

PRIVATE SECURITY FIRMS STANDARDS, COOPERATION AND COORDINATION ON THE BATTLEFIELD

HEARING

BEFORE THE
SUBCOMMITTEE ON NATIONAL SECURITY,
EMERGING THREATS, AND INTERNATIONAL
RELATIONS

OF THE

**COMMITTEE ON
GOVERNMENT REFORM**

HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

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PRIVATE SECURITY FIRMS STANDARDS, CO- OPERATION AND COORDINATION ON THE BATTLEFIELD

TUESDAY, JUNE 13, 2006

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING
THREATS, AND INTERNATIONAL RELATIONS,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:13 p.m., in room 2247, Rayburn House Office Building, Hon. Christopher Shays (chairman of the subcommittee) presiding.

Present: Representatives Shays, Marchant, Platts, Duncan, Kucinich, Maloney, Van Hollen, and Lynch.

Also present: Representatives Waxman and Schakowsky.

Staff present: R. Nicholas Palarino, staff director; Kristine Fiorentino, professional staff member; Robert A. Briggs, analyst; Robert Kelley, chief counsel; Phil Hamilton, intern; Jeff Baron, minority counsel; David Rapallo, minority chief investigative counsel; Andrew Su, minority professional staff member; and Earley Green, minority chief clerk.

Mr. SHAYS. A quorum being present, this Subcommittee on National Security, Emerging Threats, and International Relations hearing entitled, "Private Security Firms: Standards, Cooperation, and Coordination on the Battlefield," is called to order.

Last week, the leader of al-Qaeda in Iraq, Abu Musab al-Zarqawi, was killed in an air strike. His death is significant. This man beheaded people, he had thousands murdered, he blew up both churches and mosques. His goal was to prevent Iraqi democracy. We congratulate the Iraqi people, and especially our military forces and all others who participated in bringing an end to his reign on terror. Although Zarqawi is eliminated, the difficult and necessary mission in Iraq continues.

Even with the appointments of the ministers of the defense and interior, and increasing role of Iraqi security forces, we can expect terrorists and insurgents to continue their efforts to prevent establishment of a democratic government.

Iraq is a complex operational space. Military forces, civilian U.S. Government agencies, international organizations, contractors, non-governmental organizations, and a diverse local population all share a common geographical area amidst those who would do them great harm. It is difficult to distinguish friend from foe. Included in this complex arena are private security firms.

The Government Accountability Office [GAO], estimates there are over 60 private security firms operating in Iraq employing approximately 25,000 personnel. Other estimates indicate there may be as many as 180 firms employing close to 50,000 people. These firms provide security for convoys, personnel, both government and civilian, including visiting dignitaries, bases, housing compounds, and reconstruction projects. The nature of their job puts them in harm's way. The most publicized private security firm casualties in Iraq came when four Blackwater employees were killed in Fallujah and their bodies hung from a bridge. But there are others. General Peter Pace, chairman of the Joint Chiefs of Staff, said private security firms, "are doing a great job for what they have been hired to do." But if they choose right now to not report, to not let people know where they are going and they get into trouble, it is very difficult to be able to respond to them.

Today we ask: What are the evolving roles and missions of the private security firms operating in Iraq? What standards and capabilities are private security firms required to have before being hired by our government? And, to what extent do private security firms coordinate with the U.S. military and other government agencies operating in Iraq?

The mission in Iraq is far from complete. Only time will tell the impact of al-Zarqawi's death. Iraqi ministers are in place and Iraqi security forces are becoming more and more effective. As these forces take control, private security firms are presented with a new dimension, the coordination with not only coalition forces, but with Iraqi forces as well.

We sincerely thank all the witnesses for taking the time to appear before us today, and we thank them all for their efforts to bring peace and stability to Iraq. At this time the Chair would recognize the ranking member, my friend, Mr. Kucinich.

[The prepared statement of Hon. Christopher Shays follows:]

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**“Private Security Firms: Standards,
Cooperation and Coordination on the Battlefield”**

Statement of Rep. Christopher Shays
June 13, 2006

Last week the leader of al Qaeda in Iraq Abu Masab al-Zarqawi was killed in an air strike. His death is significant. This man beheaded people. He had thousands murdered. He blew up both churches and mosques. His goal was to prevent Iraqi democracy. We congratulate the Iraqi people, and especially our military forces and all others who participated in bringing an end to his reign of terror.

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Iraq is a complex operational space. Military forces, civilian US government agencies, international organizations, contractors, non-governmental organizations and a diverse local population all share a common geographical area amidst those who would do them great harm. It is difficult to distinguish friend from foe. Included in this complex arena are private security firms.

*Statement of Rep. Christopher Shays
June 13, 2006
Page 2 of 2*

The Government Accountability Office (GAO) estimates there are over 60 private security firms operating in Iraq, employing approximately 25,000 personnel. Other estimates indicate there may be as many as 180 firms employing close to 50,000 people. These firms provide security for convoys, personnel, both government and civilian, including visiting delegations, bases, housing compounds and reconstruction projects.

The nature of their job puts them in harm's way. The most publicized private security firm casualties in Iraq came when four Blackwater employees were killed in Fallujah and their bodies hung from a bridge, but there are others.

General Peter Pace, Chairman of the Joint Chiefs of Staff, said private security firms "...are doing a great job for what they have been hired to do. But if they choose right now to not report, to not let people know where they're going and they get into trouble, it is very difficult to be able to respond to them."

Today we ask:

What are the evolving roles and missions of private security firms operating in Iraq?

What standards and capabilities are private security firms required to have before being hired by our government?

And, to what extent do private security firms coordinate with the US military and other government agencies operating in Iraq?

The mission in Iraq is far from complete. Only time will tell the impact of al-Zarqawi's death. Iraqi ministers are in place. And Iraqi security forces are becoming more and more effective. As these forces take control private security firms are presented with a new dimension—the coordination with not only Coalition forces but with Iraqi forces as well.

We thank all the witnesses for taking the time to appear before us today, and thank them all for their efforts to bring peace and stability to Iraq.

Mr. KUCINICH. Thank you very much, Mr. Chairman.

Hussein is in jail, Zarqawi is dead. Now we should leave Iraq. Zarqawi represented a small portion of the large and growing anti-American insurgency in Iraq, a sliver of the non-Ba'athist insurgency while Ba'athists make up a majority of armed insurgents. So his killing is unlikely to end the violence in Iraq. However, the administration is intending to stay in Iraq for the long haul, which is why this hearing has some relevancy.

The committee will get an opportunity to take a closer look at the rapidly growing industry that hasn't gotten much attention. The use of private security firms has grown exponentially in recent years, and it is due to one reason: The U.S. invasion, occupation, and reconstruction of Iraq. Rising security costs is the primary excuse for delays in reconstruction projects in the oil, water, electricity and sanitation sectors, and why the administration continues to ask Congress for tens of billions of dollars in additional funds for Iraq.

There is a great need to protect key personnel and contractors, to guard military bases, supply convoys, and critical infrastructure, and to train the Iraqi security forces. This is truly a gold rush era for the private security firms. It is estimated that more than 25,000 personnel working for some 150 private military firms in Iraq have essentially become the second largest armed force there after the U.S. military. But, of course, there are so many opportunities, so much money at stake, and so few controls one inevitably finds corruption, mismanagement, and war profiteering in this wild west atmosphere. Millions of dollars worth of security-related contracts are awarded overnight, many of them without competition or cost controls. There simply needs to be greater transparency and accountability over private military contractors.

We all know about the tens of billions of dollars in contract overruns that Halliburton's Kellogg Brown and Root unit has deferred to the American taxpayer in Iraq, but few know about the fly by-night startup firm Custer Battles that somehow managed to win a \$13 million contract to provide security at Baghdad Airport despite having no security industry experience at all.

This firm was so corrupt that, when contracted to buy trucks for the military, Custer Battles scrounged up any and every truck they could, even if most of them weren't operable. One Army general called it the worst case of fraud he had seen in 30 years. So it is little surprise to anyone here that neither the Coalition Provisional Authority nor the Pentagon nor the State Department nor the USAID, which all relied heavily on these firms have any idea what these security firms are actually doing in Iraq.

It seems that nobody in the administration has been keeping track of who is in Iraq. There are few, if any, international or Federal laws which regulate their actions, and few standards for hiring and vetting these contract personnel. Almost anyone could startup a security company in Iraq and start carrying around weapons. And, unlike enlisted military personnel, private security firms aren't held accountable for any crimes they commit. There isn't any military chain of command, any military justice, nor does there even have to be training and/or respect for the Geneva Conventions. We all know about Private Lynndie England and Specialist

Charles Graner's role in the abuse of detainees at Abu Ghraib prison, but many of the interpreters and interrogators present during the abuses were private contractors hired by the firms Titan and CACI. Many of them have yet to be prosecuted or jailed like their military counterparts. Instead, a few may have their security clearances stripped away. That is it.

Finally, I would like to draw attention to a problem that greatly concerns me, the detection and treatment of psychological injuries of private-military contractor employees. Psychological injuries caused by the stresses of war take many forms, including alcohol abuse, drug abuse, anxiety disorders, social phobias, PTSD, and commission of violent acts. The gold standard study on this question was mandated by Congress a decade after the end of the Vietnam War. It was called the National Vietnam Veterans Readjustment Study. One of the most important findings of the study was the likelihood of violent criminal behavior by veterans with a PTSD diagnosis and who experienced wartime high stress. This study's investigator surveyed veterans for a number of violent acts committed in the last year. Nearly one fifth of the individuals with PTSD suffered self-reported committing 13 or more violent acts in the last year. The studies also found a very high incidence of criminal behavior among veterans whose war experience was high stress. The implication is that the diagnosis of PTSD does not capture all the psychological injuries that can result in the commission of violent acts. Violence on such a scale implies criminal activity such as armed robbery, gang activity, and assaults. It is not confined to domestic violence.

So, finally, the detection and treatment of psychological injuries in both our uniformed personnel as well as the private military contractor employees is an important public health measure. We should care deeply about the health of the employees of private military contractors, about the people of Iraq that they work among, and the American society they return to. Thank you, Mr. Chairman.

Mr. SHAYS. I thank the gentleman.

I would like to just take care of business and make a motion of unanimous consent that Ms. Jan Schakowsky, a former member of this subcommittee, a very active member of this subcommittee who frankly has followed this issue, I think particularly, closely be allowed to participate. She has made the mistake of going on to Energy and Commerce, and wants to come back to this committee at least for this hearing. We welcome you. And, without objection, you are more than welcome to participate.

At this time the Chair would recognize the vice chairman of the committee, Mr. Marchant.

Mr. MARCHANT. Thank you, Mr. Chairman. I appreciate your leadership and foresight in holding this hearing. The testimony today will enable us to more thoroughly understand the critical and constantly evolving nature of private security firms and their role in the war on terror and, more specifically, in Iraq, and how they coordinate with the U.S. Government and nongovernmental organizations in providing security, security planning, and intelligence.

I was very fortunate last July to participate in a trip to Iraq and witnessed first-hand the private security firms action on the ground.

To each of the witnesses today, I want to thank you for being here and providing us with your respective testimony on roles of the private security firms, their standards, their capabilities, coordination, recommendations, and codes of conduct as it relates to PSFs. I appreciate your being here to shed light on all the private security firms and their capability of accomplishment. I also appreciate your determination to work in concert with our forces and contractors on the ground. I believe each of us here today wants to see the security intelligence concerns on the ground in Iraq addressed in the most efficient, logical, and effective way. Most importantly, I hope this hearing today will address how to improve our capabilities and coordination on the ground.

Thank you, Mr. Chairman.

Mr. SHAYS. I thank the gentleman. I think the committee may be aware, we are going to have three votes. If we can hear from Mr. Waxman, the ranking member of the full committee, and then we will come back and finish statements. And we will try to give you all an idea of how long it will be. I apologize that you have to go through this process.

Mr. Waxman, you have the floor.

Mr. WAXMAN. Thank you, Mr. Chairman. I appreciate your calling this hearing on private security contractors in Iraq. Most Americans would be amazed if they knew the role that private security forces are playing in Iraq. Earlier this year, the director of the Private Security Company Association of Iraq estimated that approximately 181 private security companies are working in Iraq with over 48,000 employees. That is more than three Army divisions. These private security guards protect Federal officials like former head of Coalition Provisional Authority Paul Bremer, and our current Ambassador to Iraq, Zalmay Khalilzad, and they guard U.S. companies doing reconstruction work. They have become, in essence, an Army for hire. They regularly engage in combat with insurgent forces. And, like our brave troops, they, too, have lost their lives to hostile forces.

There are many important questions Congress needs to ask about these security contractors. One fundamental issue is whether outsourcing what is essentially a military function, protecting U.S. officials and citizens from hostile attacks, is in our national interest.

Another question is what rules apply to these private forces. When our troops commit crimes or atrocities as happened in Abu Ghraib and appears to have happened at Haditha, there is a well established body of law that governs their conduct and provides for military tribunals, but nothing like this exists when private contractors are hired as subcontractors to provide security services. They appear to be immune from Iraqi law, and they aren't subject to the Uniform Code of Military Justice.

And a third key issue is, what are the costs to the taxpayers? In my remarks today and in my questioning, I will focus on this last issue, the burdens being placed on the taxpayers.

The cost of paying for an army of private security forces operating in Iraq is enormous, and it is one reason the reconstruction effort is failing. Rough estimates are that a quarter to a third of all reconstruction funding now goes to pay for security. When an Army sergeant provides a security detail, the taxpayers pay about \$104 per day to cover his salary, housing, and subsistence. But when a private contractor is hired to provide the same services, he can be paid up to \$1,000 a day, 10 times more. And due to tiering of security contracts, the final cost to the taxpayers may be far higher than \$1,000 per day.

I wrote to General Jerome Johnson of the Army Field Support Command about this issue on November 30, 2004. We are here on June 2006. I raised the concern that, under some contracts, there appeared to be as many as four layers of subcontractors between the taxpayer and the individual actually providing the security services. As I explained in my letter, it appears that each contractor takes a cut of the profits, magnifying the cost to the taxpayer, but not offering anything of value. According to one account I cited, the final cost to the taxpayer could be inflated by 150 percent or more.

I asked specifically for a cost accounting that showed how much tier each tier of subcontractor was charging, but I also asked for copies of all the contractor subcontracted documents to find out why this was happening, but the Department would not provide the information.

This is an intolerable situation. The Bush administration is spending literally billions of dollars on private security contracts in Iraq. Yet, when I ask a basic question about how much these services cost and whether the taxpayer is getting ripped off, I get stonewalled.

Because this hearing is about this issue, as a member of the committee I am entitled to ask for a subpoena motion to get this information, because I think we are entitled to get the information. I have had a discussion with the chairman of the subcommittee; he feels as I do, that the subcommittee and our committee is entitled to this information. I could offer that motion, but that is not my purpose. I want to engage the chairman in a colloquy.

As I understand it, you agree that we should get this information. You will join me in a request for the information, and we will use the full powers of this committee should that request not be granted in a reasonable period of time to insist upon the information.

Mr. SHAYS. Well, my view is very clearly that, when a committee requests information, even when the minority requests it, there should be a response; there should be a clear indication of what can be provided and what won't be. My view is that this needs to be taken on by the full subcommittee. I will gladly help you get this information and join with you to get this information. And if we fail to get this information through the proper requests in a very short period of time, then we would have to use the powers that are available to us to demand that information.

Mr. WAXMAN. And that you would support that, if necessary?

Mr. SHAYS. Absolutely.

Mr. WAXMAN. Well, I think that is an appropriate response, and one that I very much welcome.

Mr. SHAYS. And I also want to express my disappointment that it has taken so long for this information to be provided.

Mr. WAXMAN. Thank you. Well, we have learned that we need to insist on accountability. And for that reason, I am very pleased that you are calling this hearing today. I have other points I was going to make in my opening statement, but I will bring it in in the questions, because I think there is a better path than the one we have been following.

Mr. SHAYS. I am very sorry, but probably not until about 10 of, at least 15 of or 10 of. So you have 15 minutes clearly to be away from this committee and maybe a little more. Thank you. We stand in recess.

[Recess.]

Mr. SHAYS. The subcommittee will come to order. I, again, thank our witnesses and do apologize for the delay. This is part of the process.

I think this is an extraordinarily important hearing, and I think we are going to learn a lot of important information, so we do look forward to hearing from our witnesses. I think it is also important, though, that Members state where they are coming from, and I hope the witnesses are listening so they can incorporate comments they hear whether in their statement or in answers to questions. So I do think it is an important process both ways.

At this time, the Chair would recognize my very good friend, Congressman Duncan.

Mr. DUNCAN. Thank you very much, Mr. Chairman, and thank you once again for calling, as you said, what is a very important hearing. I have people waiting in my office and I am supposed to preside over the floor of the House shortly, so I don't know how much I am going to be able to be here. But I did want to at least make a brief statement. And I am having a pollen or allergy attack, so I think it will be brief.

But I remember a year and a half or so ago when David Walker, who was then the Inspector General of the Defense Department, testified in front of this committee and said that the Defense Department had misspent or had lost to waste, fraud, and abuse \$35 billion in Iraq, and that there was another \$9 billion on top of that that had just been totally lost and couldn't be accounted for at all. And I think the reason that more people weren't horrified by that is that \$44 billion is almost a figure so large that people just almost can't comprehend it.

Now what we have, it may shock some people, but there is waste even in the Defense Department. And yet some conservatives seem to think at this point that we can't criticize that and that we have to give the Defense Department every single thing that they ask for and we shouldn't ever question any of the expenditures that they do. But some conservatives are getting to the point where we are wondering if this misadventure in Iraq is not more about money for defense contractors and others than it is about security.

And I probably respect Chairman Shays more than anybody or as much as anybody in this Congress, so I will state real quickly I know he does not agree with me on this. But William F. Buckley,

the godfather of conservatism, he wrote in 2004 that if he had known in 2002 what he knew then in 2004, he would have opposed the war. And then last year, he wrote this. He said, a respect for the power of the United States is engendered by our success in engagements in which we take part. He said a point is reached when tenacity conveys not steadfast and purpose, but misapplication of pride. And I think we have reached that point. And when I read, as I read in the briefing by the staff on this hearing today, currently according to the Department of Defense there are 60 private security companies operating in Iraq with approximately 25,000 personnel. However, the Baghdad-based association believes there may be more than 150 security firms with as many as 50,000 personnel.

Well, I know that people down my way, and I come from a very conservative, very patriotic, very pro-military district, but they don't want to see money just wasted continuously. We are getting to the point with an \$8.3 trillion national debt which is headed up very highly, we are not going to be able to pay all of our military pensions and civil service pensions and our Social Security and Medicare and so forth in not too many years from now if we don't stop spending hundreds of billions of dollars in other countries for things like this.

I heard a general at the Pentagon say that al-Qaeda was now down to less than 3,000 troops and had no money; yet, we keep spending just ungodly sums over there. And then we find out that we don't even know exactly how many private security firms are operating in Iraq. And then I think people down my way would think that is kind of ridiculous that we don't know that. I think they would find it ridiculous that we are having to hire private firms to provide security for our troops, because they are in the business—that is what their business is, is security.

And then also, what they would find the most ridiculous of all is that we hire a foreign firm, a British firm to provide security for our own military. And in one of these briefings, it says a British-owned security firm provides security for the Army Corps of Engineers. And then this article that was in the Washington Post 2 days ago, that they got \$293 million, the largest contract over there. But I am told also by staff that we don't know exactly how much money we have spent on private security contracts.

And I don't know if that is the case or not, but somebody should be finding out. And so I am glad you called this hearing, but there is a lot of frustration out there about this whole deal. And yet, on our side, it seems that we can't say anything about it. And the other side has constituency like, if we said we were going to spend 10 times on public education what we are, the other side would immediately attack us and say that wasn't enough.

We need to get past these constituencies and do what is right for the American taxpayers. Thank you, Mr. Chairman.

Mr. SHAYS. I thank the gentleman very much. And I would just point out, when Members had left, Mr. Waxman had made a request. And as I read this letter, it is not a credit to DOD that they received the letter November 30, 2004 asking for basically the same kind of information, Mr. Duncan, you would want. And they received a letter back from Jerome Johnson who it was sent to, the

Commander of U.S. Army Field Support Command, basically saying he has referred the letter—and this is dated December 21, 2004. He had referred the letter to the Office of Congressional Legislative Liaison.

I just think it is very important for this committee to support that letter and that request for information, and so this will be made part of the record, without objection, and the Department will be very aware of what we are asking for. It was in your letter, Mr. Waxman.

Mr. WAXMAN. Thank you, Mr. Chairman. I think you will get more attention from them than obviously we did. And if we act together, we will get the information the Congress is entitled to.

Mr. SHAYS. Well, it is a matter of legislative responsibility, and we do need to work together on that.

