN look like to you?

Send us your photos and if they're good enough we'll publish them here. Send photos to ISAF_GAAT@AFGHAN.SPA.ARMY.MIL