



VIA EMAIL AND OVERNIGHT DELIVERY

August 31, 2021

Sean W. O'Donnell
Acting Inspector General
U.S. Department of Defense
4800 Mark Center Drive
Alexandria, VA 22350-1500
public.affairs@dodig.mil

Re: Request for Investigation into Abandonment of U.S. Military Equipment and Intelligence Assets to the Taliban

Dear Mr. O'Donnell:

America First Legal Foundation (“AFL”) is a national, nonprofit organization, working to promote the rule of law in the United States, prevent executive overreach, ensure due process and equal protection for all Americans, and promote knowledge and understanding of the law and individual rights guaranteed under the Constitution and laws of the United States. Our mission includes promoting government accountability by gathering official information, analyzing it, and disseminating it through reports, press releases, and/or other media, including social media platforms, all to educate the public. Whether the President and the agencies he directs, including the U.S. Department of Defense (the “Department”), faithfully and competently respect and execute the laws passed by the Congress is a core AFL concern.

The evidence is massive amounts of U.S. weapons, key communications systems and equipment, night vision and other gear, and sensitive intelligence information, including files containing critical biometric and other data, have been abandoned to the Taliban.¹ It is now clear certain government officials turned over

¹@HouseGOP, TWITTER (Aug. 30, 2021, 8:59 AM), <https://twitter.com/HouseGOP/status/1432327153777987593/photo/1>; Siddharthya Roy and Richard Minter, *Taliban Kill Squad Hunting Down Afghans—Using US Biometric Data*, THE NEW YORK POST (Aug. 27, 2021), <https://nypost.com/2021/08/27/taliban-kill-squad-hunting-afghans-with-americas-biometric-data/>; Lee Brown, *Taliban Has Billions in US Weapons, including Black Hawks and Up to 600K Rifles*, THE NEW YORK POST (Aug. 20, 2021) (“‘Everything that hasn’t been destroyed is the Taliban’s now,’ one US official told Reuters, speaking on the condition of anonymity.”) <https://nypost.com/2021/08/20/us-left-billions-in-weapons-in-afghanistan-with-black-hawks-in->

sensitive and classified and intelligence information to the Taliban, including a list of our human Afghan assets.² And it is equally clear a policy decision was made to trust the Taliban to provide perimeter security for the Kabul airport.

Key findings from the Lead Inspector General for Overseas Contingency Operations in the Report to Congress for the quarter ending June 30, 2021, published on or about August 17, 2021 (the “*LIG Report*”),³ suggest the Department’s political leadership, flag officers, senior civilian career officials, and supporting contractors had actual knowledge that absent U.S. air support and other measures, the Afghan government would quickly collapse. Yet U.S. operations in-country did not reflect this knowledge. Specifically:

- On April 14, 2021, Biden announced the U.S. would be out of Afghanistan by September 11, 2021. *LIG Report* at 8. Department officials told reporters a contingent of U.S. troops, mostly from the 75th Ranger Regiment, would deploy to Afghanistan to provide security for U.S. forces as they withdraw, and air assets, including AC-130 gunships and four B-52 bombers, would be available to protect retreating U.S. troops from Taliban attacks. The Department’s spokesman John Kirby stated, “We have to assume, and we are assuming, that this drawdown could be opposed and resisted by the Taliban.” *Id.* at 10.
- Following Biden’s announcement, “the Taliban significantly increased its campaign of violence against Afghan government forces and civilians across the country,” and that the pattern of defeats and surrenders “hurt the morale of the Afghan troops and led ANDSF commanders to reconsider what territory they can realistically hold following the departure of international forces.” *Id.* at 12. The Defense Intelligence Agency (DIA) assessment was the Taliban would establish an “Islamic Emirate” and, following the U.S. withdrawal, “probably increase its use of large-scale military operations throughout the country as it grows more confident in its ability to defeat the Afghan government militarily.” The reduction in U.S. offensive operations, specifically airstrikes and raids, “likely provided the Taliban greater freedom of movement

talibans-hands/; @Johncardillo, Twitter (Aug. 26, 2021, 7:17 AM), <https://twitter.com/johncardillo/status/1430851901239795712>.