At this time, the Chair would recognize Mr. Van Hollen, who has had the opportunity to visit my district and knows what a wonderful place it is.

Mr. VAN HOLLEN. Thank you, Mr. Chairman. And you have a wonderful district, Mr. Chairman.

Let me just say, I think this is a very important hearing for us to have. If you remember the lead-up to the Iraq war, Lawrence Lindsey, who was then the President's chief economic policy adviser, predicted that the war would cost between \$100 billion and \$200 billion. At that time, he was laughed at by other members of the administration, including people at OMB. They said that is way too high. We can recall also then Deputy Secretary of Defense Paul Wolfowitz saying, well, Iraqi oil revenues will easily be able to pay for the reconstruction phase and quickly.

Well, we now know that both the Wolfowitz prediction was wrong, that the Lawrence Lindsey prediction, for from being was too low was too low, and the efforts in Iraq are costing hundreds of billions of dollars to the taxpayer. So it is important that we hold the people spending those moneys accountable.

As we have heard from others, we have already heard of millions of dollars that are wasted as a result of fraud, abuse, and other forms of waste. And so it is important that we have an opportunity now to look at one sector of spending, which is on the private security contractors.

Now, in and of itself, there is nothing I don't think that is intrinsically good or bad about having a private entity involved. It depends on what they are involved in and the rules under which they are operating. But it is clear that in Iraq there have been failures and breakdowns in both those areas.

I just want to draw attention to one example that was highlighted by GAO, the Government Accountability Office, independent nonpartisan agency back in April 2005. They talked about how the Army was looking for interrogators, people to conduct interrogations. And rather than do that within the Army or within the existing military force, they decided to contract it out. Where did they go? To the Department of Interior. And through some complicated contracting procedures they essentially contracted out to a private vendor interrogation. And the GAO found, and I am just quoting from their report there, that: Because the officials in Interior and Army responsible for the orders did not fully carry out their roles

and responsibilities, the contractor was allowed to play a role in the procurement process normally performed by the government. In other words, the Federal Government essentially turned over the responsibilities, governmental responsibilities to a private contractor.

That is wrong. That is an abuse of the responsibility of the Federal Government. It leads to bad results. We need to make sure we have procedures in place for proper oversight. If you are contracting out to any private entity, you need to have oversight so that the final decisionmaking authority is somebody who is essentially responsible ultimately to the public. That is one issue.

The other issue. There are some things in my view that are intrinsically governmental functions, like interrogations, and just should not be contracted out. We don't want to contract out all our military operations. So there are a number of very important issues on the table I hope we will get to the bottom of. Mr. Waxman raised some issues about what rules apply to contractors. There are two sides of that coin. For the contractors' own protection, in some cases, you want to know whether there are rules that make sure that, if something happens to them, that they have recourse to a judicial process.

At the same time, if they do something wrong in Iraq, it is important that the same rules apply so that the people who have been wronged by them have recourse to judicial process. Two sides to the coin. And right now, I think this is an area that has been out of control, improper oversight. We have seen waste of billions of dollars, I think hundreds of millions of dollars in Iraq. And the lack of oversight over private contractors has been a big part of the problem, and I think it is characteristic of the overall lack of competence with which the war in Iraq has been conducted. Thank you, Mr. Chairman.

Mr. SHAYS. I thank the gentleman. At this time, the Chair would recognize Ms. Schakowsky. Welcome, and nice to have your participation.

Ms. SCHAKOWSKY. Thank you, Mr. Chairman. I really do appreciate your allowing me to participate, not just sit in but participate in this hearing. I thank Ranking Member Kucinich and the ranking member on the full committee, Mr. Waxman, as well.

Over the past decade, private military contractors [PMCs] have become a key factor in U.S. military operations. U.S. military logistics, combat assistance, and security services are increasingly outsourced to private entities. Civilians have taken on many of the responsibilities and duties once performed exclusively by uniformed personnel. As a result, today advancement of key U.S. foreign policy goals relies far more on private non-state actors than at any time in American history.

Regulating the responsibilities and accountability of taxpayer-funded private actors on the international stage is one of the most important policy challenges that the Congress needs to address in regards to our foreign policy. Yet, while the PMC trend is having a profound impact on the planning and conduct of modern warfare, there has been almost no scrutiny and less oversight in regulating the U.S. PMC relationship. In fact, when I offered an amendment to the fiscal year 2007 defense authorization bill that would help

provide better congressional oversight on military contractors in Iraq and Afghanistan, the Republican majority refused to allow me to include language asking for: The number of contracts in existence; the total cost of these contracts; the total number of contractors in Iraq and Afghanistan; the number of dead and wounded contractors; a report on the laws that might have been broken by contractors; a list of disciplinary actions taken against contractors; copy of contracts issued in excess of \$100 million. None of those became part of the law.

That Chairman Shays and ranking member on the committee, Mr. Waxman, have to estimate the number of contractors there are serving right now in Iraq is absurd. These are taxpayer dollars. We are funding those. And that we don't know how many even that there is, I think, a dereliction of our duty.

The Bush administration support for the privatization of government functions coupled with the wars in Afghanistan and Iraq has accelerated the demands for private security services. Contractors we know compose the second largest force in Iraq after the U.S. military. And, to date, more military contractors have been killed in Iraq than non-U.S. coalition soldiers, we think. We can all acknowledge that military contractors require the same stringent accountability and oversight standards as the U.S. military. After all, private contractors often serve side by side with our brave troops, and these same U.S. troops are often tasked to protect our contractors who are paid with billions of U.S. taxpayer dollars.

Several high profile scandals have exposed the challenges we face with PMCs. Contractors have been implicated in financial, legal, and human rights abuses, including illicit trade, drugs, prostitution rings, allegations of fraud, human rights abuses, and, worst of all, unprovoked civilian deaths. These events have highlighted the challenges that arise when nonstate actors are employed in active war zones and are not sufficiently regulated, or when enforcement of existing laws remains weak. The private military contractor business is the war business, and for-profit companies may not share the same mission-based goals as the U.S. military. They are in business for profit.

As the Iraq experience makes clear, a more transparent framework for monitoring and regulation of contractors is urgently needed.

I want to thank the Government Accountability Office for the scrutiny that it has given. But you have asked more questions than we have gotten answers for, and I hope this hearing today will shed more light on the questions that you have raised and the questions that I have been persistently asking. So I thank you very much.

Mr. SHAYS. I thank the gentlelady very much, and we appreciate having her expertise. That will help our committee get the work done that we need to.

I am just going to make this point that what we asked the witnesses to do today is to talk about PSF, private security firms, basically body guard type work, what I would call Secret Service type work. So we have not made the request from these groups to focus on private military contractors which can be beyond that. But Members are free to ask any question they want, but in terms of

the expertise that we have asked to be presented today. And it is possible that we would broaden it to go beyond the private security firms in our work.

Let me welcome our witnesses. First let me take care of some business that we need to do. I ask unanimous consent that all members of the subcommittee be permitted to place an opening statement in the record, and that the record remain open for 3 days for that purpose. And, without objection, so ordered. I ask further unanimous consent that all witnesses be permitted to include their written statements in the record. And, without objection, so ordered.

At this time, the Chair would recognize our four panelists. If there is anyone else that you may turn to to respond to a question, we will ask you to ask them to stand up and be sworn in so we don't have to do it more than once.

We have Mr. William M. Solis, director, Defense Capabilities and Management, Government Accountability Office [GAO].

We have Mr. Shay, without an s, Assad, director, Defense Procurement and Acquisition Policy Department of Defense.

We have Mr. Greg Starr, Deputy Assistant Secretary, Bureau of Diplomatic Security, Department of State.

We have Mr. James Kunder, Assistant Administrator for the Near Far East and Africa, U.S. Agency for International Development.

As you know, we do swear our witnesses in, and we would ask you to stand at this time. Is there anyone that you would suggest be sworn in as well?

[Witnesses sworn.]

Mr. SHAYS. Note for the record our witnesses have responded in the affirmative.

What we do in this committee is we request that you be 5 minutes, but we let you roll over beyond that. So we would prefer that your statement be what you want it to be, but obviously not to be more than 10, but preferred closer to 5. But whatever, we appreciate you being here, Mr. Solis.

STATEMENTS OF WILLIAM M. SOLIS, DIRECTOR, DEFENSE CAPABILITIES AND MANAGEMENT, GOVERNMENT ACCOUNTABILITY OFFICE; SHAY ASSAD, DIRECTOR, DEFENSE PROCUREMENT AND ACQUISITION POLICY, DEPARTMENT OF DEFENSE; GREG STARR, DEPUTY ASSISTANT SECRETARY, BUREAU OF DIPLOMATIC SECURITY, DEPARTMENT OF STATE; AND JAMES KUNDER, ASSISTANT ADMINISTRATOR FOR THE NEAR EAST AND AFRICA, U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT

STATEMENT OF WILLIAM SOLIS

Mr. SOLIS. Chairman Shays, Ranking Member Kucinich, and members of the subcommittee, I am pleased to be here to discuss the use of private security providers by U.S. Government agencies and contractors that are helping to rebuild Iraq. It is the first time that the United States has depended on contractors to provide such extensive security in a hostile environment, although it has pre-

viously contracted for more limited security services in Afghanistan, Bosnia and elsewhere.

Today my testimony will followup on some of the issues we raised in our 2005 report on private security providers as well as our preliminary observations from an ongoing engagement on the processes used to screen their employees. Specifically, I will address three main points: The extent to which coordination between the U.S. military and private security providers has improved since our 2005 report; the ability of private security providers and DOD to conduct comprehensive background screenings of their employees; and the extent to which United States or international standards exist for establishing security provider and employee qualifications.

With regard to my first point, we reported in July 2005 that coordination between the U.S. military and private security providers had improved since the establishment of the Reconstruction Operation Center in October 2004. However, military officials we recently met with in Iraq and those that have recently returned from Iraq indicate that coordination is still a problem. For example, private security providers are still entering the battle space without coordinating with the U.S. military, putting both the military and security providers at a greater risk for injury. And, U.S. military units are still not being trained on operating procedures of private security providers in Iraq and the role of Reconstruction Operation Center. In our 2005 report, we recommended that a predeployment training program would help address the coordination issue. DOD agreed with our recommendation but has not issued any guidance or conducted any training with regard to working with or coordinating with private security providers on the battlefield.

Regarding my second point, our preliminary observation suggest that private security providers and DOD have difficulty conducting comprehensive background screening when data are missing or unaccessible. When doing background checks of those living in the United States, private security providers use public information available at the county, State, or Federal level.

They also search criminal information repositories and commercial data bases, such as those that collect information on incarcerations. None of these types of searches, however, guarantees a comprehensive background check. Additionally, screening host nation third country national employees can be difficult because of inaccurate or unavailable records in some of these countries. In addition, officials from some background screening firms told us that foreign laws restrict access to some criminal records.

Finally, DOD's biometric screening of most non-U.S. contractors including employees of private security providers accessing U.S. installation in Iraq is not as effective as it could be, because the data bases used to screen contractor employees include only limited international data.

My third and last point is that no U.S. or international standards exist for establishing private security provider or employee qualifications. As we reported in our 2005 report, reconstruction contractors had difficulty hiring suitable security providers. For example, we found that contractors replaced their security providers on five of the eight reconstruction contracts awarded in 2003 that

we reviewed. Contractor officials attributed this turnover to various factors, including their lack of knowledge of the security market and potential security providers, and the absence of useful agency guidance.

Consequently, we recommended that agencies explore options that would enable contractors to obtain such services quickly and efficiently. Such options could include identifying minimum standards for private security personnel qualifications, identifying training requirements in the key performance characteristics that these personnel should possess, establishing qualified vendor lists, or establishing contracting vehicles which contractors could be authorized to use.

State Department disagreed with our recommendations, citing concerns that government could be held liable for performance failures. State determined that they could best assist contractors by providing information on industry best practices and other security related material. As we stated in our 2005 report, given the significance of contractors in achieving reconstruction objectives and the mixed results they encountered when selecting their security providers thoroughly, exploring potential options to assist contractors in obtaining these services quickly and efficiently would be prudent.

Mr. Chairman, this concludes my oral statement. I will be happy to answer any questions you or the members of the subcommittee may have.

Mr. SHAYS. Thank you, Mr. Solis.

[The prepared statement of Mr. Solis follows:]

United States Government Accountability Office

GAO

Testimony
Before the Subcommittee on National
Security, Emerging Threats, and
International Relations, Committee on
Government Reform

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REBUILDING IRAQ

Actions Still Needed to Improve the Use of Private Security Providers

Statement of William Solis, Director
Defense Capabilities and Management



GAO-06-865T

June 13, 2006



Highlights of GAO-06-865T, a testimony before the Subcommittees on National Security, Emerging Threats and International Relations, Committee on Government Reform House of Representatives

Why GAO Did This Study

GAO was asked to address (1) the extent to which coordination between the U.S. military and private security providers has improved since GAO's 2005 report, (2) the ability of private security providers and the Department of Defense (DOD) to conduct comprehensive background screenings of employees, and (3) the extent to which U.S. or international standards exist for establishing private security provider and employee qualifications. For this testimony, GAO drew from its July 2005 report on private security providers, and its preliminary observations from an ongoing engagement examining contractor screening practices.

www.gao.gov/cgi-bin/getrpt?GAO-06-865T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact William Soils at (202) 512-8365 or soilsw@gao.gov.

REBUILDING IRAQ

Actions Still Needed to Improve the Use of Private Security Providers

What GAO Found

Coordination between the U.S. military and private security providers still needs improvement. First, private security providers continue to enter the battle space without coordinating with the U.S. military, putting both the military and security providers at a greater risk for injury. Second, U.S. military units are not trained, prior to deployment, on the operating procedures of private security providers in Iraq and the role of the Reconstruction Operations Center, which is to coordinate military-provider interactions. While DOD agreed with our prior recommendation to establish a predeployment training program to help address the coordination issue, no action has been taken.

Many private security providers and DOD have difficulty completing comprehensive criminal background screenings for U.S. and foreign nationals when data are missing or inaccessible. For example, a DOD policy requires biometric screening of most non-U.S. private security providers accessing U.S. bases in Iraq. Biometric screening (e.g., fingerprints and iris scans) measures a person's unique physical characteristics. Biometric screening is not as effective as it could be because the databases used to screen contractor employees include limited international data. Based on its work to date, GAO believes that incomplete criminal background screening may contribute to an increased risk to military forces and civilians in Iraq, and the military would benefit by reviewing the base security measures to ensure that the risk private security contractors may pose has been minimized. A report on screening will be issued in Fall 2006.

No U.S. or international standards exist for establishing private security provider and employee qualifications. Reconstruction contractors told GAO during its review for its July 2005 report that they had difficulty hiring suitable security providers. Contractors replaced their security providers on five of the eight reconstruction contracts awarded in 2003 that were reviewed by GAO. Contractor officials attributed this turnover to various factors, including their lack of knowledge of the security market and of the potential security providers and the absence of useful agency guidance in this area. In our report, we recommended that the State Department, United States Agency for International Development, and DOD explore options that would enable contractors to obtain security services quickly and efficiently. In response to our recommendation, the agencies met in November 2005 and agreed that our recommendation was not practical. They determined that they could best assist contractors by providing access to information related to industry best practices and other security-related material.

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss issues related to the use of private security providers by U.S. government agencies and the contractors that are helping to rebuild Iraq. As you know, because of the continued hostilities in Iraq, the United States as well as other governments and nongovernmental agencies are relying heavily on private firms to provide security for those helping to build a democratic Iraq. This is the first time that the United States has depended on contractors to provide such extensive security in a hostile environment, although it has previously contracted for more limited security services in Afghanistan, Bosnia, and elsewhere.

Because of growing interest by members of Congress in the use of private security providers in Iraq, we began a review under the Comptroller General's authority and issued a report in July 2005 on the use of private security providers in Iraq.¹ We reported that

- Agencies and reconstruction contractors made extensive use of private security providers because providing security for these organizations is not part of the U.S. military's stated mission. We reported that the reconstruction contractors' efforts to obtain security met with mixed results as they often found that the security providers they selected could not meet their needs. We recommended that the Secretaries of State and Defense and the Administrator of United States Agency for International Development (USAID) explore options to assist contractors in obtaining suitable security providers
- The relationship between the U.S. military and private security providers is based on cooperation and not control. It appeared that coordination between the military and the private security providers improved when the Reconstruction Operations Center (ROC) opened to coordinate military-

¹ GAO, *Rebuilding Iraq: Actions Needed to Improve the Use of Private Security Providers*, GAO-05-737 (Washington, D.C.: July 28, 2005).

provider interactions.² However, we noted that additional actions could be taken to improve coordination and recommended that units deploying to Iraq receive predeployment training to better understand typical private security provider operating procedures and the role of the ROC.

- Despite the significant role private security providers play in the reconstruction of Iraq, none of the principal agencies responsible for reconstruction had complete data on costs associated with using private security providers. We recommended that the Secretaries of State and DOD and the Administrator of USAID establish a means to track and account for security costs to develop more accurate budget estimates.

There has been growth in the private security industry in Iraq. In our 2005 report, we reported that the Department of Defense (DOD) estimated at least 60 private security providers were working in Iraq with perhaps as many as 25,000 employees. In March 2006, the Director of the Private Security Company Association of Iraq estimated that approximately 181 private security companies were working in Iraq with just over 48,000 employees.

Today, my testimony will address some of the issues we raised in our 2005 report as well our preliminary observations from an ongoing engagement on the processes used to screen private security providers. Specifically, my testimony today will address

- the extent to which coordination between the U.S. military and private security providers has improved since our 2005 report,
- the ability of private security providers and DOD to conduct comprehensive background screenings of employees, and
- the extent to which U.S. or international standards exist for establishing private security provider and employee qualifications.

My testimony is based on our July 2005 report, a May 2006 visit to Iraq, and our preliminary observations from an ongoing engagement requested by

²The national ROC is located in Baghdad with six regional centers collocated with the military's major subordinate commands. Participation is open at no cost to all U.S. government agencies, contractors, and nongovernmental organizations operating in Iraq. The ROC and the regional centers are staffed with a combination of military, U.S. government civilian, and contractor personnel and provide such services as disseminating unclassified intelligence information and specific threat assessments on future building sites and planned vehicle routes to contractors; recording information about incidents and threats to coalition forces; facilitating military assistance, such as a quick reaction force or medical services, to contractors in need; and facilitating communication between contractors and U.S. military units.

this subcommittee on the effectiveness of the processes used to screen contractor employees in the U.S. Central Command's area of responsibility, which includes Iraq. To obtain our preliminary observations on the effectiveness of the processes used to screen contractor employees in Iraq, we have reviewed relevant documents such as contracts, as well as DOD and governmentwide policies; met with DOD officials both in the United States and Iraq, and interviewed contractors providing services to deployed forces in Iraq as well as professional background screeners in the United States and India. This work is being done in accordance with generally accepted government auditing standards.

Summary

Although we reported in July 2005 that coordination between the U.S. military and private security providers had improved since the establishment of the ROC in October 2004, interviews with military officials we met with in Iraq and with military officials that have recently returned from Iraq indicate that coordination is still a problem and needs further improvement. First, private security providers are still entering the battle space without coordinating with the U.S. military, putting both the military and security providers at a greater risk for injury. Second, U.S. military units are not trained, prior to deployment, on the operating procedures of private security providers in Iraq and the mission and role of the ROC. In our 2005 report, we recommended that a predeployment training program would help address the coordination issue. DOD agreed with our recommendation; however, DOD has not issued any guidance or conducted training in regard to working with or coordinating with private security providers on the battle field.

On preliminary observations on the background screening of contractor employees suggests that private security providers and DOD have difficulty conducting comprehensive background screening when data are missing or inaccessible. When doing background screenings of those living in the United States, private security providers use public information available at the county, state, or federal level and search state criminal information repositories and commercial databases such as those that collect information on incarcerations. None of these types of searches, however, guarantees a comprehensive background screening. Screening host nation and third³ country national employees can be difficult because

³ A third country national is a person working for a contractor who is neither a citizen of the United States nor the host country.

of inaccurate or unavailable records in some countries. In addition, officials from some background screening firms told us that some foreign laws restrict access to criminal records. Finally, DOD's biometric⁴ screening of most non-U.S. contractors (including employees of private security providers) accessing U.S. installations in Iraq is not as effective as it could be because the databases used to screen contractor employees included only limited international data.