² Lara Seligman, *U.S. Officials Provided Taliban with Names of Americans, Afghan Allies to Evacuate*, POLITICO (Aug. 26, 2021), <https://www.politico.com/news/2021/08/26/us-officials-provided-taliban-with-names-of-americans-afghan-allies-to-evacuate-506957>.

³ Dep’t of Defense Office of the Inspector General, *Lead Inspector General Report to Congress on Operation Freedom’s Sentinel (OFS) for the Quarter April 1 – June 30, 2021* (Aug. 17, 2021) <https://media.defense.gov/2021/Aug/17/2002832926/-1/-1/1/LEAD%20INSPECTOR%20GENERAL%20FOR%20OPERATION%20FREEDOM%E2%80%99S%20SENTINEL%20I%20QUARTERLY%20REPORT%20TO%20THE%20UNITED%20STATES%20CONGRESS%20I%20APRIL%201,%202021%20-%20JUNE%2030,%202021.PDF>.

and enabled it to broaden the scope of its military operations and make widespread territorial gains...” *Id.* at 14.

- At a press conference on June 29, U.S. Forces-Afghanistan (USFOR-A) Commander General Austin Miller acknowledged the Taliban’s battlefield successes and told reporters, “What we’re seeing is the rapid loss of district centers.” He recommended the U.S. supported Afghans “pull their security forces back from the field to defend key population centers.” As further evidence of the Afghan government’s collapse, the LIG noted the formation of private militias by ethnic minorities to provide physical security, something the Afghan government could not provide.
- On July 2, U.S. and NATO forces left Bagram Airfield, located about 40 miles north of Kabul. Afghan military officials told reporters that the U.S. forces left Bagram Airfield by shutting off the electricity and departing in the night without notifying the base’s new Afghan commander, who discovered the Americans’ departure more than 2 hours after they had left. *Id.* at 45. According to a published report:

Gen. Austin “Scottie” Miller was the commander at Bagram. Based on Biden’s requirement to pull all U.S. forces out of Afghanistan by date certain, and with just 2,500 troops to work with and no room for any additional deployments, and with the embassy as the priority over Bagram, Gen. Miller faced the task of planning for it. The Biden administration’s priority was the embassy, so Miller drafted a proposal to close Bagram and concentrate defensive forces on the embassy. His boss, CENTCOM Gen. Frank McKenzie, greenlit that plan, then it went to Washington, where Gen. Milley, SecDef Austin, and the Biden White House all were briefed and bought in. Bagram would close....It’s baffling how any experienced military commander could rate using Bagram or HKIA as operationally the same, as Milley says they all did. The State Department may have overruled DoD concerns, if such concerns were ever voiced. Gen. Miller may have thought the priority was wrong, that he lacked sufficient resources, or something else, but we don’t know. He left Afghanistan on July 12 and has not been heard from since. Gen. Miller was not in country to execute the plan that he drafted, a decision that should also be questioned. Bagram offered greater defensible standoff positioning, it offered more space to house evacuees, it had numerous combat ground and aircraft on-site, it was outside of

downtown Kabul which was overrun by the Taliban and other terrorist forces, and it offered a second runway.⁴

- Department officials apparently gave the Taliban operational control over Kabul and relied on the Taliban for perimeter security at the Kabul airport. This despite the fact the Department knew of the close, symbiotic relationship between the Taliban and al-Qaeda. “al-Qaeda provided nominal military training and support to the Taliban without directly claiming credit for attacks, and the Taliban continued to provide safe haven for al-Qaeda fighters despite publicly denying the terrorist group’s presence in Afghanistan. According to the DIA, the Taliban will ‘very likely’ continue to ask al-Qaeda to restrict its activities *and obfuscate the longstanding relationship between the groups until U.S. and coalition troops complete their withdrawal.*” *LIG Report* at 18 (emphasis added).

The Inspector General’s mission is to detect and deter fraud, waste, and abuse in Department of Defense programs and operations and to promote the Department’s economy, efficiency, and effectiveness. Accordingly, we write to ask for an investigation into the following questions.