No U.S. or international standards exist for establishing private security provider and employee qualifications. During our review for our 2005 report, we found that reconstruction contractors had difficulty hiring suitable security providers. Contractors replaced their security providers on five of the eight reconstruction contracts awarded in 2003 that we reviewed.⁵ Contractor officials attributed this turnover to various factors, including their lack of knowledge of the security market and of the potential security providers and the absence of useful agency guidance in this area. We recommended that the agencies explore options that would enable contractors to obtain such services quickly and efficiently. Such options could include (1) identifying minimum standards for private security personnel qualifications, (2) training requirements and other key performance characteristics that private security personnel should possess, (3) establishing qualified vendor lists, and (4) establishing contracting vehicles which contractors could be authorized to use. DOD agreed with the recommendation and USAID did not comment on the recommendation. The State Department disagreed with our recommendation citing concerns that the government could be held liable for performance failures, but determined that they could best assist contractors by providing access to information related to industry best practices and other security-related material.

Background

Prior to the war in Iraq, DOD and the U.S. government agencies responsible for the reconstruction of Iraq believed that reconstruction would take place in an environment with little threat from insurgents or terrorists. By June 2003, the security situation began to worsen, and it

⁴ A biometric measures a person's unique physical characteristics (such as fingerprints, hand geometry, facial patterns, or iris and retinal scans) or behavioral characteristics (voice patterns, written signatures, or keyboard typing techniques) and can be used to recognize the identity, or verify the claimed identity, of an individual.

⁵ On one additional 2003 contract, the contractor provided its own security.

became clear in August 2003 with the bombing of the United Nations complex that insurgents were targeting nonmilitary targets.

As the Comptroller General testified before this subcommittee in April 2006, the poor security environment continues to be a concern as insurgents demonstrate the ability to recruit, supply, and attack coalition and Iraqi security forces, and impede the development of an inclusive Iraqi government and effective Iraqi security forces. The insurgency intensified through October 2005 and has remained strong since then.⁶ According to a February 2006 testimony by the Director of National Intelligence, insurgents are using increasingly lethal improvised explosive devices and continue to adapt to coalition countermeasures.

Our July 2005 report on private security providers addressed, among other things, the mission of private security providers in Iraq, the laws and guidance governing the conduct of private security providers, and the cost impact of using private security providers.

The Mission of Private Security Providers in Iraq

The mission of private security providers is to protect government agency officials and reconstruction contractors in Iraq's unstable security environment. Providers may be U.S. or foreign companies and their staffs are likely to be drawn from various countries, including the United States, the United Kingdom, South Africa, Nepal, Sri Lanka, or Fiji, and may include Kurds and Arabs from Iraq. Generally, private security providers provide the following services:

- Static security – security for housing areas and work sites,
- Personal security details – security for high-ranking U.S. officials,
- Security escorts – security for government employees, contractor employees, or others as they move through Iraq,
- Convoy security – security for vehicles and their occupants as they make their way into Iraq or within Iraq, and
- Security advice and planning.

⁶GAO, *Rebuilding Iraq: Governance, Security, Reconstruction, and Financing Challenges*, GAO-06-697T (Washington, D.C.: April 25, 2006).

**Laws and Guidance
Governing Private Security
Providers in Iraq**

During its existence, the Coalition Provisional Authority (CPA) issued a number of orders or memoranda to regulate private security providers and their employees working in Iraq between December 2003 and June 2004.⁷ Among these are CPA order number 3, which authorized possession, use and registration of weapons used by private security providers; CPA order number 17, which stated that contractors (including private security providers) will generally be immune from the Iraqi legal process for acts performed in accordance with the terms and conditions of their contracts; and CPA Memorandum number 17, which stated that private security providers and their employees must be registered and licensed by the government of Iraq. According to the Director of the Private Security Companies Association of Iraq, as of June 1, 2006, the CPA memorandum and orders were still in effect.

In September 2005, U.S. Central Command's Staff Judge Advocate issued interim legal guidance regarding DOD's use of private security providers in Iraq. The September 2005 guidance permitted the use of properly licensed private security providers to protect civilians, contractors, nonmilitary facilities and equipment as well as static military facilities and the military personnel and equipment within them. In January 2006, the U.S. Central Command's Staff Judge Advocate issued additional guidance which gave commanders in Iraq the authority to use private security providers to provide security to convoys transporting military supplies and to provide personal security. Currently, DOD is using private security providers to guard facilities located within U.S. bases and installations, and may expand its use of private security providers based on the January 2006 guidance. However, it is not clear to what extent DOD plans to make use of this expanded authority.

Although private security providers are generally not subject to prosecution under the Uniform Code of Military Justice in the absence of a formal declaration of war by Congress, the federal government can impose sanctions in response to acts of misconduct. For example, private security providers are subject to prosecution by the Department of Justice under applicable U.S. federal laws, to include the Military Extraterritorial

⁷ The CPA served as Iraq's interim government from April 2003 to June 28, 2004, and was responsible for overseeing, directing, and coordinating rebuilding efforts.

Jurisdiction Act,⁸ the special maritime and territorial jurisdiction provisions of title 18 of the U.S. code,⁹ and the War Crimes Act.¹⁰

The Cost Impact of Private Security Providers in Iraq

Despite the significant role played by private security providers in enabling reconstruction efforts to proceed, neither the Department of State, nor DOD, nor the USAID—the principal agencies responsible for Iraq reconstruction efforts—had complete data on the costs associated with using private security providers. As of December 2004, the agencies and contractors we reviewed had obligated more than \$766 million for security services and equipment, and by reviewing invoices that providers of security services and equipment provided to the contractors, we found that security costs had accounted for more than 15 percent of the contract's costs in 8 of the 15 contracts we reviewed. We cautioned, however, that our estimates did not reflect security-related costs incurred by subcontractors or lower tier suppliers, or attempt to quantify the impact of the security environment on the pace of reconstruction efforts caused by security-related work stoppages or delays or the costs associated with repairing the damage caused by the insurgency on work previously completed. In January 2006, the State Department reported to Congress that direct and indirect costs of security represented 16 to 22 percent of the overall cost of major infrastructure reconstruction projects.¹¹ DOD officials acknowledged, however, that the estimate may not have accounted for all security costs and that different methodologies and methods were used to prepare the estimate.

Given the expectation of a relatively benign environment that would require only a minimal level of security, such costs undoubtedly diverted resources and contributed to decisions to cancel or reduce the scope of some projects. In our view, the absence of reliable data in an area critical to supporting U.S. efforts, limited the agencies' ability to assess the impact of and manage security costs on future reconstruction efforts. Consequently, we recommended in our July 2005 report that agencies

⁸ Military Extraterritorial Jurisdiction Act 18 U.S.C. 3261.

⁹ Special maritime and territorial jurisdiction provisions of 18 U.S.C. 7(9).

¹⁰ War Crimes Act 18 U.S.C. 2441.

¹¹ Department of State, Report to Congress, Section 2207 Report on Iraq Relief and Reconstruction, January 2006.

develop a means to track and account for security costs to develop more accurate budget estimates.

In early June 2006, the State Department issued a procurement information bulletin in response to our recommendation. The Department noted that DOD, USAID and the State Department had agreed to include requirements for reconstruction contractors to report all costs for private security supplies and services that the contractor or any subcontractor may have to acquire necessary for the successful performance of the contract. For example, for all future contracts where performance or delivery takes place in Iraq, contractors are required to include in their proposal an estimate of all costs expected to be incurred by the contractor, or any tier of subcontractor, for private security goods or services that the contractor or subcontractor obtained as part of contract performance. The contractors will be required to report similar information when submitting invoices for payment for goods and services provided. If fully implemented, such an approach should provide the Department with a clearer picture on the impact of security costs on reconstruction contracts.

Coordination between the U.S. Military and Private Security Providers Continues to Be a Problem

Despite improvements in coordination between private security providers and the U.S. military, military officials we met with in Iraq in May 2006 and those who recently returned from Iraq said that coordination continues to be a problem. Coordination between the U.S. military and private security providers evolved from an informal coordination based on personal relationships to a more structured, although voluntary, mechanism—the ROC. U.S. military and contractor officials we spoke with prior to issuing our July 2005 report had indicated that coordination had improved.

While the ROC has helped improve coordination between the military and security providers, military officials we spoke to during our May 2006 visit to Iraq and representatives from the 3rd Infantry Division remain concerned about coordination. Officials from the 3rd Infantry Division, who were located in Baghdad from January 2005 to January 2006, told us that (1) they had a difficult time working and interfacing with private security providers during their deployment because they had no means to communicate with the private security providers, (2) they were unfamiliar with the ROC, and (3) private security providers frequently entered their battle space without notifying the division. Military officials we spoke with stated that private security providers should be required to coordinate with the military. Several U.S. military officers whom we interviewed who served in Iraq said that they had a responsibility to aid contractors who

need assistance. If private security providers do not coordinate their movements with military units, it places both the U.S. military and the private security providers at risk. Also, with better coordination, private security providers would be informed of areas that were unsafe and either change their route or delay the movement.

At the time we issued our report in July 2005, incidents of U.S. military shooting at private security providers were a concern. During the 5-month period of January through May 2005, the ROC received reports of 20 friendly-fire incidents. It is likely that the number of actual incidents during that time period was higher since some providers told us they stopped reporting these types of incidents. For the 12-month period, from June 1, 2005 to June 1, 2006, 12 incidents were reported to the ROC. We spoke with the Director of the Private Security Company Association of Iraq about these incidents, among other things. He said that he believes the decrease in such incidents is the result of better enforcement of the rules of engagement by the U.S. military. In addition to better enforcement of the rules of engagement, which require that U.S. troops determine whether a person's intent is hostile before the military uses deadly force, the director of the ROC believed that our 2005 report led to increased awareness of the issue.

We recommended in 2005 that the Secretary of Defense develop a training package for units deploying to Iraq to improve coordination between the U.S. military and private security providers. The training package would include information on the ROC, typical private security provider operating procedures, and any guidance or procedures developed by Multi-national Force-Iraq (MNF-I) or Multi-national Corps-Iraq (MNC-I)¹² applicable to private security providers. Although the Department of Defense agreed with our recommendation and tasked the Joint Staff to develop the training package, no action had been taken. Early this year, we contacted officials from the 10th Mountain Division (who deployed to Iraq in early 2006) to determine if their predeployment training had included any information on working with private security providers. Division officials advised us that they had received no information on working with private security providers. While in Iraq, we met with Army officials at Camp Anaconda who told us that they received little guidance regarding

¹² Multi-National Force-Iraq is responsible for counter-insurgency operations to isolate and neutralize former regime extremists and foreign terrorists and for organizing, training, and equipping Iraq's security forces. Multi-National Corps-Iraq is the tactical unit of MNF-I responsible for command and control of operations in Iraq.

private security providers in Iraq prior to deployment and stated that they needed better guidance regarding the military's responsibility to private security providers. Finally, in May 2006 while in Iraq we met with the director of the ROC who told us that military units should receive some training regarding private security providers before the units deployed to Iraq. He stated that such training would help improve U.S. military and private security provider coordination.

**Missing or
Inaccessible Data May
Make Criminal
Background
Screening of Private
Security Provider
Employees Difficult**

Private security providers and DOD have difficulty conducting comprehensive criminal background screening when data are missing and inaccessible. When doing such background screenings of those living in the United States, background screening firms generally use public information available at the county, state, or federal level or search commercial databases such as those that collect information on incarcerations or arrest records. None of these types of searches, however, guarantees a comprehensive background screening. Private security firms may find it difficult to complete background screenings of their Iraqi and third country national employees because of a lack of reliable information. In addition, DOD's program to biometrically screen all Iraqi private security provider employees as well as most third country nationals who are private security provider employees seeking access to U.S. installations is not as effective as it could be because of the limited number of international and foreign databases available for screening. Because of the numerous difficulties in screening employees, particularly those who do not live in the United States, it may not be possible to know the true identities and backgrounds of the thousands of private security provider employees working in Iraq. This lack of knowledge increases the security risk to U.S. military forces and civilians in Iraq.

**Information Is Not Always
Available or Accessible
When Conducting Criminal
Background Screening**

Many private security providers that conduct criminal background investigations use screening firms. The private security provider requesting the screening determines the parameters of the background screening. Information is not always available or accessible when conducting criminal background investigations of U.S. nationals, third country nationals, and Iraqi nationals. Another factor that can contribute to difficulties is foreign privacy laws that make some criminal information inaccessible according to screening firm officials.

U.S. Nationals: When screening firms conduct background investigations of those living in the United States, they generally use public information available at the county, state, or federal level, search state maintained

criminal information repositories, and commercial databases such as those that collect information on incarcerations. However, none of these actions guarantees a comprehensive background check. For example, screening companies may not review federal court records if not directed to by the client. Furthermore, background screening firms generally only check the records of the court that maintains the preponderance of criminal data and may miss some records maintained by specialized courts such as domestic or family law courts. State repositories of information may not include all criminal data. For example, one official from a background screening firm explained that only 66 of the 88 counties in Ohio report crimes to the state repository. Similarly, the State of Illinois reported that in 2003 only 59 percent of the computerized criminal history records they audited had complete information. Furthermore, commercial databases may not provide a complete background investigation because the databases may not contain the most recent criminal data; certain criminal offenses may not be reported; and there are no standards on how data in commercial databases should be collected and validated.

Third Country Nationals: Screening third country nationals presents additional challenges according to background screeners to whom we have spoken. Officials from international background screening firms cited the challenges in verifying criminal background information on third country nationals because they are relying on the applicant to provide all prior addresses. Since some countries, such as India, maintain criminal data at the local level, persons doing the background screenings may miss crimes that were committed in other locations within the country if the applicant did not reveal all previous addresses. Those doing screenings face other challenges as well. For example, some countries lack criminal records or the records are unreliable because of high levels of corruption according to representatives of the screening firms we interviewed. Additionally, some countries only maintain records for 3 to 5 years which some in the background screening industry consider to be insufficient. Also, many countries lack national identification numbers, which makes it difficult to know if the person being screened was the person who committed the crimes cited in the court or police records.

Iraqi Nationals: Some private security companies have been encouraged by their clients to hire Iraqi nationals to put money back into the Iraqi economy and to reduce security costs compared with the salaries of other employees. However, screening Iraqi nationals is very difficult because of a lack of criminal information. One firm we spoke with told us that they have encountered problems screening Iraqi nationals because the Iraqi police lack criminal records or criminal information. Another company

depends on their Iraqi subcontractors to screen Iraqi applicants and may not have a clear understanding of how the screening takes place. According to officials from one of the private security providers we spoke with, their Iraqi subcontractor claims to have a screening process, and the provider trusts the company to provide qualified individuals. One company we spoke with told us that they rely on local tribal leaders to screen their employees. Finally, the Iraqi Ministry of the Interior also screens Iraqi private security employees as part of the registration and licensing process.

Privacy Laws: Privacy laws may also make it difficult to complete accurate screenings on those who live outside of the United States. According to officials from background screening firms, some countries do not permit criminal background searches of their citizens or limit the type of information that can be released to a third party. In other countries, criminal information cannot be given to third parties and is only released to the applicant who can then determine whether to release the information. According to screening company officials, there are often issues related to the authenticity of documents provided by applicants.

The Effectiveness of DOD's Biometric Screening in Iraq Is Limited Because of Missing Data

DOD conducts biometric screening of most non-U.S. private security provider employees needing access to installations in Iraq; however, the value of the screening process is limited because the databases used to screen the applicants have little international biometric data. In March 2005, shortly after a dining facility bombing at a U.S. installation in Iraq killed 14 U.S. soldiers and wounded at least 50, the deputy secretary of Defense issued a policy requiring the biometric screening of most non-U.S. personnel (including private security provider employees) seeking access to U.S. installations in Iraq. The goal of this policy is to improve force protection for U.S. and coalition forces in Iraq and to provide positive identification of local and third country nationals accessing U.S. facilities.¹³ This policy requires that those seeking access to installations in Iraq be fingerprinted, photographed, have their irises scanned and be enrolled in one of two systems DOD uses to gather the required biometric data. The biometric screening is in addition to the in-person interview and

¹³ At the time of our visit to Iraq in May 2006, only a limited number of bases were using the biometric information to verify the identities of contractor employees accessing the base on a daily basis.

screening of Iraqis (and some third country nationals) wishing to access a base or installation.

Biometric information from the two installation access systems is sent to DOD's Biometric Fusion Center in West Virginia where it is merged with other biometric data to form the Automated Biometric Identification System (ABIS). The Biometric Fusion Center screens the applicant's data against the ABIS system as well as the FBI's Integrated Automated Fingerprint Identification System (IAFIS) database. The IAFIS database includes the fingerprint records of more than 51 million persons who have been arrested in the United States as well as information from databases maintained by other agencies such as the Department of Homeland Security, the Department of State and the International Criminal Police Organization (Interpol).¹⁴

While DOD's biometric screening process has successfully identified several persons seeking access to bases in Iraq who have criminal records in the United States, the lack of international biometric data limits its usefulness. According to an official from the FBI's Criminal Justice Information Services Division, the IAFIS database includes criminal fingerprint data from only a limited number of foreign countries because some countries are reluctant to share criminal history information and others do not have fingerprint repositories or do not collect fingerprints in a manner compatible with the FBI's system. In addition, although the IAFIS database includes about 50,000 fingerprint records from Interpol, Interpol does not maintain a repository of all criminal offenses committed in the member countries. Instead, Interpol's criminal database is composed of wanted notices submitted by the member countries and the information is only retained for 5 years. Access to international criminal biometric information is vital to meeting DOD's goal of establishing the positive identification of local and third country nationals accessing U.S. facilities in Iraq. Without access to foreign biometric information, DOD may find it difficult to determine if third country nationals may pose a threat to U.S. military and civilians in Iraq.

¹⁴ States voluntarily provide fingerprint records to the FBI for inclusion in the IAFIS database. According to FBI officials, not all persons arrested and convicted of crimes in the U.S. are included in the IAFIS database.

There Are No Established Standards to Assist Contractors in Obtaining Suitable Security Providers

At the time we issued our report in July 2005, there were no U.S. or international standards that would establish security provider qualifications in such areas as training and experience requirements, weapons qualifications, and similar skills that are applicable for the type of security needed in Iraq. Security industry associations and companies have discussed the need for and desirability of establishing standards, but as of June 2006, no such standards have been developed or implemented. As we reported in our 2005 report, reconstruction contractors had difficulty hiring suitable security providers. Contractors replaced their security providers on five of the eight reconstruction contracts awarded in 2003 that we reviewed.¹⁵ Contractor officials attributed this turnover to various factors, including their lack of knowledge of the security market and of the potential security providers and the absence of useful agency guidance in this area.

In our report, we recommended that the State Department, USAID, and DOD explore options that would enable contractors to obtain security services quickly and efficiently. Such options may include identifying minimum standards for private security personnel qualifications, training requirements and other key performance characteristics that private security personnel should possess; establishing qualified vendor lists; and/or establishing contracting vehicles which contractors could be authorized to use. In response to our recommendation, the State Department noted in November 2005 that it had met with representatives from DOD and USAID to discuss ways to assist contractors in acquiring security services. According to the State Department, all agencies agreed that it was not practical to prequalify vendors or establish contracting vehicles, in part due to concerns regarding the agency's liability if contractors failed to perform. Rather, they determined that they could best assist contractors by providing access to information related to industry best practices and other security-related material.

Concluding Observations

Mr. Chairman, we believe two recommendations we made in our July 2005 report continue to have merit and should be implemented. Specifically, we believe private security provider operations would be improved by (1) developing a training package for deploying units to Iraq that would provide information on the ROC, private security providers operating procedures, and any MNF-I or MNC-I guidance on private security

¹⁵ On one additional 2003 contract, the contractor provided its own security.

providers and (2) further exploring options to assist contractors in obtaining suitable security providers. Further, U.S. military officials who have been in Iraq or who we interviewed during our May 2006 visit stated that coordination between the military and private security providers should be required. Given the increased risk both parties are subject to when private security providers do not coordinate their activities with the military, we believe U.S. government agencies using private security providers in Iraq may want to consider such a requirement utilizing the ROC as the focal point for such a requirement. Additionally, based on our preliminary observations, incomplete criminal background screenings may contribute to an increased risk to military forces and civilians in Iraq. The military would benefit by reviewing the installation security measures in place in Iraq to ensure that the risk private security contractors may pose has been minimized. Lastly, as noted in our July 2005 report, our experience in Iraq has made us aware that future operations may include reconstruction efforts in an unstable or deteriorating security environment, thus requiring extensive use of private security providers. Given their important role in Iraq, planning that includes the use of private security providers will need to be incorporated in future military operations and reconstruction efforts.

Mr. Chairman and members of the Subcommittee, this concludes my prepared statement. I will be happy to answer any questions you may have.

GAO Contacts and Acknowledgments

For questions regarding this testimony, please call William Solis at (202) 512-8365. Other key contributors to this statement were Vincent Balloon, Carole Coffey, Grace Coleman, Laura Czohara, Gary Delaney, Timothy DiNapoli, and Wesley A. Johnson.

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Mr. SHAYS. Mr. Assad.

STATEMENT OF SHAY ASSAD

Mr. ASSAD. Thank you, Mr. Chairman. Chairman Shays, members of the committee, Madam Congresswoman, I am Shay Assad, and I serve as the Director of Defense Procurement and Acquisition Policy in the Office of the Undersecretary of Defense For Acquisition Technology and Logistics. Prior to taking this position in April, I was the Assistant Deputy Commandant for Installation and Logistics in Contracting. I was the senior contracting official in the U.S. Marine Corps.

To give you a little background, I spent 25 years in industry serving in a number of operational and staff capacities primarily with Raytheon Co. My experience includes serving as a senior vice president of contracts. I was president and chief operating officer of a major operating division, and I was last an executive vice president, chairman, and CEO of one of their major operating companies. I am a graduate of the Naval Academy, and I started my career off as a naval officer in serving two tours on Navy destroyers, and last, as a Navy procurement officer at the Naval Sea Systems Command.

Thank you for the opportunity to appear before you today to participate in today's discussion on private security firms. I would like to take a moment to thank the committee for its support of our troops and all you have done to help with their mission. I would also like to thank the men and women who serve our great country. When I say men and women, I mean our military, our government civilian, our coalition, and industry partners. None of us could get the job done without the other.

I am continuously impressed with the cooperation among all those contributing to the mission under very adverse conditions in Iraq and Afghanistan as well as other operating locations around the world, and I am committing to doing what I can to assist them.

Mr. Chairman, our industry partners provide essential support to the deployed military forces that enables our forces to focus on their core mission. The Department of Defense acquisition team strives to provide our war fighters the support they need, consistent with responsible management and stewardship to our taxpayers. We strive to effect timely acquisition planning, contract execution, and responsible contract management oversight in order to provide our war fighters the contract support they need to accomplish their mission. We are doing everything it takes to make our soldiers, marines, airmen, and sailors and ensure that they are provided with the safest, most dependable, and highest performing equipment available within fiscal constraints together with the logistics and material support necessary to ensure performance whenever and wherever it is needed. We will continue to work every day to improve the service that we provide our men and women in the Armed Services.

I know your invitation letter had asked General Webster to respond to specific questions based on his personal experience. I cannot speak for General Webster, but I can tell you from an acquisition and contracting point of view, my focus with regard to activities in Iraq primarily rests with supporting Major General Darrell

Scott, U.S. Air Force, the commander of the joint contracting command.

In addition, I support a number of other contracting agencies, such as the Defense Contract Management Agency, the U.S. Army Corps of Engineers, and the gulf region division. These men and women are doing great work under some very trying conditions.

You had asked about the roles and missions of private security firms operating in Iraq. The activities of private security firms include but are not limited to protective security details for government employees and dignitaries, site protection of buildings and other facilities, and operational staff work that directly support reconstruction and relief operations in a complex contingency.

You asked what policy directives apply to provide security firms on the battlefield. The governing DOD policy is found in DOD Instruction 3020.41 entitled Contractor Personnel Authorized to Accompany the U.S. Armed Forces. This instruction establishes and implements policy and guidance, assigns responsibilities, and serves as a comprehensive road map of policies and procedures concerning DOD contractor personnel authorized to accompany our forces. Chapter 6 in particular addresses armed contractors. There are also various other service regulations that cover the use of armed contractors. The Army has prepared a CONUS guide for supporting contingencies within the United States and supporting overseas contingencies from CONUS locations as well as a guide book for all CONUS contingency contracting.

The committee has also asked what standards private security firms are to meet before being employed by the Department of Defense. First are the general standards of responsibility that apply to all firms entering into a contract with DOD. These are specified in the Federal and defense acquisition regulations as well as specific agency regulations.

More specific to armed contractors, DOD instruction 3020.41 prescribes standards that apply to contractor employees to include medical standards, background checks, contractor direction and discipline, as well as country entry requirements.

The committee has also asked what types of training security firms provide their employees before being assigned to the battlefield environment. I cannot speak for any particular company with regard to the types of training that particular company would provide. That would have to be answered by that company. I believe, however, that specific training required of such firms would depend upon the nature of the security provided and upon the individual contract statement of work.

For example, training for a company that is hired to provide protective security details to senior leaders would be very different from a company hired to provide static security such as gate guards.

Some standard training for all armed contractors is described in chapter 6 of DOD 3020.41. Other standards for training can be found in DOD handbook 2000.12, the protection of DOD personnel and activities against acts of terrorism and political turbulence. However, any requirement to train according to these standards as well as any other mission specific training should normally be included in the statement of work for a particular contract.

In closing, Mr. Chairman, I thank you and the members of the committee for your interest in our efforts, and I will be happy to answer any questions that I can that you may have for me. Thank you, sir.

Mr. SHAYS. Thank you Mr. Assad.

[The prepared statement of Mr. Assad follows:]

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TESTIMONY OF

MR SHAY ASSAD

**DIRECTOR, DEFENSE PROCUREMENT AND ACQUISITION POLICY
OFFICE OF THE UNDER SECRETARY OF DEFENSE
(ACQUISITION, TECHNOLOGY & LOGISTICS)**

**BEFORE THE
COMMITTEE ON GOVERNMENT REFORM
SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING THREATS, AND
INTERNATIONAL RELATIONS**

June 13, 2006

**FOR OFFICIAL USE ONLY
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**Private Security Firms:
Standards, Cooperation and Coordination**

**Mr. Shay Assad
Director, Defense Procurement and Acquisition Policy**

Chairman Shays, Congressman Marchant, and Members of the Committee:

I am Shay Assad and I serve as the Director, Defense Procurement and Acquisition Policy in the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics. Prior to taking this position in April of this year, I was the Assistant Deputy Commandant, Installations and Logistics (Contracts) for the Marine Corps and, as such, served as the senior civilian contracting official within the Marine Corps.

Prior to Government service, I spent 25 years in industry serving in a number of operational and contract management capacities, primarily with Raytheon Company. My experience includes serving as Senior Vice President of Contracts, as a President and Chief Operating officer of one of Raytheon's major subsidiaries and lastly, as an Executive Vice President of the company and the Chairman and Chief Executive Officer of one of its major subsidiaries. I am a graduate of the United States Naval Academy and I started my career as an officer in the United States Navy serving two tours on U.S. Navy destroyers and lastly as a Navy Procurement Officer at the Naval Sea Systems Command.

Thank you for the opportunity to appear before you today to participate in today's discussion on Private Security Firms. I would like to take a moment to thank the committee for its support of our troops and all you have done to help with their mission. I would also like to thank the men and women who serve our great country. When I say men and women, I mean our military, government civilian, coalition, and industry partners. None of us could get the job done without the other. I am continuously impressed with the cooperation among all those contributing to the mission under very adverse conditions in Iraq and Afghanistan as well as other operating locations around the world. I am committed to doing what I can to assist them.

Mr. Chairman, our industry partners provide essential support to the deployed military forces that enables our forces to focus on their core mission. The Department of Defense (DoD) acquisition team strives to provide our warfighter the support they need, consistent with responsible management and stewardship to our taxpayers. We strive to effect timely acquisition planning, contract execution and responsible contract management oversight in order to provide our warfighters the contractor support they need to accomplish the mission. We are doing everything it takes to make sure our soldiers, marines, airmen and sailors are provided with the safest, most dependable, and highest performing equipment available within fiscal constraints, together with the logistics and material support necessary to ensure performance whenever, and wherever they are needed. We will continue to work everyday to improve the service that we provide our men and women in the Armed Forces.

I know your invitation letter had asked General Webster to respond specific questions based on his personal experience. I can not speak for General Webster but I can tell you that from an acquisition and contracting point of view, my focus with regard to activities in IRAQ primarily rests with supporting Major General Daryl Scott, USAF, the Commander of the Joint Contracting Command and the great men and women, both military and civilian, who serve that command. These men and women are doing fantastic work under the most trying of conditions.

You had asked about the roles and missions of private security firms operating in Iraq. The activities of private security firms include, but are not limited to, protective security details for government employees and dignitaries, site protection of buildings and other facilities, and operational staff-work that directly support reconstruction and relief operations in a complex contingency.

You asked what policy directives apply to private security firms on the battlefield. The governing DoD policy is found in DoD Instruction (DoDI) 3020.41 entitled "Contractor Personnel Authorized to Accompany the U.S. Armed Forces." This instruction establishes and implements policy and guidance, assigns responsibilities, and serves as a comprehensive roadmap of policy and procedures concerning DoD contractor personnel authorized to accompany our forces. Chapter 6, in particular, addresses armed contractors. There are also various other service regulations that cover the use of armed contractors. The Army has also prepared a CONUS Guide for Supporting Emergencies

within the United States and Supporting Overseas Contingencies from CONUS Locations, as well as a guidebook for OCONUS Contingency Contracting.

The Committee had also asked what standards private security firms are required to meet before being employed by the DoD. First, there are the general standards of responsibility that apply to all firms entering into a contract with the DoD. These are specified in the Federal and Defense Acquisition Regulations, as well as specific agency regulations. More specific to armed contractors, DoD Instruction 3020.41 prescribes standards that apply to contractor employees to include medical standards, background checks, contractor direction and discipline, as well as country entry requirements.

The Committee also asked what types of training security firms provide their employees before being assigned to a battlefield environment. I can not speak for any particular company with regard to the types of training that a particular firm provides for its employees. That would have to be answered by the company concerned. I believe that the specific training required of such firms would depend upon the nature of the security provided and upon the individual contract Statement of Work. For example, the training for a company that is hired to provide protective security details to senior leaders would be very different from a company hired to provide static security, such as a gate guard. Some standard training for all armed contractors is described in chapter 6 of DoDI 3020.41. Other standards for training can be found in DoD Handbook 2000.12(H), "Protection of DoD Personnel and Activities Against Acts of Terrorism and Political Turbulence." However, any requirement to train according to these standards, as well as

other mission specific training should normally be included in the Statement of Work for any particular contract.

In closing, Mr. Chairman, I thank you and the members of the committee for your interest in our efforts, and would be happy to address any questions that you may have for me. Thank you.

Mr. SHAYS. Mr. Starr.

STATEMENT OF GREGG STARR

Mr. STARR. Thank you, Mr. Chairman, committee members. Thank you for giving me the opportunity to present a short opening statement on the subject of private security firms and our ongoing operations in Iraq. Your letter to the Secretary requesting our appearance also included six specific questions. I will address the questions briefly in this presentation, and we will provide you with a more complete written response for the record by the end of this week.

The Department of State diplomatic mission in Iraq was reestablished in July 2004. Diplomatic security crafted a comprehensive set of security programs to meet the high level of threat in this theater of operation. The programs were a combination of physical and technical security upgrades at our facilities, procedural security regulations, and close personal protection operations for off compound requirements. Staffing for security programs in Iraq includes nearly 50 diplomatic security special agents, marine security guards, approximately 1,500 third country national local guards, hundreds of U.S. coalition troops protecting the international zone and regional embassy offices, and nearly 1,500 highly trained contract personal security specialists.

The security specialists in this latter category referred to in the GAO report as private security providers have been critical to our efforts to create a safe environment for our U.S. mission personnel. This effort has not been without great cost and personal tragedy. We are all aware of the number of U.S. military personnel who have lost their lives or who have been seriously injured in this effort, and we honor their memory.

In connection with programs conducted by U.S. agencies under chief of mission operations, we have lost 119 civilians including direct hire employees and contractors. Diplomatic security has lost two special agents and 23 contract personnel security specialists killed in action in Iraq since July 2004. Six other contract personnel security specialists have lost their lives in our service in Afghanistan and Gaza. These men and women and their family have paid the highest price in support of our efforts, so it is with the utmost respect that I am here to brief you and answer your questions relating to these companies who provide us with these fine Americans.

The Department of State primarily utilizes private security firms in Iraq for two major functions. The first is static guard services at our facilities. These contract security operations are similar to local guard contract programs we utilize at our embassies, consulates—

Mr. SHAYS. If you could suspend for 1 second. We are going to have two recorded votes. If we only had one, I would send one Member out now so we could just keep rolling, but we will go for another 10 minutes and we will hear your statements. Thank you, Mr. Starr. Keep going.

Mr. STARR. As I said, we used the private security firms for two primary functions. One is the local guard programs, and we utilized these typically at our embassies and consulates and resi-

dences around the world. The second contracted functions are private security companies providing personnel security details and security escorts.

When the U.S. embassy was activated in July 2004, we found a number of CPA contracts for personal security services in place. As the GAO report pointed out, they varied in capabilities, costs, and level of training. We worked to immediately reduce the number of different contractors and imposed uniform standards for operations. Individual contracts were superceded by using our worldwide personal protective security contract. This is a competitively bid contract for personal security services with multiple awardees. These contractors operate in very dangerous environments, and their actions, equipment, and methods of operation are specified in our contract requirements. Rules of engagement developed by the embassy and approved by the chief of mission and diplomatic security govern their use of deadly force. The companies also operate under our contract guidelines, but since the establishment of Iraqi sovereignty have also complied with Iraqi legal requirements to register their companies with the appropriate ministry.

Diplomatic security has carefully crafted the very high standard these companies must meet in order to effectively compete and win awards. The personnel of these companies must provide, must also meet high standards and be capable of obtaining a security clearance. Fitness, previous experience, integrity, and the ability to meet security criteria add up to a very selective personnel screening process.

High training standards are another important factor demanded by our contract. We prescribe the course criteria, vet the training facilities as well as the instructors, and monitor our contractors to ensure that these security specialists are trained to counter the dangers that they will face in these high threat environments. Feedback from on-the-ground operations is incorporated into training regiments and to provide replacements with the most up-to-date information on tactics and techniques.

Overall, because of the high standards we set, insistence on high caliber training and close oversight and management of the contract both on the ground in Iraq and in headquarters, we have achieved a very high degree of capability in a short period of time with few problems.

The services we provide are primarily for the protection of U.S. Government employees and staff. We do not provide security services for private companies, nongovernmental organizations, or implementation partners. However, we are willing to share our contract requirements with those organizations supporting our effort through the Overseas Security Advisory Council [OSAC], either domestically or in Iraq.

In closing, I would like to say that our ability to provide protective operations on the scale required in this environment would not have been possible without using private security contractors. The number of personnel security specialists we utilize in Iraq alone is more than all the diplomatic security agents we have globally. We could not have trained and hired new agents to meet this requirement as rapidly as the contractors met the requirement even if we had the funding and FTE available. Meeting this relatively short

duration requirement using competitively bid contractors along with establishing high standards and requirements is the best possible solution for these circumstances. Thank you.

Mr. SHAYS. Thank you very, Mr. Starr.

[The prepared statement of Mr. Starr follows:]

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Statement of
Greg Starr
Deputy Assistant Secretary for Countermeasures
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House Government Reform Subcommittee on
National Security, Emerging Threats, and
International Relations

Hearing on Private Security Firms:
Standards, Cooperation, and Coordination
On the Battlefield

2247 Rayburn House Office Building
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2:00 p.m.

Mr. Chairman, Committee Members

Thank you for giving me the opportunity to present a short opening statement on the subject of Private Security Firms and our ongoing operations in Iraq. Your letter to the Secretary requesting our appearance also included six specific questions. I will address the questions in this brief presentation and we will provide a more complete written response for the record by the end of this week.

The Department of State Diplomatic Mission in Iraq was reestablished in July 2004. Diplomatic Security crafted a comprehensive set of security programs to meet the very high level of threat in this theater of operation. The programs are a combination of physical and technical security upgrades at our facilities, procedural security regulations, and close personal protection operations for off-compound requirements. Staffing for security programs in Iraq includes nearly 50 Diplomatic Security Special Agents, 14 Marine Security Guards, approximately 1,500 third-country national local guards, hundreds of U.S. and Coalition troops protecting the International Zone and Regional Embassy Offices, and nearly 1,500 highly trained contract personal security specialists. The security specialists in this latter category, referred to in the GAO report as Private Security Providers, have been critical to our efforts to create a secure environment for our U.S. mission personnel.

This effort has not been without great cost and personal tragedy. We are all aware of the number of U.S. military personnel who have lost their lives or who have been seriously injured in this effort, and we honor their memory. In connection with programs conducted by U.S. agencies under Chief of Mission operations, we have lost 119 civilians, including direct-hire employees and contractors. Diplomatic Security has lost two Special Agents and 23 contract personal security specialists killed in action in Iraq since July 2004. Six other contract personal security specialists have lost their lives in our service in Afghanistan and the Gaza. These men and women and their families have paid the highest price in support of our efforts. So it is with the utmost respect that I am here today to brief you and answer your questions relating to the companies who provide us with these fine Americans.

The Department of State primarily utilizes private security firms in Iraq for two major functions. The first is static guard services at our facilities. These contract

security operations are similar to local guard contract programs we utilize at our embassies, consulates, and residences around the world.

The second contracted functions that private companies provide are personal security details and security escorts.

When the U.S. Embassy was activated in July 2004, we found a number of CPA contracts for personal security services in place. As the GAO report pointed out, they varied in capabilities, costs, and levels of training. We worked to immediately reduce the number of different contractors and impose uniform standards for operations. Individual contracts were superseded by using our Worldwide Personal Protective Security Contract. This is a competitively bid contract for personal security services with multiple awardees.

These contractors operate in a very dangerous environment, and their actions, equipment, and methods of operations are specified in our contract requirements. Rules of engagement developed by the embassy and approved by the Chief of Mission and Diplomatic Security govern their use of deadly force.

The companies operate under our contract guidelines but since the establishment of Iraqi sovereignty have also complied with Iraqi legal requirements to register their companies with the appropriate ministry.

Diplomatic Security has carefully crafted very high standards these companies must meet in order to compete effectively and win awards. The personnel these companies provide must also meet high standards and be capable of obtaining a security clearance. Fitness, previous experience, integrity, and the ability to meet security criteria add up to a very selective personnel screening process.

High training standards are another important factor demanded by our contract. We prescribe course criteria, vet the training facilities as well as the instructors, and monitor our contractors to ensure that these security specialists are trained to counter the dangers they face in this high-threat environment. Feedback from on-the-ground operations is incorporated into training regimens to provide replacements with the most up-to-date information on tactics and techniques.

Overall, because of the high standards we set, insistence on high-caliber training, and close oversight and management of the contract both on the ground in Iraq and in headquarters, we have achieved a very high degree of capability in a very short period of time, with very few problems.

The services we provide are primarily for the protection of U.S. Government employees and staff. We do not provide security services for private companies, non-governmental organizations, or implementation partners. However, we are willing to share our contract requirements with those organizations supporting our effort through the Overseas Security Advisory Council, or OSAC, domestically and in Iraq.

In closing, I would like to say that our ability to provide protective operations on the scale required in this high-threat environment would not have been possible without using private security providers. The number of personal security specialists we utilize in Iraq alone is more than all the Diplomatic Security agents we have globally. We could not have hired and trained new agents to meet this requirement as rapidly as the contractors met the requirement, even if we had the funding and FTE available. Meeting this relatively short duration requirement using competitively bid contractors along with establishing high standard requirements is the best possible solution for these circumstances.

Thank you.

I would be pleased to respond to any of your questions.

Mr. SHAYS. We are going to finish with you, Mr. Kunder, and then we are going to start with Mr. Marchant and ask questions when we get back. But you will finish up before we adjourn.

STATEMENT OF JAMES KUNDER

Mr. KUNDER. I will be very brief, Mr. Chairman.

Mr. SHAYS. Make your statement as you need to. Don't worry about what I just said.

Mr. KUNDER. Essentially, I'll summarize briefly what I said in my statement. I will take this opportunity to provide a little context on why we're using security personnel and the various arrangements that actually take place in the field when we're doing a reconstruction effort. If you would take a situation where the U.S. foreign aid program is taking U.S. taxpayer dollars to, say, build a health clinic somewhere where we would immunize children, what we would normally expect to do is send our personnel out ahead of time, make sure it's not a swamp, talk to the local villagers, make sure it's a place where they would want the health center, would it be useful to them and to make sure the construction takes place appropriately, any medical supplies are used appropriately, not stolen effort so all that requires a lot of trips by U.S. Government personnel or our partners, contractors or NGO contractors to get out to the site. What I find in those circumstances is that while we're talking about personal security firms here, what we've tried to do is adapt a number of techniques to make sure the U.S. taxpayer dollars are spent wisely. In some cases, that means using our local employees. For example, in Iraq, we have more than 100 Iraqi professionals who often are able to blend in more effectively and get out and take a look at these project sites. In the West Bank, in Gaza, we're using television cameras to make sure construction is done effectively and efficiently. In areas where we can't move, we are sometimes using armored vehicles. We're trying to use a range of cost-effective techniques. Hiring of security personnel is not always the first option that we would take to make sure taxpayer dollars are spent effectively. The second point I try to make in my testimony has to do with a range of relationships, a range of security relationships that take place in the field because if you're going to get into discussions of regulation and so forth, I think it's important to understand the range—of the range of relationships that we're dealing with.