1. “Kill List” Given to the Taliban

- a. Who gave a list of U.S. Citizens and our Afghan human assets to the Taliban?
- b. Who authorized disclosure of said list?
- c. How many Afghan assets and/or family members have been imprisoned, tortured, or killed by the Taliban?

2. Reporting to the President

- a. Were the facts and intelligence assessments reported in both the LIG Report and its classified appendix presented to the President or his advisors by the Department prior to July 8, 2021?
- b. If so, who made the presentation and when did it occur? If not, why?
- c. At all times, did the Department accurately and fully convey the facts on the ground as it understood them to the White House and State Department?

⁴ Bryan Preston, *Department of the Indefensible: Who Decided to Close Bagram Air Base and Why?* PJ MEDIA (Aug. 27, 2021) <https://pjmedia.com/news-and-politics/bryan-preston/2021/08/27/department-of-the-indefensible-who-decided-to-close-bagram-air-base-and-why-n1473323>

3. Responsibility for abandoned equipment and assets

- a. Who was responsible for preventing U.S. military equipment and intelligence assets from falling into the Taliban's hands?
- b. Were appropriate plans drawn up and then appropriate measures taken to ensure the Taliban would be unable to benefit from U.S. military and other equipment left behind in Afghanistan, especially once it became clear the Afghan government was collapsing?
- c. What is the inventory and taxpayer cost of the abandoned equipment and assets?
- d. What are the likely military, and intelligence consequences of the abandoned equipment and assets?
- e. With respect to the following statement by Maj. Gen. Hank Taylor:

Q: So there's no -- no U.S. actions being taken to prevent equipment from falling into the hands of the Taliban by destroying it or anything else?

TAYLOR: I don't have the answer to that question.⁵

Why was Gen. Taylor unable to answer the question?

4. Bagram Airbase

- a. Who made the recommendation to abandon Bagram airbase?
- b. Did the Department advise the President against abandoning Bagram airbase?
- c. What was the precise sequence of events at Bagram air base between June 30 and July 2, 2021?
- d. Who had command authority over the U.S. withdrawal from the Bagram airbase?
- e. Did Gen. Mark Milley testify truthfully to Congress on June 23, 2021, when he said:

Q: (Rep. Michael Ray Turner): "is it at all possible to keep Bagram Air Force Base?"

⁵Dep't of Defense, *Pentagon Press Secretary John F. Kirby Holds a Press Briefing: Pentagon Press Secretary John F. Kirby; Garry Reid, Afghanistan Crisis Action Group; Major General Hank Taylor* (Aug. 16, 2021) <https://www.defense.gov/Newsroom/Transcripts/Transcript/Article/2733523/pentagon-press-secretary-john-f-kirby-holds-a-press-briefing/>

A: (Gen. Milley): “On Bagram, Bagram is not necessary tactically operationally for what we’re gonna try to do here with Afghanistan – consolidate on Kabul, in support of their government.”⁶

5. Effective deployment of US air force assets

- a. Who had command authority over the air assets referenced in the LIG Report?
- b. Were these assets used appropriately, effectively, and to maximum effect to facilitate the safe evacuation of U.S. Citizens from Afghanistan?
- c. If not, why?

Please contact me at reed.rubinstein@aflegal.org if you have any questions or if I may be of further assistance. Thank you in advance for your attention to this important matter.

Sincerely yours,

Reed D. Rubinstein
America First Legal Foundation

Cc: The Hon. Sen. Jack Reed, Chairman, Senate Committee on Armed Services
The Hon. James Inhofe, Ranking Member, Senate Committee on Armed Services
The Hon. Rep. Adam Smith, Chairman, House Armed Services Committee
The Hon. Rep. Mike Rogers, Ranking Member, House Armed Services Committee
The Hon. Rep. Carolyn Maloney, Chairwoman, House Committee on Oversight and Reform
The Hon. Rep. James Comer, Ranking Member, House Committee on Oversight and Reform

⁶*Austin, Milley testify on Defense budget request*, YOUTUBE (June 23, 2021) <https://www.youtube.com/watch?v=9bpS8Zcic-U&t=4225s>.