While Iraq and Afghanistan are coalition environments, most of the operations we've been engaged in reconstruction in over the last several decades have tended to be peacekeeping operations, whether it's Haiti, Bosnia, Somalia and so forth. In those situations, we tend to rely more extensively on military forces, peacekeeping forces. On the far extreme, some of our NGO partners, even those operating in Iraq, do not use foreign personnel at all. They hire either local security or attempt to operate below the radar screen essentially so they're not visible. They use either Iraqi-Americans or Jordanians or other employees so there are a range of relationships between service providers and—and security firms that take place in the field. Very briefly since several members have talked about cost, we are spending probably about on av-

erage 22 percent of the money that we're spending on programs for security purposes—am I breaking up?

Chairman SHAYS. No.

Mr. KUNDER. And that money—frankly, we're not at all apologetic at USAID about the expenditure of those moneys. If I'm trying to immunize 4,000 children against measles at a health center, and if medieval sadists are willing to blow up the people immunizing the children and the children who are lined up, I essentially have two choices. Either I can immunize 3,000 children and spend the other 25 percent for security purposes, or I can give up and not immunize any children. Clearly, I would prefer—and I'm sure the committee would prefer and I think every U.S. taxpayer would prefer—that I spend 100 percent of the money and immunize all 4,000 children, but the reality of the circumstances in which we're dealing is that we have to pay these security costs in order to deliver the services that we're asked by the Congress to deliver under the Foreign Assistance Act.

These are the kinds of contextual issues I tried to summarize in my hearing—in my statement. I'm more than glad to answer any questions the committee has. Thank you, sir.

[The prepared statement of Mr. Kunder follows:]

TESTIMONY OF JAMES R. KUNDER
ASSISTANT ADMINISTRATOR FOR
ASIA AND THE NEAR EAST
U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT
BEFORE THE
COMMITTEE ON GOVERNMENT REFORM
SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING THREATS, AND
INTERNATIONAL RELATIONS
U.S. HOUSE OF REPRESENTATIVES
JUNE 13, 2006

Mr. Chairman, members of the Committee, it is an honor to appear before you today. I welcome the opportunity to testify on behalf of the U.S. Agency for International Development (USAID). I would like to describe to the committee USAID's perspective on the use of private security providers, specifically in a high-threat environment like Iraq and Afghanistan.

USAID assists Iraqis in the reconstruction of their country by working with the Government of Iraq (GOI). USAID programs are implemented in coordination with the United Nations, World Bank, International Monetary Fund (IMF), Coalition partners, nongovernmental organizations (NGOs), and private sector partners. The USAID Mission in Iraq has worked on a wide variety of programs in such varying development fields as education, health care, food security, infrastructure reconstruction, airport and seaport management, economic growth, community development, and local governance.

As we work to rebuild power plants, schools, health clinics, water treatment plants, national capacity, and community stabilization, a complex insurgency is making delivery of aid difficult, costly, and dangerous. The security situation present in Iraq has created a high-threat operating atmosphere. USAID recognizes this threat and treats it with the attention that it demands. Many courageous, skilled staff, NGO partners, and contractors are working with equally brave and capable Iraqis in rebuilding the country.

USAID operates on the ground. Especially in post-conflict environments, it is imperative that our employees conduct numerous site visits, interviews, and maintain a general atmosphere conducive to collaboration at the field level. This active, hands-on engagement is an essential aspect of USAID's management and contractual oversight and is critical to ensuring successful project implementation.

In Iraq, this approach is exemplified by our Community Action Program (CAP), implemented through four partners. CAP works directly with communities and in consultation with local government representatives; the program facilitates the creation of Community Associations that identify and prioritize critical local needs and work to develop projects in response. CAP provides water systems, roads, schools, clinics, and other priorities depending on needs determined by the community. Project procurement

occurs locally, providing millions of dollars for local economies in all 18 governorates. Projects create short- and long-term jobs and mitigate conflict by empowering people across gender, ethnic, tribal, and religious lines. It would be impossible to operate without on-the-ground presence because so much of the program is based on interaction and coordination.

In other high-threat environments in which we operate, USAID uses a similar hands-on approach to development. In Afghanistan, the Alternative Livelihoods Program (ALP) epitomizes our effort to create large-scale changes through small-scale actions. In December 2004, USAID launched ALP to provide economic alternatives to the growth of opium poppies in Afghanistan. The program is a key element in the U.S. Government's counter-narcotics strategy, and is designed to accelerate economic growth in Afghanistan's principal poppy-producing provinces. The program principally targets core poppy-producing areas in the southern (Helmand and Kandahar Provinces), eastern (Nangarhar and Laghman Provinces) and northern (Badakshan and Takhar Provinces) regions, but includes activities in other provinces where poppy cultivation is expanding or where there has been a concerted effort to eliminate narcotics production.

The ALP is a decentralized activity that relies on cooperation with government entities across the country and in many remote areas. Therefore, a key crosscutting objective of ALP is to build the capacity of local governments to plan regional economic development and facilitate the growth of local businesses. Like Iraq's CAP, the success of the ALP depends on constant communication and coordination between USAID personnel and the local citizens.

In Iraq, the reconstruction effort draws on a range of personnel and staffing resources. In addition to U.S. government American staff, the development community includes Foreign Service Nationals (FSNs, Iraqi citizens hired abroad to perform support tasks), Third Country Nationals (citizens of non-host nations working for USAID in Iraq), and a range of implementing partners, like contractors and NGOs. All of these different types of personnel bring different skill and knowledge bases to the combined effort. Some may be fluent in Arabic and or are accustomed to the Iraqi way of life, while others may be the leading scholars in national capacity building, and still others might be world-class engineers, helping to rebuild bridges.

Different security conditions and requirements apply to each of these groups. U.S. government and implementing partner foreign staff—personnel who offer higher-profile targets and generally stand out in the field—require a commensurate level of personal, convoy, and site-based force protection. In these circumstances, USAID attempts to increase the visibility of the Iraqis working on our projects. This serves a two-fold goal of decreasing security risks and standing up Iraqi institutions and communities by empowering the people through increased economic and political opportunities.

Despite progress towards a self-sufficient Iraq with a politically and economically viable society, USAID still has much work to do. We recognize that with this work come many risks. Our efforts pay attention to providing the best security for all of our various types

of employees and partners. We recognize, however, that there are high costs associated with security, and we value the support of the Congress and the American people in helping us keep our people safe. Thus far, USAID has lost no American direct-hire employees, but unfortunately, the insurgents have taken the lives of over 80 of our dedicated hard-working partner staff.

Because we operate across Iraq, there are certain locations that are more secure than others. We use many types of security measures to ensure the safety of our employees. In general, the expatriate staff of USAID implementers draw attention from would-be attackers—a threat to the safety of our personnel, our Iraqi colleagues, and the physical security of the site. For this reason, many of our partners prefer to maintain a low profile, using their own security services. Even if military protection were available, partners often determine that it is best to avoid using U.S. military assets as the large number of soldiers and equipment clearly identify the project and personnel as working for the U.S.-led effort.

In especially high threat areas, USAID uses military patrols as our eyes on the ground or in the sky. The military is able to report the status on projects that at present might be too dangerous for our personnel to visit. The military provides many other roles vital to USAID's success. We are grateful for the opportunities we have to work with the men and women of the U.S. military and Coalition forces.

In Iraq, as in all countries in which we operate, the U.S. Ambassador has overall responsibility for the security and well being of all civilian USG executive branch employees. USAID coordinates closely with the Department of State's Bureau for Diplomatic Security (DS). Our implementing partners are responsible for providing their own security according to the terms of their contracts or agreements. Through private security providers, contracted through sub-awards under USAID contracts and grants, our partners retain Private Security Detail (PSD) staff for personal and convoy protection.

It is important to note that security for the USAID Mission and regional office staffs in Iraq is provided for and controlled by the Department of State's Bureau for Diplomatic Security. USAID participates in an inter-agency agreement under which the Department of State contracts security services from private security providers to protect our employees. Currently, DS handles all aspects of the private security teams that support USAID transportation outside of the International Zone (IZ) including overseeing the contracting, management, and training requirements for these security contractors. All of USAID's trips outside of the IZ are coordinated through the U.S. Embassy in Baghdad, Regional Embassy Offices, and MNF-I as appropriate.

USAID has implemented a variety of initiatives to address these security concerns and those of our implementing partners. USAID is in the final stages of developing Agency guidance with respect to the security challenges of its implementing partners. Initially, based on USAID's experience in Afghanistan, the Operational Security Guidance provides general guidelines, not mandatory requirements, for all of USAID's implementing partners. It addresses fundamental security issues including operating in a

developing country environment, situational awareness, information sharing, field travel, communications, site security, and emergency/evacuation plans.

USAID is working as part of an interagency team to develop an updated Contractor Security Policy for Iraq that is designed to register and track security contractors, set forth requirements regarding possession and use of weapons by contractors, coordinate mutual protective efforts among agencies and contractors, and identify USG support to be afforded to contractors. USAID is awaiting a decision by our interagency colleagues before moving ahead with implementation of the policy.

Security Costs

One of the challenges USAID faced with tracking security costs pertained to the difficulty of identifying a standard definition. USAID based its definition on an informal survey of what our partners include as "security costs" and audit reports, as well as through internal USAID discussions on what should or should not be included.

USAID now has developed a standard definition of security costs that will be applied to all new contracts and agreements. This will result in a more consistent and accurate reporting of security costs. Current indications show an increase of security costs in Iraq to roughly 25 percent of the cost per year for a given program. We will ask our current implementing partners to provide updated security cost estimates as of the end of the fiscal year.

Conclusion

In conclusion, I want to assure you that USAID takes security seriously, and attempts to ensure that U.S. tax dollars spent on security are used wisely and cost-effectively. Mr. Chairman, thank you for offering me this opportunity to discuss USAID's view on security with your Committee. I am prepared to answer any questions that the committee has. Thank you.

Mr. SHAYS. I thank all four of you gentlemen. I think you have put into play a good opportunity for the committee to ask questions. I think we have a range of expertise at our panel, and I thank you for that. And as someone who has been to Iraq 12 times, I just want to say I'm deeply impressed with the work of so many of the folks who provide security. So I will be interested in your responses to questions. I will first be interested in the questions my colleagues ask and your response to them.

Regretfully, we have two votes. I didn't estimate its time very well last time, but we have two votes, not three. We'll be here probably a little after 3 to 4 p.m. Sorry. Is that right? Thank you. So we stand at recess, and we'll get right back here. I hope all the Members can come back and participate.

[Recess.]

Mr. SHAYS. This hearing is called to order. Again, apologies for having to recess for a little bit for votes. We'll start with Mr. Waxman. And I'll have questions. I prefer to ask mine toward the end. So Mr. Waxman, you have the floor. I think we will do a 10-minute round. So you have the floor.

Mr. WAXMAN. Thank you, Mr. Chairman. Mr. Assad, as you know, last year, GAO issued a report concluding that the Defense Department could not adequately determine how much it was spending on contractor security services. To address this deficiency, GAO recommended that the Defense Department track contractor security costs, and the Pentagon agreed to do this. In order to gage the Pentagon's progress over the past year, I want to focus today on just a single contract. The biggest contract in Iraq, which is the LOGCAP, the Army's contract for meals, housing and other logistical support for the troops. Halliburton currently has this contract, which is now worth about \$15 billion in Iraq alone. I'd like to know—what I'd like to know is this, how much of this \$15 billion in LOGCAP funding went to pay for private security contractors?

Mr. ASSAD. Mr. Congressman, unfortunately—

Mr. WAXMAN. I don't think your mic is on.

Mr. ASSAD. Mr. Congressman, unfortunately, I don't have those details, but I would be happy to get that information for you and take it as a question for the record, sir.

Mr. WAXMAN. The Pentagon letter concurring with the GAO recommendations was signed by your office on July 19, 2005. And your letter says, "the Department of Defense will collect readily available data on incurred security costs under existing contracts." Those are the Department's words. This is a year later. Is it—you don't know how much U.S. taxpayers are spending for security under the biggest contract in Iraq? Or you just don't have it with you today?

Mr. ASSAD. I just don't have that information with me today, Mr. Congressman.

Mr. WAXMAN. And didn't you think this might be asked?

Mr. ASSAD. On the LOGCAP contract? No, I didn't, sir.

Mr. WAXMAN. I'd like to put up a chart if I might. According to the investigative reports, security costs under Halliburton's LOGCAP contract have spawned multiple players of subcontractors all taking their cuts in successive rounds of mark-up. Let me walk through this.

According to the contract documents cited, the individual employee performing security services under this contract earned \$600 a day or \$180,000 a year. Blackwater, U.S.A., the company that employed this person then tacked on a 36 percent mark-up.

In addition to this amount, Blackwater also separately billed for all of its overhead and costs including insurance, room, board, travel, weapons, vehicles, office space, administrative support and taxes. But it didn't end here. Blackwater was a subcontractor to a Kuwaiti company called Regency Hotel, reportedly run by a retired U.S. Army officer. Regency was apparently billing up to \$1,500 a day for that same single employee, but Regency was still not the top level. Regency was a subcontractor to a German company named ESS. We don't know how much ESS charged, but we do know ESS was a subcontractor to Halliburton. And we also know that Halliburton's contract with the Army guarantees that its costs will be fully reimbursed. So they contract. As we can see, this layering of contracts here guarantees Halliburton a fee of 1 percent of those costs along with an opportunity for an additional 2 percent in award fees. So if this information is correct, the bottom line is that the U.S. taxpayers are paying hugely inflated prices for these services.

Mr. Assad, do you know whether this report is true? Are there really five tiers of contractors?

Mr. ASSAD. I do not, sir. But I will find out.

Mr. WAXMAN. If we can cut to the bottom line, the biggest unknown here is the total amount of mark-up. How much does Halliburton charge the American people for this \$600 a day employee?

Mr. ASSAD. Mr. Congressman, I don't have that answer, but I definitely will look into it.

Mr. WAXMAN. Well, I'm asking not for—not a new question. I raise these in a letter to General Jerome Johnson of the Army Field Support Command on November 30, 2004. He wrote back saying that the Office of the Secretary of Defense would provide a formal response. The Defense Department has now had over a year and a half to answer these basic questions, and the only conclusion I can draw is that there is a concerted effort to keep Congress and the American public in the dark, and since we're the people who pay the bills, that's simply not acceptable. This goes to the questions that the chairman of the subcommittee is joining with me in asking, and we would like that information to be provided for us.

Mr. SHAYS. Would the gentleman just yield a second?

Mr. WAXMAN. Certainly.

Mr. SHAYS. Mr. Assad, in terms of looking into it, what we would want is a response—

Mr. ASSAD. Yes, sir.

Mr. SHAYS [continuing]. In writing to these questions that the chairman has asked.

Mr. ASSAD. Yes, sir, Mr. Chairman.

Mr. SHAYS. And that can be provided in the next 2 weeks?

Mr. ASSAD. I will make every attempt to do that, sir.

Mr. SHAYS. Thank you.

Mr. ASSAD. Yes, sir.

Mr. WAXMAN. Mr. Assad, I would like to ask why the Defense Department has not provided private security contractors with

greater assistance and guidance. In testimony later this afternoon, the subcommittee will hear from an official from the Professional Services Council. This is the leading national trade association for companies that provide professional and technical services to the Federal Government, including securities services.

In its testimony, the Professional Services Council says that they recommended back in March 2003 that the Defense Department take one of three actions. One, set standards for private security firms operating in Iraq. Two, establish a qualified list of firms. Or three, directly contract for securities services and have reconstruction contractors reimburse the government. But the Defense Department failed to take action on any of these recommendations. Why was that the case?

Mr. ASSAD. Sir, I can't answer to what you may have heard from the Professional Services Council, but I can tell you that in a number of our contracts now that are being issued joint contracting command, there are several provisions which we're including in those contracts that address the matters that you're talking about. All our contracts include DOD instruction 3020.41, which lays out requirements for medical, lays out training requirements, lays out firearm requirements, we include DOD instruction 5525.11.

We now require DD Form 2760, which is an arms qualifications form and training form that we require. We require each employee to sign in writing that he or she is complying with those training responsibilities and conditions with regard to firearms. And while I know we can improve, and there certainly is room for improvement, sir. I won't deny that. We are making an attempt to make it clearer for our contractors to understand what their requirements are, what their qualification requirements are, what the training requirements are, and we will continue to do that, sir.

Mr. WAXMAN. Let me ask, Mr. Solis, is this adequate? GAO made the same recommendations in your report, and GAO recommended that the Defense Department explore minimum standards for private security companies, a qualified vendor list, a bigger government contract for securities services that could be reimbursed by construction contractors. I assume that's right, and do you feel this is adequate enough to meet the request?

Mr. SOLIS. It may. It may, but it's not clear to me when we talk about the instruction that Mr. Assad's talking about, that, I think refers to contractors that are accompanying the force. I'm not sure that directive would necessarily apply or be applicable to private security contractors. It does lay out some aspects of the role of the military in respect to contractors that deploy with the force, for example, like contractors who repair vehicles and things of that nature, but it's not clear to me whether that will satisfy the requirement for private security.

Mr. WAXMAN. For private security. Couldn't the Pentagon's lawyers have placed qualifications on the list to make clear that they were not endorsing any specific company, and in that way at least let the contractor who was looking for security protection to hire one of the authorized private security contractors?

Mr. SOLIS. Well, actually what we said in our recommendation I believe was that they need to not only just DOD, but the State and aid explore different options in terms of setting these kinds of

standards, and we laid out different qualified vendor lists, different contracted vehicles, I believe, and so that they could explore different options without necessarily being prescriptive about what they should do because of the environment that was out there.

Mr. WAXMAN. Mr. Solis, let me just conclude by asking, what impact did the Department's lack of action on these recommendations that you, at GAO, had made. In your report, you discussed conversations you had with the contractors themselves, and you find that the contractors believed that they could have used the additional information, and the additional guidance that you were recommending. How could the Defense Department have helped private security contractors to do their jobs better? And how would that, in turn, have helped the government do its job better?

Mr. SOLIS. Well, I think there's some potential—and again, we haven't looked at what they were currently doing, but until that's corrected, there could still be some potential vulnerabilities with the type of contractor and the qualifications of those contractors, and until that's squared away, there may be some issues there.

Mr. WAXMAN. Thank you. Thank you, Mr. Chairman.

Mr. SHAYS. At this time, the Chair would recognize Mr. Duncan.

Mr. DUNCAN. Well, Mr. Chairman, I'll be brief, and I wasn't able to be here because of other meetings for most of the testimony, but I did refer earlier to this staff memo which says that there are 60 private security companies operating in Iraq with 25,000 employees, but that a Baghdad-based association says there may be more than 150 private security firms with as many as 50,000 personnel. Did we clear that up? Can anybody help me on that? Do we know how many firms there are and how many personnel we're talking about?

Mr. STARR. No, sir.

Mr. SHAYS. I'm sorry. We need nice loud answers just so the recorder can record them. The question is, again—

Mr. DUNCAN. Well, the question was—it comes from the staff briefing. I think everybody understood the question. And that is, as I just would like to know if we know whether this is right or wrong, the staff memo that says that some people say there's 50 private firms with 25,000 employees and others say there's 100, maybe more than 150 private security firms with as many as 50,000 personnel. And I'm just asking, did anybody clear that up in their testimony while I was away in my other meetings? But apparently not because everybody's—I'll just note for the record.

Mr. KUNDER. Sir, Mr. Duncan, we did not answer that question specifically. I just would like to make one observation. One of the issues is not just a data collection issue, but it's a definition issue because as the GAO report says, security in Iraq means a whole bunch of things. It means security for static positions. It means security for convoys. It means private security details for individual senior officials and so on and so forth. And that means that some of our firms hire Iraqi subcontractors. Subcontractors from other countries, and what you end up with is a broad array of security firms across the country, some of whom are Iraqis providing local security, some of whom are Nepalese or Colombian firms, and so what you've got is a broad array of firms, and my answer would

be part of the definitional issue or the reason some people are using different numbers is they're defining the pool differently.

Mr. SHAYS. Could the gentleman yield?

Mr. DUNCAN. Yes, sure.

Mr. SHAYS. I think this is kind of like when I was doing my statement and I said between this number and this number, I was kind of embarrassed to have to make that statement, and so I would like, on the gentleman's time, and I'll be happy to give him my time too, I would like each of you to tell me, do you know how many security guards we have in Iraq? From you, you, Mr. Solis, to you, Mr. Assad, to you, Mr. Starr, and to you, Mr. Kunder.

Mr. KUNDER. I cannot give you an exact answer. There is none that—there's only estimates from what we've been able to get.

Mr. ASSAD. Sir, I can't give you an answer. I can tell you that approximately through contracts we've awarded joint contracting command 3,400 private security contractors that we've contracted for through the joint contracting command. I can't speak for the Department of State, and I can't speak obviously for AID, and that does not include for contracts for other work where contractors themselves would go off and subcontract for private security contractors. That's just the contractors that we would award to.

Mr. KUNDER. Mr. Starr, would you just—

Mr. STARR. Mr. Chairman, I can tell you how many contractors the Department of State has. I can tell you what the companies are. And we can tell you how much it is and how many there are, but like my colleague, Mr. Jim Kunder, has said, I don't think we could give you an accurate number of how many other contracts are out there in support of nongovernmental organizations.

Mr. SHAYS. Mr. Kunder, is that your answer?

Mr. KUNDER. Sir, if you want to define the term—I'm not playing games. I'm quite serious. If we can say on a given date because we're constantly changing what we're doing in Iraq in response to the situation on the ground. But if we can specify the date and a definition of what you mean by, you know, international or local, I can tell you exactly how many firms we had at any given time. Yes, sir.

Mr. SHAYS. I'm just going to thank the gentleman for yielding to me. I happen to be a big supporter of private security forces, but I am pretty surprised that we can't do it, give the number because they're basically all paid by the government, and it's just surprising to me that we can't have—that there's not one person who says, this is what we're spending. I thank the gentleman for yielding.

Mr. DUNCAN. Well, thank you, Mr. Chairman. Let me ask this. This Washington Post story that came out 2 days ago said that this British firm, Aegis Defense Services, got a \$293 million security contract. Is that the only contract that company got? Can anybody tell me the answer to that? Does anybody know the answer to that?

Mr. ASSAD. Sir, I don't know if that's the only contract they got. No, sir.

Mr. DUNCAN. Does anyone know how much total—we've determined we can't tell the number of employees, but can anybody tell me or give me a rough guess as to if one contract was for almost \$300 million, can anybody tell me a rough guess of if—how many billions I assume that we've spent on private security contracts

total from all the departments and agencies of the government total in Iraq? Just out of curiosity.

Mr. KUNDER. I can say, sir, we divide the way, we spend the money appropriated by the Congress into operating expenses, that is to say our own staff, putting them on the ground, feeding them and so forth. We've spent approximately \$309 million since the beginning of operations. This is staff salary, staff housing and so forth. And about \$105 million has gone to security costs or about one-third of the total. If you go to the other way we account for taxpayers' dollars which is the program, that is to say building schools, building clinics, building roads, building sewage treatment plants, we've spent about 5.1 obligating about \$5.1 billion of the earth funds, and we estimate that 22 percent, or, say, a little bit under \$1 billion has gone for security costs. I could get you the precise numbers if you want.

Mr. DUNCAN. But you are speaking now just for the Agency for National Development. Is that correct?

Mr. KUNDER. Yes, sir.

Mr. SOLIS. Congressman, if I can just add one of the recommendations we did make is, you know, for the agency to track these costs better down to the subcontractor level, and I think therein lies the problem in trying to get an answer to your question. I think the State aid committed future contracts to begin tracking those kinds of costs, and we had some initial estimates when we did our report based on some of the contracts that we had, but I think the problem that we ran into is that you could not track these costs, particularly down to the subcontractor level. But I believe State aid are making some adjustments and detract those costs from new contracts.

Mr. DUNCAN. Well, let me just say this. You know, one of the most famous quotes of all time was in the President Eisenhower's farewell speech when he said, when he warned us against the military industrial complex, and I'm convinced he would be shocked at how far we've gone down that path. And the International Herald Tribune had an article back a couple of years ago and they called it the revolving door at the Pentagon. All the defense contractors hire all the admirals and generals, and then they come back and they get from their friends and their buddies these sweetheart deals, and you know, and then we see things like this chart that Mr. Waxman came up with, saying some former military officer, who I guess had a friend in high places, \$1,200 to \$1,500 a day for a hotel.

These things would shock my constituents, and I don't know how anybody can call themselves, legitimately call themselves a fiscal conservative or a conservative Republican if they're not just horrified by things like that are on this chart. It's just getting ridiculous. Thank you, Mr. Chairman.

Mr. SHAYS. Thank you. I was wondering if the gentleman would yield me the balance of his time.

Mr. DUNCAN. Yes.

Mr. SHAYS. Mr. Solis, tell me how we would sort this equation out. I mean, each has their own responsibility. DOD is funding its folks, and you have State Department funding its folks. But walk me through, and you have the USAID funding its folks. But walk

me through what would be involved and why we wouldn't want to be able to get this information fairly quickly.

Mr. SOLIS. Well, again, I think when we went back and started looking at—

Mr. SHAYS. Excuse me. Let me just interrupt. I'm just taking the balance of his time, correct?

Mr. SOLIS. When we went back and started looking at individual contracts, we could only go so far in looking at what those contracts in terms of where the money was being spent for security contracts.

Mr. SHAYS. Are most of these contracts cost plus?

Mr. SOLIS. I think it's cost plus and fixed from what I understand.

Mr. SHAYS. I mean, in other words, when the private contractor—and I have no problem with them making sure that their folks are protected and making sure that they hire security people to protect them, but what I'm asking is, it seems a logical thing for us to know how much we're spending on security and how much people are being paid, and so what I am asking is, help us sort out how we would go about doing that or how DOD, or is it the fact that we have two basic departments involved in this that makes it more difficult? I mean, tell me.

Mr. SOLIS. I don't know that it's because—you've got two, three or four whatever number of departments that are involved here. Again, when we started looking at where security—what the totality of the security costs were, for example, when subcontractor might have a bill for whatever services they had, there only might be an invoice for whatever they were doing say for, you know, reconstruction, but it also had buried in there somewhere security costs.

Mr. SHAYS. I don't like the word "buried."

Mr. SOLIS. It was part of the invoice, but we could not determine or break down how much of that was for security versus for other services. So what we're saying in working for was a delineation of what those costs were when an invoice came in.

Mr. SHAYS. Do we need legislation to make that happen? Or can we request that it be done by the departments and that they would then do it? Mr. Starr, can you answer that?

Mr. STARR. Sir, I believe it was Congressman Waxman that sent in a separate question, but concurrent with the GAO report or following the GAO report, State Department did meet with USAID, and we have, in fact, issued something called a procurement information bulletin which is specifically giving guidance that the costs for security within contracts that are awarded must be tracked. I have a copy of the procurement bulletin that was issued. This is on the recommendation of—

Mr. SHAYS. When was that done?

Mr. STARR. This was very recently, sir.

Mr. SHAYS. Very recently is not helpful.

Mr. STARR. No. I understand that, sir.

Mr. SHAYS. Very recently could be 6 months ago.

Mr. STARR. I don't have—June 1, 2006, sir.

Mr. SHAYS. We should put that in the record. Tell me about that DOD. Wouldn't it make sense for them to make the same directive?

Mr. ASSAD. Yes, sir. And when I started looking into this, frankly getting prepared for this hearing, I issued some direction within my office. And I'm working with the Army as we speak to develop some guidance for the joint contracting command to ensure that takes place.

Mr. SHAYS. Well, maybe when you respond to the other question Mr. Waxman has requested, you would tell us how you've progressed. Hopefully you'll be ready to make that an agency-wide directive. That's one of the reasons frankly why we have a hearing like this, that gets us to focus on things, and I realize there are a lot of things to focus on. So thank you for doing that. At this time, the Chair would recognize the ranking member of the committee, Mr. Kucinich.

Mr. KUCINICH. Mr. Assad, when were the first private contractors put into Iraq?

Mr. ASSAD. I don't know the answer to that, sir. I could find out for you in terms of the first contractors that we contracted for, but I don't know that.

Mr. KUCINICH. When the Department began its contracting process—in connection—did the Department ever issue any guidelines or rules of conduct for the contracting companies?

Mr. ASSAD. Subsequent to the GAO report, Mr. Congressman—

Mr. KUCINICH. No from the time that you started to—

Mr. ASSAD. No, sir. I think that it was the first—there was individual contracting clauses that were included in some of our contracts, but 3020.41, which was the true guidance that we gave our folks was issued in November 2005.

Mr. SHAYS. Just for the record, could you let us know when you began to take on this task?

Mr. ASSAD. Yes, sir. I took this position on April 3 of this year.

Mr. SHAYS. OK.

Mr. ASSAD. 2006.

Mr. SHAYS. Thank you. That's helpful. Thank you.

Mr. ASSAD. You are welcome.

Mr. KUCINICH. My colleague, Ms. Schakowsky, points out that contractors started to come in before the war. Is that—and so the men and women who serve our country in the uniformed armed services, when they go into a foreign operation, are they given rules of engagement?

Mr. ASSAD. Yes, sir. They have rules of engagement.

Mr. KUCINICH. I wonder why it is if our troops would be given rules of engagement in a hostile—under hostile conditions, why the Department didn't have rules of engagement for the conduct of private security people. Can you explain why that wouldn't happen? Why it didn't happen?

Mr. ASSAD. I can't explain why it didn't. I can tell you that the guidance that we've provided to the joint contracting command now is that they include rules of engagement, rules utilizing force, law of armed conflict and it has to be signed by each employee of the company that we're doing business with, that they've read the rules and that they understand them. I can't answer, sir, why—

Mr. KUCINICH. Do you know what the statute of limitation for murder is in the United States?

Mr. ASSAD. No, I don't.

Mr. KUCINICH. There isn't one. Now, if someone connected with a private contracting company was involved in the murder of a civilian, would the Department be ready to recommend their prosecution?

Mr. ASSAD. Sir, I'm just not qualified to answer that question.

Mr. KUCINICH. Anybody here qualified to answer that? And if they're not, why are you here? With all due respect. I mean, this is, Mr. Chairman, as late as June 11th, 2 days ago, the Washington Post filed a story that said that no security contractor has been prosecuted for killing—indiscriminate killing of civilians. It says, in part, because an agreement forged soon after the U.S. invasion of 2003 that made it impossible for the Iraqi government to prosecute contract workers. I mean, I'd like to submit for the record the story from the Washington Post, contractors cleared in videotape attacks. It says the Army's criminal investigation division cleared these individuals. The investigation's not being released or publicly discussed. It said lack of probable cause or belief that a crime was committed in what was an attack that was allegedly videotaped. Further discussion of this story was in this article on November 27, 2005.

Mr. SOLIS. Congressman, if I may try to answer your question and I'm not an attorney to get into the particular details of the process, my understanding is that individuals could be prosecuted under War Crimes Act. There is also another act, and I know the acronym, I don't know the exact words under MEJA. But I don't believe at this point anybody's been brought forward under those particular laws, but it is my understanding that those would be applicable for private security contractors, but I can't—

Mr. KUCINICH. Back to the Department of Defense. Would the Department of Defense be prepared to see prosecution preferred against any private contractor who was demonstrated to have unlawfully killed a civilian?

Mr. ASSAD. Sir, I can't answer that question. I would have to take it back, and we will answer it for the record.

Mr. KUCINICH. Wow. Think about what that means. If private contractors can get away with murder, and in some cases, they may have. It's not an adequate response really. And you know, this is one of the problems here that these contractors do not appear to be subject to any laws at all. And so therefore, they have more of a license to be able to take the law into their own hands. We've had a great discussion occur in this country and around the world in the conduct of U.S. troops in certain incidents but those troops will have to be accountable. There doesn't seem to be any accountability with respect to private contractors and it's—it really—since the administration is more and more preferring in certain instances private contractors, it would seem that notwithstanding your protestations that subsequent to these reports you are trying to get into a new level of standards, the basic question of accountability is accountability before the law. And accountability of someone is unlawfully taking another person's life that has to be the ultimate accountability, and you know we don't hear that it is unless you can enlighten me as to some new development that I may not be aware of. Any of you.

Mr. STARR. Mr. Congressman, I believe that in our contract, we're very specific about rules of engagement, use of deadly force. I've also checked with our legal people and unlike the Department of Defense, we do not have the legal recourse should our contractors commit a crime that would be prosecutable back in the United States. However, I would like to make it a matter of the record that every shooting incident, every incident that's gone on in Iraq in a very, very volatile and very dangerous situation, essentially a war situation where we are putting civilian contractors, we have looked at the situations where they have, in fact, employed deadly force, and found that there was—

Mr. KUCINICH. How many of those incidents have there been? How many shooting incidents have there been by private contractors that you've had to look into?

Mr. STARR. The Department, sir, I can't comment on the Department of Defense. The Department of State has—the Department of State I can get you the number for, I don't have it off hand.

Mr. KUCINICH. Ten?

Mr. STARR. I think about a dozen, sir.

Mr. KUCINICH. And Department of Defense, how many shooting incidents do you investigate with respect to private contractors killing innocent civilians?

Mr. ASSAD. Sir, I don't have it for you, but I will get it for you and answer the question for the record.

Mr. KUCINICH. So you don't have any idea at all?

Mr. ASSAD. No, I don't sir.

Mr. KUCINICH. Have you ever canceled anyone's contract because their workers engaged in indiscriminate killing of civilians?

Mr. ASSAD. I have never had that situation occur to me but I can tell you, Mr. Congressman, as Mr. Solis mentioned the MEJA Act, that's the Military Extraterritorial Jurisdiction Act, that is another law that we are including in our contracts now as we place them through our joint contracting command. So we're trying to address the issue that you are addressing, sir.

Mr. SHAYS. The gentleman's time has run out, but I would be happy to just allow him and I to just pursue this issue just for clarity, if we could. It's my understanding that if you are a DOD contractor, you come under Defense Department rules. The bottom line is, legal companies fulfilling contracts with DOD are subject to the military chain of command, but not the uniform code of military justice absent a congressional declaration of war, and their personnel can be prosecuted by the Department of Justice under the Federal law as a result of Military Extra Territorial Jurisdiction. My understanding, though, is State Department is not. Is that accurate?

Mr. STARR. That is my understanding, sir.

Mr. SHAYS. OK, so, if you would just clarify for Mr. Kucinich and me both, what do your employees—your contractors come under?

Mr. STARR. Sir, I do not believe that we have the capability of prosecuting them back in the United States. This is something that I would have to more closely check with our legal section, but in discussion with our legal section prior to this hearing, it was a question that was raised prior to the hearing. It is something that we need to look at. But our efforts are controlled by specific rules

of engagement, approved by the chief mission as they are at all U.S. Embassies and missions around the world.

Mr. KUCINICH. Refer back to the Chair, but I guess what it amounts to defer is whether either the Department of Defense or the State Department, when they hire these private contractors, if any of them guided when it comes to civilians by the fourth commandment thou shalt not kill. I mean it just seems there's no rules here. It just seems that people can get away with murder.

Mr. STARR. I don't agree with that, sir. My people do not get away with murder. That's not why they're over there. I think they're tightly controlled. I think it's a well-written contract. I think that we have special agents on the ground that look very closely at all the activities. Every shooting incident is investigated and looked at. This is not a case of getting away with murder, sir.

Mr. KUCINICH. You know—

Mr. STARR. This is a case where we have a very difficult situation in a war zone where people's lives are at risk.

Mr. KUCINICH. When innocent civilians are killed, we have to ask the question—you just told me both of you said that you have incidents that you're going to forward information to this committee about. I think it would be important for us to go over each and every incident to see if anybody got away with murder. Then we can go back to your testimony.

Mr. SHAYS. Mr. Starr, I think you've made a point that's important to make, and I think it's been made. Thank you. At this time, the Chair would recognize my colleague from Maryland.

Mr. VAN HOLLEN. Thank you, Mr. Chairman. And I want to thank all the witnesses for their testimony here today. In my opening statement, I pointed to the gross wrong predictions early on with respect to estimates of the cost of the war, again, when, Lindsay Lewis, the chief economic advisor to the President, said it may cost \$100 to \$200 billion, he was sort of dismissed by others. In fact, Mitch Daniels, who was then the CEO director, put the number between \$50 and \$60 billion. We now know it would be well over in the hundreds and hundreds of billions of dollars, the cost, and the question is, how did we get that so wrong? We know we got the weapons of mass destruction issue wrong. We now know we got the costs wrong. We apparently didn't listen to the advice of many military people in the field with respect to the number of troops that would be needed to maintain stability in a post-invasion environment. We got that wrong. So I just want to go back a little bit with respect to the cost issue because we're now focused on the question of the cost to the taxpayer, of the contracts that were led and the war effort in general. And I would like to ask you, Mr. Solis, because I found in your report you concluded that agency officials expected that the post-conflict environment in Iraq would be relatively benign and would allow for the almost immediate beginning of reconstruction efforts. We now know that those predictions, those feelings were not accurate, were not true. You go on to say during a discussion with DOD, we were told that this expectation was based on determinations made at the most senior levels of the executive branch, and the contracting officials were bound to reflect that expectation in their requests for proposals. How is it

that the administration bound the contracting officials to exclude the costs of providing security in that post-invasion environment?

Mr. SOLIS. As we were vetting our draft report for final comment, we got many comments from many different people. And as we were running it through the acquisition community, this is something that they wanted to put in context in terms of an understanding as to why things were done the way they were. That's why we indicated that and wrote that in our report.

Mr. VAN HOLLEN. So let me just make sure I understand. You are saying the administration officials instructed people putting together their cost estimates to assume that there would be very few security needs. Is that correct?

Mr. SOLIS. No, I think what I am saying is in terms of the context of the environment, the benign environment or permissive environment, that's the context that they were going to be operating under or assumed they would be operating in, and in terms of when they did the different contracts, whether it was private security contracts or for others, that's the environment that they assumed we would be working in.

Mr. VAN HOLLEN. Are you, or is any of the gentlemen here aware of the fact—I mean, State Department officials had been studying the post-war, potential post-war environment in Iraq for many years. In fact, they put together quite an exhaustive study, which was essentially thrown out the window by the Defense Department when making its analysis. Did your review come across that, did you ask questions to the administration officials about that particular issue?

Mr. SOLIS. I don't believe we came across that particular report.

Mr. VAN HOLLEN. All right. I mean, I want to give you a quotation, because I think it's instructive with respect to the total failure of the administration to anticipate what should have been something that anyone could anticipate. "It is not clear what kind of government you would put in. Is it going to be a Shia regime, a Sunni regime or a Kurdish regime? Or is it one that tilts toward the Ba'athists or one that tilts toward the Islamic fundamentalists? How much credibility is that government going to have if it is set up by the U.S. military? How long does the U.S. military have to stay to protect people that sign onto that government? And what happens to it when we leave?"

That's a quote from Dick Cheney when he was Secretary of Defense, explaining back in early 1991 why the Bush administration decided not to go into Baghdad after the invasion of Kuwait. It was an explanation that I think made sense to lots of people, and it's one that came back to haunt this administration and this government now because the predictions he made in 1991—anyone who followed Iraq knew very well that this is exactly the type of situation that could develop in Iraq, and so I guess my question to you as someone who went in as an independent individual talking to people in the administration, how did they get it so wrong? You had an opportunity to interview people. You have Dick Cheney, you know, many years earlier predicting this kind of chaos following an invasion of Iraq. How did they get it so wrong with respect to the security costs and the real possibility of an insurgency?

Mr. SOLIS. I can't tell you the specifics. I can only tell you that the environment did change, assumptions going in did not always pan out. And I think that then there shows the increase or the reasons for the escalation particularly for private security costs. It was assumed that it was going to go into a particular environment. That environment did not occur, and hence the need for security forces.

Mr. VAN HOLLEN. I guess the key word—I mean, I'm not—you weren't there obviously, you just had an opportunity to talk to folks, but the fact that they assumed that is extraordinary, given the fact that people who are experts in this area at the State Department and others had looked at it and had come to option conclusions, people at the CIA had come to option conclusions with respect to the challenges we would face in a post-invasion Iraq, and anybody who had followed Iraq, including now, Vice President Cheney, when he was remarking on this back in 1991, should have known full well the potential of what would happen when you took the lid off of Pandora's box and unleashed forces that have existed in Iraq for a long time between the Shia, the Sunni and the Kurds. And I just find it amazing, amazing case of gross negligence that people did not take that into account in planning.

Let me just switch gears a little bit, if I could, and ask Mr. Kunder a question with respect to Afghanistan. And getting back to Afghanistan gets us back to where the original threat to the United States came from. Of course, Osama bin Laden planned the attacks of September 11th. They were executed by him and al-Qaeda with the cooperation of the Taliban government in place. We have now taken the appropriate action to go after the al Qaeda and the Taliban, but we face a serious challenge in Afghanistan in reconstruction. I know you testified back in January, I believe, before the House International Relations Committee, with respect to problems in southern Afghanistan where you have a resurgence of Taliban, and since activity—and since your testimony back then as, you know, it's gotten even worse.

Can you just talk about the challenges we face with respect to our reconstruction efforts in southern Afghanistan? Because I think if we're not successful at reconstruction and rebuilding and democracy efforts in Afghanistan, we do run the danger of another failed state. We do run the danger of a resurgence of the Taliban, and with that, the possibility that al-Qaeda can, once again, feel free to operate in there. We know Osama bin Laden's probably across the border in Pakistan, but I think it's a very real worry. If you could just talk about the challenges and what it's meant for our reconstruction efforts and your efforts there.

Mr. KUNDER. In general, sir, not specifically in terms of private security firms.

Mr. VAN HOLLEN. Well, in general, but I know I believe you also have some private contractors operating in terms of development.

Mr. KUNDER. Yes, sir. Yes, sir. Sir, there's no question that the number of security incidents has gone up in southern Afghanistan since I testified earlier this year and increasingly over the last year. I think the big question for everyone working there is what combinations of factors has been driving it. While in the media, it's

generally been characterized as a Taliban resurgence. My frank assessment is it's a much more complex series of events.

I mean, there are very, very isolated areas in Kandahar, Oruzgan Province. Some of the most isolated places on the face of the earth. I don't want to slap a smiley face on everything, but to some extent, what we're seeing is a push back because some of the road construction projects and education projects and so forth have actually taken place in very isolated areas. We've had a spate of burning of school buildings where girls have been asked to go to school. Well, if there weren't girls schools built, there wouldn't have been any girls schools burnt, so part of this is just a reaction by very xenophobic, isolated people.

Part of it is clearly related to the increased pressure on the drug trade. The eradication efforts. While the eradication efforts have not been as successful as we had hoped, there are aggressive eradication efforts. So you get some kind of criminal element working with in this as well. And then you do have some Taliban elements that are trying to reorganize in the south as has been widely reported. So you've got a whole range of effects going on in the south and the sum total, or the bottom line, is that the working environment has become more dangerous for reconstruction efforts in southern Afghanistan. The U.S. Government's trying to respond to that both in terms of more aggressive patrolling and use of private security firms and all the other techniques that I referred to earlier, but the bottom line is that it has become an increasingly dangerous place to work in recent months.

Mr. VAN HOLLEN. Well, let me just followup, if I could, Mr. Chairman, General Maples, the head of Defense Intelligence Agency, did testify in front of the Senate a few months ago about the resurgence of Taliban activity, and I think if you look at recent reports, it is a combination of factors but clearly there is an upsurge in Taliban activity.

And I think that we should look at whether or not we really want to reduce the total U.S. force presence in the southern Afghanistan area, which is currently what we are planning to do, but I guess my specific question is, what impact has it had on our reconstruction development efforts there? Have we had to withdraw—I mean, I thought your testimony a few months ago suggested that we'd have to reduce our efforts there because of a lack of security. I'm just curious as to whether or not we have been able to get back in there or whether the situation security's still too dangerous.

Mr. KUNDER. Yes, that a very fair question. And it's very relevant to the topic of this hearing because what we do in these circumstances is both on an area basis and a time specific basis, we will withdraw relief workers or reconstruction workers, or put additional security in so for individual areas, specific areas for specific periods of time we have had to pull people out. But the honest answer overall is that we've managed to maintain most of our efforts. The road construction efforts that are going on in southern Afghanistan have continued. We have lost a lot of local Afghan guards and local Afghan construction workers along the way, in excess of 200 people working for USAID.

So there is a price that's paid by—I would say by brave Afghans themselves who are trying to rebuild their country. The alternative livelihood programs the alternative to poppy production have been shut down in individual areas for certain periods of time, but those folks have always gone back in. So that what you are seeing is a slowing of the reconstruction effort, but it is a continuation of the effort throughout southern Afghanistan.

Mr. VAN HOLLEN. Thank you. Thank you, Mr. Chairman.

Mr. SHAYS. I thank the gentleman and at this time the chair would recognize Ms. Schakowsky.

Ms. SCHAKOWSKY. Again, thank you so much, Mr. Chairman, because I have been trying to drill down on this issue of private military contractors, security contractors for a long time and have been stymied at every turn. I want to associate myself with Mr. Duncan's remarks about how shocked the constituents in his district would be. I represent a very different district, and they would be and are shocked as well by the astonishing lack of accountability for literally billions of dollars that are being spent on private security contractors about which we know so very little, even when inquiries are made. Let me just say that right now—in the 3 hours of this hearing, about \$33 million, has been spent in Iraq.

It's about \$11 million an hour, 24/7, day after day after day in Iraq, and we need to—in Afghanistan, we need to get some questions answered. And I don't know what you may have thought that this hearing was going to be about. If we can't answer questions about what are the number of security contracts in existence, total cost of these security contracts, maybe you can and maybe you will, the total number of contractors in Iraq and Afghanistan. I'd like to know the number of dead and wounded contractors because that's not part of the calculation right now in deciding whether or not this war is worth it, whether it's successful, we ought to not just be counting the 2,500 or so of our Armed Forces, but also know what is the loss of life for civilians, for Americans who are working in this mission?

I want to know a list of the disciplinary actions taken against contractors, if there have been laws that are broken, it's hard to imagine with the numbers, whatever they may be, of contractors that there haven't been any laws broken because I'm unaware of any legal action that has been taken, and if there are disciplinary actions, I would like to know as a Member of Congress what those are, and in asking whether or not Congress—Congress should be told at least of contracts over \$100 million. I'd like to know. Can I get, Mr. Assad, a copy of the contracts with Blackwater? Can I see them?

Mr. ASSAD. Ma'am, Madame Congressman, we didn't do the contracting with Blackwater. I think that was either the State Department—

Mr. STARR. I don't believe there is a problem with that, but I would check with our procurement people. I will get an answer for you on that. It is a publicly bid contract, competitively bid contract.

Ms. SCHAKOWSKY. I have had very little luck. Do you know anything about that, Mr. Solis? I have had very little luck being able to see the contracts. I was told that if the agency doesn't release them, then the committee of jurisdiction has to subpoena that in-

formation and that it is all—I can't take any notes on it. I can go into a secret room and look at those contracts. And it would seem to me, if these are taxpayer dollars, I want to see those; I would like to see a contract.

Mr. STARR. I can tell you that our worldwide protective services contract was a competitively bid open contract.

Ms. SCHAKOWSKY. No, I want to see it, though. Can I see it?

Mr. STARR. I would have to ask our procurement executive. I personally wouldn't have any problem with that, but I really do need to check with the procurement person to give you an accurate answer on that.

Mr. SHAYS. If the gentlelady would suspend a second?

That is obviously an honest answer, and you will check it out. You can't promise something until you know, and you have people above you. But let's make sure that you communicate with the committee with either, yes, of course you can, or, no, you can't. And then please give us the reasons. Because I believe my colleague is right in saying, you know, we need to do our job, and we should be able to look at these documents.

Ms. SCHAKOWSKY. Has the GAO seen those contracts?

Mr. SOLIS. We have seen some, and we've had some access to some of those contracts through our work.

Ms. SCHAKOWSKY. Have you been refused to be shown any of the contracts?

Mr. SOLIS. I don't believe so.

Ms. SCHAKOWSKY. You know, I was looking at this, and also then if you could provide me either now or later an answer to those questions: the number of security contracts in existence, the total cost of those contracts, the number—and subcontracts—and the number of dead or wounded of the contractors, laws broken, disciplinary actions and contracts in excess of \$100 million. Can I get those from each of you? Can you answer me affirmatively?

Mr. KUNDER. Yes.

Mr. STARR. Yes. In fact, I just didn't copy down all the questions quite that fast.

Ms. SCHAKOWSKY. I will get that to you.

Mr. ASSAD. Yes, ma'am. We will respond. I will take the question for the record.

Mr. SCHAKOWSKY. Also, Mr. Assad, I am looking at—

Mr. SHAYS. If the gentlelady will suspend, and she will have time. I realize I am jumping in here. Just be clear as to the questions you've asked again, if you would just ask it again, because they were writing it down. I am sure staff behind them was as well. What are the questions?

Ms. SCHAKOWSKY. I'll tell you what. Why don't I provide it in writing?

Mr. SHAYS. But in the record, just read it one more time.

Ms. SCHAKOWSKY. The questions are: the number of security contracts, the total cost of these security contracts; the total number of security contractors and subcontractors in Iraq and Afghanistan under those contracts; the number of dead and, separately, the number of wounded contractors; a report on any legal actions that have been taken against contractors or their employees; a list of

disciplinary actions that have been taken against the contractors; and a breakout of the contracts issued in excess of \$100 million.

Mr. SHAYS. And how we will proceed? I realize again that it was many questions. Provide us with that request in writing; we will put a cover letter over so it is the committee's request, and we will make sure that you get the answers to it.

Ms. SCHAKOWSKY. I appreciate that so much.

Mr. KUNDER. May I ask one clarifying question? As we were discussing earlier, there are contracts for the protection of U.S. Government personnel, and then there are security contracts that are part of—for example, we have a fully competed contract with Bechtel to build power stations. As part of that work, they hire their own security personnel to guard their workers. I assume your question refers to the class of direct U.S. Government contracts that have to do with the protection of U.S. Government personnel. Because if you are asking the latter, it's much more complex.

Ms. SCHAKOWSKY. Let me ask, Mr. Solis, you have a definition here, static security personnel. You defined in your GAO report what you meant by security. I am wondering if we can just use that definition that was on page 5 of the GAO report?

Mr. SOLIS. It may be a starting point. That's what our understanding is in terms of defining the types of security out there. But it could be something that could be used by these folks to try to delineate the kinds of security services that are provided.

Ms. SCHAKOWSKY. So if that can be a working definition, which would include static security, security for housing areas and work sites, for example.

I wanted to ask, Mr. Starr, Mr. Solis' testimony talks about how the State Department disagreed with our recommendations. This was on exploring options that would enable contractors to obtain services quickly and efficiently and the various options for contractors. And it says that: The State Department disagreed, citing concerns that the government could be held liable for performance failures.

Now, if we are using our own military, clearly the government is liable for performance failures. Are you saying that with the billions of taxpayer dollars that are being spent on these private security forces, that the United States of America is not responsible? We want to put them at arm's distance here and are not going to take responsibility for performance failures? This is not our problem? Who's responsible for performance failures if contractors with our taxpayer dollars make mistakes? Shouldn't some liability fall on the State Department if you contract with people who aren't doing what they should be doing, aren't trained appropriately, etc?

Mr. STARR. I think the answer—the formal question to the answer—the formal question or the answer that the State Department gave you was because we believe that there are so many different types of operations in Iraq that for the State Department to write one set of standards that could possibly cover all of those things wouldn't be—

Ms. SCHAKOWSKY. I understand that part. But I want to tell you that I am very concerned that we have operations going on in Iraq, sensitive operations, and that, in fact, the U.S. Government doesn't want to take responsibility for those, wants to push them off on

someone else. And I think this notion of accountability and liability and responsibility falls directly on government agencies, particularly given my suspicion that not a single contractor has ever been prosecuted under any law. I just want to raise that concern.

Mr. KUNDER. Ma'am, I understand your question. But the logic in general—when I sign something on behalf of the U.S. Government, our contracting guidelines—and we are listening to the Federal Acquisition Regulations which follow law passed by the Congress—instructs me not to engage in selecting subcontractors or getting too much into the relationship with subcontractors for the very reason that I do want to protect the taxpayers' interests.

If I contract with your firm to build a road, you are responsible to the taxpayers, to me as a Federal officer, for every element of that road, getting the right kind of concrete, making sure the concrete is not cheap, making the sure the foundation is right, etc., getting security for the road. If I start getting into your business and telling you as the prime contractor to the U.S. Government, now, I want you to get this kind of concrete subcontractor and I want you to get this kind of security firm and I want you to get this kind of matting for the concrete, what I am doing is setting up the taxpayers for a suit from you which says, well, I could have built the road just fine—

Ms. SCHAKOWSKY. I hear you.

Mr. SHAYS. Hold on a second. The gentlelady's time had ended, but I want her to be able to respond. So it is not like we are just going to click here.

Ms. SCHAKOWSKY. And I understand what you are saying. But one of the recommendations that they had was identifying minimum standards for private security personnel qualifications, training requirements and other key performance characteristics.

Myself and, I believe, my constituents don't think it is too much to ask for the Federal Government to say, we are going to set some criteria for people who are carrying out sensitive missions in Iraq and that for the response to be, well, we don't want to do that because it may create some—the government could be held liable for performance failures, to me, is completely unsatisfactory.

I have a lot—as you can see, I have a lot of questions. This is a whole area where the Congress has been completely separated from oversight over thousands, tens of thousands of people conducting important activities in Iraq. We just need to open that up and shed light. And I am looking forward to your answers.

And I thank you again, Mr. Chairman.

Mr. SHAYS. You are welcome. And you add value to this hearing, and so we are grateful you are here.

Mr. Solis, I would want you to kind of maybe respond to some of her points.

Mr. SOLIS. If I could. In our recommendation, we said to thoroughly explore. We weren't necessarily trying to be prescriptive. But, for example, when we said to come up with vendor lists, there are some examples where, for example, I believe it is TSA has developed vendor lists of what they consider qualified baggage screeners for airports. It is a list. It is not a list that says you absolutely have to use any of the particular ones, but it is a list from which have been screened and gone through. That is an example.

But I think the operative word was, we are in a new environment. You need to explore some different alternatives and different ways of potentially doing business—

Ms. SCHAKOWSKY. But the State Department said they didn't want to explore that, is my understanding.

Mr. SOLIS. That's our understanding. But, again, we still think our recommendation—

Mr. SHAYS. Let me, before having Mr. Marchant respond, I just want to say—and I want to have this clarified if it is not true—that, basically, those who work directly for DOD, those who work directly for State, directly for AID, there are standards. Where we kind of get into this question about standards is when the private contractors that AID hires, when they go out into the field and bring in their own security folks. And I would like to know first, Mr. Solis, is that accurate from your standpoint?

Mr. SOLIS. I believe State has fairly high standards, and I believe—I have to think about AID a little bit. But it is not clear to me that DOD has a set of standards, clear standards, that would go across the board in terms of the types of contractors in terms of qualifications and things of that nature.

Mr. SHAYS. And Mr. Assad, I want to just make sure that I am not giving you a pass here, but I want to be fair. You have taken on this assignment as of April. Were you the No. 2 person in this area and so you have great familiarity, or were you brought in from a bit outside?

Mr. ASSAD. No, sir. I was with the Marine Corps prior to this position.

Mr. SHAYS. So what I would hope you would gain from this is that, if DOD has a little catching up to do, you are going to be paying some keen attention to this.

Mr. ASSAD. Yes, sir. I can tell you, Mr. Chairman, that with regard to our contracts that we are letting now out of our Joint Contracting Command, we are flowing down these clauses to their sub-contractors. We are requiring our primes to flow these clauses that I have talked to their subs. Now, unfortunately, that may not have been the case a year ago or 18 months ago, but as we speak, we are taking the actions to flow these clauses down in our private security contractors contracts.

Mr. SHAYS. Not only will this committee be watching, but so will GAO be watching as well, and we will be asking them to monitor this. And you can be assured Ms. Schakowsky is going to be watching as well.

I would like to just clarify as well before we get to Mr. Marchant, in the area where you have the privates hiring, is it being funded—are these folks that are working for DOD, State and AID, for just one of you or all of you? Do you know what I am asking, the question?

Mr. STARR. Sir, the WPPS contract that we have in place covers all direct hire personnel under chief of mission authority in Iraq. That includes USAID personnel and personnel from the other Federal agencies that are in Iraq.

Mr. SHAYS. That's an important question to answer. I didn't ask it well, so I am happy you answered that question. What I am trying to ask is, when we hire directly by DOD, directly by State, that

is one issue. When we engage a contractor through AID, who then hires? Is this problem going to be mostly seen in AID? Is that where we are going to see a lot of the contractors who are hiring on their own?

Mr. KUNDER. In that case, sir, the way you asked the question first is correct. We would each be contracting for each of those sets of services. DOD would do some. State would do some. USAID would do some.

Mr. SHAYS. But now you hire a company to build an electric generating plant. They are the ones who go out and hire somebody. That, we would not see in DOD. Right? We don't have this same issue with DOD, or do we?

Mr. ASSAD. Yes, sir. Any prime contract that we have where a contractor is performing in theater, if he is going out and getting his own security force—

Mr. SHAYS. So in all departments. OK. I am asking a question that basically—I am going to answer it myself. What I am hearing you say is, with all our Departments, State and Defense, we are hiring contractors who then are engaging in their own hiring of security folks.

And I am seeing and the record would show that all are responding affirmatively.

Mr. Marchant.

Mr. MARCHANT. Thank you, Mr. Chairman.

One of the most encouraging things that back in my district we see is the fact that we are training more and more Iraqi security forces. I don't think that our people in the United States understand exactly the differences between the State police, the city police, the regional police, and what would be the highway patrol or whatever, all of the nuances of that. But we see the increased number of people that are being trained. And our eventual goal is to have enough soldiers trained, enough security trained so that our withdrawal begins to take place and the Iraqis step forward.

I am very interested in how, as this is happening—and it is happening today, the private security firms who have been interfacing with our military and our diplomats, how now you are going to have Iraqi security forces there and how the transition, how this interface is going to take place, how that transition is taking place. How do you foresee it? Even when our troop presence is significantly less, I see the reconstruction will continue to take place. USAID will still be there; we will still have a large private security force presence. Has there been some kind of a transition plan put together to see how these forces are going to deal with each other? And I think, Mr. Assad and Mr. Starr, a question for you.

Mr. ASSAD. Mr. Congressman, I am not aware of a transition plan, but I will take that question for the record and respond, sir.

Mr. STARR. Mr. Congressman, we don't have a formal transition plan, but it has been something that we have been discussing. As Iraqi sovereignty continues, as the military and police forces are trained and continue to take over, we will do as we do in many countries; where we see a return to a more stable environment, we will slowly draw down on our security efforts. We may lower the profile first, we may cut the numbers. We may ultimately decide, and hopefully, that instead of having either American forces on the

ground or third country national forces protecting us, that we could rely on the Iraqi forces to protect us.

So as we see the situation improving, we will take stock of the situation and make decisions in terms of lowering our profile and lowering our presence.

Mr. MARCHANT. And do you find that the Iraqi security forces—what level of respect do they have for the private security firms? Is it at the same level that they have for our Armed Forces? Have our Armed Forces and our military been able to say with authority to them, these people have authority, too, you need to respect them?

Mr. STARR. The authorities that the private security firms have are the authorities that the U.S. Government and the Iraqi government give them at the moment. Should the Iraqi government decide that they are going to start withdrawing authorities, we will of course be respectful of those things.

I think, to answer your question, the best example I can give you is that one of our major contractors, Blackwater USA, brought in a series of Iraqi speakers to speak with all of our personnel security specialists and give them training in how to deal with Iraqis and how to work closely with them. And some of our forces have Iraqi translators with them; some of them are relying on other Iraqi specialists as well. And I think the level of respect that you earn is essentially what you get. I think we take a great deal of time in trying to train our security providers that they must be respectful of the Iraqis, and I think that they get the encouragement and the cooperation in return for what they give.

Mr. SOLIS. Congressman Marchant, if I could only add, and again asking about the transition plan, and I am not aware of a particular transition plan, but I think in terms of the things that we have stated in terms of coordination and the training that Iraqi forces would have to have in terms of interfacing with private security contractors as U.S. forces draw down would be similar, because I think those things are going to be needed in terms of making sure that the issues that we have raised with the U.S. military and private security contractors don't occur with the Iraqi army and private security contractors as that transition begins.

Mr. MARCHANT. On June 11th, there was a Washington Post story on a military investigation of a shooting by a private security firm in Iraq. It talked about several crimes that had been reported. In the case of the Washington Post article, what criminal laws were considered as applicable in the investigation? And that would be for either Mr. Starr or Mr. Assad.

Mr. STARR. I am sorry, sir, I am not familiar with exactly what incident that is. I would have to know exactly which incident, and then go back and pull the files for it.

Mr. MARCHANT. OK.

Mr. SHAYS. He's making reference to the Washington Post story.

Mr. STARR. There were two incidents in that story, sir. One was, I believe, in February or March of this year, and one was in April of last year.

Mr. MARCHANT. This was talking about a DOD private security contractor that was shooting at civilian vehicles driving on the highway.

Mr. STARR. I can't answer that one, sir.

Mr. ASSAD. Sir, I don't have an answer for you, but again, I will take it for the record, and we will respond.

Mr. MARCHANT. Thank you.

Mr. SHAYS. That makes me a little uncomfortable given that it was something just very recently disclosed. It would have been nice, frankly, if you had anticipated that question. And maybe we should have let you know. I want to be clear, you do not have any knowledge of this issue?

Mr. ASSAD. No, sir. The specifics of the investigation, I do not. I don't have any knowledge of it, but I will find out.

Mr. SHAYS. Is the investigation ongoing?

Mr. ASSAD. I don't know the answer to that, sir. I don't know whether CENTCOM or the combatant commander did the investigation or whether it was done here in the States.

Mr. SHAYS. Thank you.

Mr. MARCHANT. Thank you, Mr. Chairman.

Mr. SHAYS. Thank you. I would like to—I first want to say, I am one person on this committee who believes that our involvement in Iraq is a noble effort, and every time I've been there, I have been in awe of our troops. I've been in awe of the security people that protect us and protect others. I've been in awe of the Iraqis. I have met political figures there that know they are a target every moment of their day, and they go out of the green zone into the red zone. I've met a man like Mr. Alalusi who went to Israel, and afterwards, the Iraqis punished him by kicking him out of the government and taking away his security guard, some in the former government—I don't mean Saddam Hussein's government. I mean in this past government. He lost his two sons. They tried to protect him and died in front of him. And when he met with me here, I said, "You can't go back." And he looked at me in amazement and he said, "I have to go back. My country needs me." And to learn that he has been elected to their general assembly, it is amazing to me, considering that we disbanded their army, their police and their border patrol, left them with no security, that we would hear people say that we need to get out and get out right away and the Iraqis had better get their act together.

These are folks that didn't attack us; we attacked them. And in my judgment, until they have the ability to protect themselves, we had better be there. And I am in awe of free elections in just 11 months, absolutely in awe of that.

So, for me, I view that I am looking at a country that, not unlike the United States years ago, got to have this opportunity for freedom and liberty. So I have no problem whatsoever with the fact that we have security guards. That is not my issue. I want the Army to be the tip of the spear, and I don't want them to be cooks when they don't have to be. I don't want them to have to be standing guard at the front of bases. I don't want them to have to be taking Members of Congress to this place or that place.

But the security people who do that and the contractors who do that are risking their lives. And I think the gentlelady from Illinois is right; when they risk their lives, they should be saluted and recognized. And when they lose their lives, we should take note of that. And that is part of the cost of this war. But when I ask these

folks about why they are there, they are there to be of service to our country and the cause.

Where I take issue with is the fact that we don't seem to be able to have a handle on how many we have there. We don't yet have a sense of the coordination between—in terms of the private companies that then hire private security. They have a choice on whether or not to register with the reconstruction center.

And so I am going to ask you, does it not make sense for the private security forces to coordinate with the Reconstruction Operations Center? Should that not be mandatory? And I would like to ask each of you that question.

Mr. Solis.

Mr. SOLIS. In our report last year, we had considered making that recommendation. We held off because, at the time, we reported that coordination appeared to be getting better, but as I made note in our testimony, it appeared that the coordination had not improved to the degree that we thought it should. And so we believe it is worth considering making a requirement that companies that are U.S. security firms that are doing business in Iraq, that they be required to work with Iraq or coordinate with Iraq.

Mr. SHAYS. And let me just set the stage here. Those that work directly for State, Defense, AID, they do have to register, and they do have to coordinate. Correct?

Mr. SOLIS. They have to—it is not—it is completely voluntary. It is not a requirement. Unless it is potentially in the contract, that's voluntary.

Mr. SHAYS. Well, let me put it differently. In most of the contracts, when it is directly connected to DOD and State, is it not mandatory, Mr. Starr?

Mr. STARR. Sir, per our contracts, we do not coordinate directly with Iraq. Our contracts coordinate directly with the TOC, the Technical Operations Center, which is our operations center which coordinates directly with the military. All of our moves are fully coordinated.

Mr. SHAYS. So they would be coordinated with the national reconstruction center?

Mr. STARR. Yes.

Mr. ASSAD. Yes, sir. Our contractors, direct contractors we have, they do coordinate with Iraq.

Mr. SHAYS. So we are going to call them direct and indirect contractors, OK. Mr. Kunder, correct? The same policy, as Mr. Starr is obviously under State?

Mr. KUNDER. I'm sorry, sir?

Mr. SHAYS. The same policy that AID has—

Mr. KUNDER. We follow the same. We have the same contractor at this point. Yes, sir.

Mr. SHAYS. AID doesn't like to think of themselves as being under State, so I try to be respectful here.

Mr. KUNDER. We take full policy guidance from the Secretary of State, sir.

Mr. SHAYS. Well said. Well said. OK. The question then is, should the indirect contractors have to follow those same rules? And Mr. Solis said they didn't make that recommendation, but it

seems that it is logical given what has happened. That is what I am hearing you say.

Mr. Assad.

Mr. ASSAD. Sir, personally, my personal response is, yes, I believe that they should be required. And I will take it back to the Department in terms of the operational commanders and give them my personal opinion. I do believe that should happen.

Mr. SHAYS. Mr. Starr.

Mr. STARR. Sir, I would qualify it by saying that I think certain operations over a certain size should have to be required to do that. But I think the size and scope of the contracts that are out there, many of these may be very tiny; many of them may be very remote and may not have the capability to do that. So I think there is a bit of balancing on some of these indirect contractors.

Mr. SHAYS. OK. Mr. Kunder.

Mr. KUNDER. Sir, I've had the honor to testify before the Congress many times. I know better than to make administration policy while sitting here. As an individual, it makes sense for me to get better coordination. The issue I would raise, sir, is that, given the fact that in most of these post-conflict situations—I was reading, in preparation for the hearing, the European Community Humanitarian Office Security Guidance—you have U.N. agencies involved. You have the international NGO's involved. You've got the international community, the Red Cross. The question would be whether you want national law or some sort of international treaty or guidance like that. And one of their quick answers, sir—I worked in Somalia. We had a major problem. When you create some sort of humanitarian operations center, then you get an awful lot of people walking around with guns in there, and you wonder who some of the organizations are. So I just think it is an area in which we need to move very thoughtfully.

Mr. SHAYS. I hear what you are saying, and I appreciate your thoughtful response. I would just say it strikes me, though, that if we think it's logical for the people we directly hire, it is probably even more logical for the people that are indirectly hired, especially given that now 42 percent of the Iraqi populous is under now, thank God, the control of the Iraqi government and its own security forces.

Let me ask, is there anything that you would like to put on the record that we haven't put on the record? Anything that you stayed up last night thinking about and prepared to answer and thought you might be eloquent enough to impress us that we didn't give you that opportunity? I am being a little facetious, but let me say, sometimes the best point of the whole hearing is the point that we didn't make that you need to put on the record. So let me just say, you don't have to be eloquent. Is there anything that we need to put on the record that is not on the record? We will start with you, Mr. Kunder.

Mr. KUNDER. Sir, the point I was making with Ms. Schakowsky, just that there is a balance between the indisputable notion of guidelines on how to coordinate with an ROC, for example, on the one hand, and these contractual relationships under the Federal Acquisition Regulations. There is a tradeoff there in terms of making law for subcontractors of government primary contractors. It is

just something that I would respectfully request that we look at closely.

Mr. SHAYS. I hear you. I am going to respectfully say that the bottom line is, though, I think we have gotten ourselves in pretty much a feeling of suspicion and so on, because we don't have enough information. And Ms. Schakowsky is right that we need more information, and that all of us, and you in particular, would have more credibility.

Mr. Starr.

Mr. STARR. Simply, sir, that contract security, which is essentially what this is, is subject to the same vagaries of every kind of contract. If it is a well written contract, a well managed contract, a competitively bid contract managed on the ground effectively with effective oversight, I think you get the services that you want. And I think that is a critical point of what we have to say when we are looking at private security providers overseas. We have to be very specific and very careful.

Mr. SHAYS. Thank you.

Mr. Assad.

Mr. ASSAD. Mr. Chairman, I would like to say that we recognize within the Department of Defense that we need improvement with regard to many of the things that we have talked about today. But we are focused on this, and I personally am focused on ensuring that we take the actions to get the coordination that is necessary, get the insight that is necessary and be able to be more responsive to you and your staff.

Mr. SHAYS. I am just going to say, whether you end up with a Republican Congress or a Democratic Congress next year, we are going to have this same kind of oversight. And so it would be wonderful to be able to have you come in and say, you know, this is what I have done since I took office in April, and we can all pat you on the back. So that is kind of what we would like to do.

Mr. Solis.

Mr. SOLIS. The only thing I would offer, we still made several recommendations which are still in various phases of implementation or are still open with some of the agencies. And we believe they still have merit and are worth considering as they go along in developing policy.

Mr. SHAYS. I would request that you continue to engage all the Departments in these recommendations and give us a sense of whether you are getting pushback or whether you are getting a sense that there is buy-in. That would be helpful. We would like to empower you to do that, or encourage you to do that.

Gentlemen, this has been a very interesting hearing. We appreciate you coming here today, we appreciate your patience with our votes. And we do believe that you all recognize that you are doing important work and want to do it well, and we thank you for that very much. Thank you.

We are going to enjoy inviting our next panel up. Our panel comprises five individuals: Mr. Chris Taylor, VP for Strategic Initiatives, Blackwater, USA; Major General Robert Rosenkranz, U.S. Army, retired, president, International Technical Service, DynCorp International; and my colleague to my left says I should say Mr. Iggy Balderas, but it is Ignacio, I think, former CEO and current

member of the board of directors, Triple Canopy; Mr. Doug Brooks, president, International Peace Operations Association; and, Mr. Alan Chvotkin, senior vice president and Counsel, Professional Services Council, and also, I believe, a constituent of Mr. Van Hollen. So you will probably get the best introduction you have ever gotten.

We swear our witnesses in. This is an investigative hearing. Obviously, we would expect you to tell the truth no matter what, but this makes it a little more official.

[Witnesses sworn.]

Mr. SHAYS. Note for the record, all of our witnesses have responded in the affirmative. They are all sworn in. And I am going to welcome you here, and Mr. Van Hollen will welcome all of you but one in particular.

Mr. VAN HOLLEN. Thank you, Mr. Chairman. I would just like to introduce as well again a constituent of mine, Alan Chvotkin, who is the senior vice president and counsel of Professional Services Council and has worked on the issues that we have been discussing for many, many years. He has a long history with respect to private contracting as well as the government. He worked back in the 1980's for the U.S. Senate as a staff member. We will forgive you on the House side for that.

But I want to welcome you here, welcome everybody, but it is great to have you here. And thank you for your advice and input to members of this committee on these issues over many years.

Mr. SHAYS. I thank the gentleman.

The bottom line is we are grateful you are here. We all know that you bring tremendous credibility and knowledge to this issue. And if the questions seem somewhat aggressive, it is only that we want to know what the heck is going on. But I think we all admire what you folks do.

So we will start with you, Mr. Taylor. With five of you, we would prefer that you be closer to 5 minutes than longer. And we will make sure that everything you need is on the record. I will stay as long as we have to make sure that is true. So don't feel that you have to get everything in your opening statement. Your opening statement will be there for the record. So I am going to not hold you to 5 minutes but encourage you to be as close to that as possible.

Mr. Taylor.

STATEMENTS OF CHRIS TAYLOR, VICE PRESIDENT, BLACKWATER USA; MAJOR GENERAL ROBERT ROSENKRANZ, U.S. ARMY, RETIRED, PRESIDENT, INTERNATIONAL TECHNICAL SERVICE, DYNCORP INTERNATIONAL; IGNACIO BALDERAS, FORMER CEO AND CURRENT BOARD OF DIRECTORS MEMBER, TRIPLE CANOPY; DOUG BROOKS, PRESIDENT INTERNATIONAL PEACE OPERATIONS ASSOCIATION; AND ALAN CHVOTKIN, SENIOR VICE PRESIDENT AND COUNSEL, PROFESSIONAL SERVICES COUNCIL

STATEMENT OF CHRIS TAYLOR

Mr. TAYLOR. Thank you, Chairman Shays, Congressman Kucinich, and other committee members, for this opportunity to discuss private security firms, our role and how we perform our duties each day.

Since the American Revolution, private security firms have played an integral role in the successful development and defense of our Nation. The role of the private security firm has not changed that much over time. Providing specialized capabilities and search capacity to the U.S. Government in flexible, cost-effective packages and building capacity for friendly foreign governments continue to be core competencies of our industry.

National and global security challenges demand innovative and flexible solutions to be successful in the global war on terror. As stated in the 2006 Quadrennial Defense Review, private security firms are members of the total force. Contractors benefit the government by augmenting existing capabilities, improving response times, and freeing scarce military logistical resources.

Blackwater is fortunate to have many who have already spent a career in public service, some in the military, some in law enforcement, and some in other government service, but all of whom are committed to the same objectives that guided them during their public service. Many of these professionals in previous careers earned Bronze Stars, Silver Stars, Purple Hearts and even a Navy Cross. These honorable men and women, though no longer serving in an Active Duty uniform, are as dedicated and committed to the mission today as when they served on Active Duty. In fact, they reaffirm their commitment to the oath they took to support and defend the Constitution of the United States. These same professionals now daily put themselves in harm's way in support of U.S. and coalition missions and fully support national security and U.S. foreign policy.

Today private security firms perform a number of roles from executive protection and static security to training partner nations to providing both ground and aviation logistics support, all in dangerous environments. In the future, private security firms will likely be called upon to support stability operations and peacekeeping efforts.

The majority of international legal controls are embodied in the Hague and Geneva Conventions, the applicable additional protocols and the Universal Declaration of Human Rights. This also includes SOFAs, Status of Forces Agreements, that may be in place.

Blackwater has consulted human rights groups to assist in program development for human rights training and policy development. Each Blackwater professional receives blocks of instruction in leadership, ethics and international humanitarian law.

Because of the Federal nature of the battlefield, our services support primarily Federal entities. Private security firms, therefore, are accountable to many domestic Federal statutes, regulations and common law, which include the Military Extraterritorial Jurisdiction Act, the War Crimes Act of 1996, the Victims of Trafficking and Violence Protection Act of 2000, the Anti-Torture Statute, the Defense Trade Controls Act, the Gun Control Act, Arms Export Control Act, Export Administration Regulations, International Traffic and Arms Regulations, the Defense Base Act, Federal Aviation Regulations, the Defense Federal Acquisition Regulations, the Foreign Corrupt Practices Act, and the general orders of Central Command, the Multi-National Corps of Iraqi forces, and the Combined Joint Task Force 76.

We seek to exceed the expectations of our clients. I am pleased that Doug Brooks and the IPOA are here today. Blackwater is a member of the International Peace Operations Association, and I currently serve as its chairman. The IPOA standards committee is working diligently to develop industry standards. We are committed to defining the standards by which our independent contractors are credentialed as qualified to work in the industry, improving the Federal contracting and oversight process, providing increased transparency in business operations, and encouraging discussion of our industry so that it can become more fully integrated into the process of finding solutions to difficult challenges.

At Blackwater, recruiting and vetting begins with the self-selection application process and a thorough criminal background and credit check. For those with private government service, discharge and release documents are reviewed and verified. When a contract requires private security professionals to have a security clearance, the government then conducts an even more thorough background check. Third country nationals and host nationals also have background checks performed.

Blackwater USA provides both contractually mandated and additional training to all of our security professionals. Again, the additional training includes leadership, core values, ethics and human rights courses. In any case, we ensure that each of our professionals conducts and passes all required training commensurate with the environment in which they will be working.

Private security firms provide efficient, flexible and innovative solutions to complex challenges and can positively effect a strategic balance in favor of peace and security and freedom and democracy everywhere. We should look together for ways to leverage the experience and commitment of these professional men and women toward that end.

I hope my brief comments have helped to provide the committee some increased understanding of private security firms, and I look forward to answering any questions that you may have. Thank you.

[The prepared statement of Mr. Taylor follows:]

CHRISTOPHER T. TAYLOR
VICE PRESIDENT, BLACKWATER USA

June 13, 2006

HOUSE SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING THREATS, AND
INTERNATIONAL RELATIONS
COMMITTEE ON GOVERNMENT REFORM

Private Security Firms: Standards, Cooperation, and Coordination

Thank you Chairman Shays, Congressman Kucinich and Committee Members for this opportunity to discuss private security firms, their current role, and how they perform their duties today.

Since the American Revolution, private security firms have played an integral role in the successful development and defense of our Nation. The role of the private security firm has not changed that much over time. Providing specialized capabilities and surge capacity to the U.S. Government in flexible, cost-effective packages and building capacity for friendly foreign governments continue to be the core competencies of our industry.

National and global security challenges demand innovative and flexible solutions to be successful in the global war on terror. As stated in the 2006 Quadrennial Defense Review, private security firms are members of the Total Force. Contractors benefit the government by augmenting existing capabilities, improving response times, and freeing scarce military logistical assets..

Blackwater is fortunate to have many who have already spent a career in public service; some in the military, some in law enforcement, and some in other government service, but all of whom are committed to the same objectives that guided them during public service. Many of these professionals in previous careers earned Bronze Stars, Silver Stars, Purple Hearts, and even a Navy Cross. These honorable men and women, though no longer serving in an active-duty uniform, are as dedicated and committed to the mission today as when they served on active duty. In fact, they reaffirm their commitment to the oath they took to support and defend the Constitution of the United States. These same professionals now daily put themselves in harm's way in support of U. S. and coalition missions, and fully support national security and U. S. foreign policy.

Today, private security firms perform a number of roles from executive protection and static security, to training partner nations, to providing both ground and aviation logistics support in dangerous environments. In the future, private security firms will likely be called upon to support stability operations and peacekeeping efforts.

The majority of international legal controls are embodied in The Hague and Geneva Conventions, the applicable Additional Protocols, and the Universal Declaration of Human Rights. Blackwater has consulted human rights groups to assist in program development for human rights training and policies. Each Blackwater professional receives blocks of instruction in leadership, ethics, and international humanitarian law.

Because of the federal nature of the "battlefield", our services support primarily federal entities. Private security firms therefore are accountable to many domestic federal statutes, regulations, and common law which include: Military Extraterritorial Jurisdiction Act (MEJA), War Crimes Act of 1996, Victims of Trafficking and Violence Protection Act of 2000, Anti-Torture Statute, Defense

Trade Controls Act, Gun Control Act, Arms Export Control Act, Export Administration Regulations (EAR), International Traffic in Arms Regulations (ITAR), Defense Base Act (DBA), Federal Aviation Regulations, Defense Federal Acquisition Regulations (DFAR), Foreign Corrupt Practices Act (FCPA), and the General Orders of Central Command (CENTCOM), Multi-National Corps – Iraq (MNC-I), and Combined Joint Task Force (CJTF) 76.

We seek to exceed the expectations of our clients. I am pleased that Doug Brooks and the IPOA is here today. Blackwater is a member of the IPOA and I currently serve as the IPOA's Chairman. The IPOA Standards Committee is working diligently to develop industry standards. We are committed to defining the standards by which our independent contractors are credentialed as qualified to work in our industry, improving the federal contracting and oversight process, providing increased transparency in operations, and encouraging discussion of our industry so that it can become more fully integrated into the process of finding solutions to difficult challenges.

At Blackwater, recruiting and vetting begins with a self-selecting application process and thorough criminal background and credit checks. For those with prior government service, discharge and release documents are reviewed and verified. When a contract requires private security professionals to have a security clearance, the government then conducts an even more thorough background check. Third-country nationals also have background checks performed.

Blackwater USA (www.blackwaterusa.com) provides both contractually mandated and additional training to all of our security professionals. The additional training includes leadership, core values, ethics, and human rights courses. In any case, we ensure that each of our professionals conducts and passes all required training commensurate with the environment in which they will be working.

Private security firms provide efficient, flexible, and innovative solutions to complex challenges, and can positively affect the strategic balance in favor of peace and security, and freedom and democracy everywhere. We should together look for ways to leverage the experience and commitment of these professional men and women toward that end.

I hope my brief comments have helped to provide the Committee some increased understanding of private security firms and I look forward to answering any questions you may have.

1. *What are the roles and missions of private security firms on the battlefield?*

Private Security Firms (PSF) perform many roles on the battlefield. We are enabled to do so because of the vast experience of the professionals who come to work for us. While many academics and journalists do their very best to put different firms into different bins, the truth is that because the security environment has become so dynamic, PSFs are moving toward providing turnkey security, training, and ground/aviation logistics services. Traditionally, PSFs have performed personal security/executive protection operations, static security/force protection operations, operations center services, and security training and vulnerability assessments.

2. *What international legal controls are in place for private security firms?*

While companies do not have standing under international humanitarian law, individuals and people do. International humanitarian law is mostly embodied in The Hague and Geneva Conventions and the applicable Additional Protocols. Below are brief synopses of the international legal controls:

The foundation of international treaties aimed at protecting human rights rests with The Hague Convention IV of 1907 and the Geneva Conventions. However, there is not any one "Geneva Convention." Like any other body of law, the laws of war have been assembled piecemeal. What follows is a basic and modernized reference to the most common protections and prohibitions as provided under the Hague Convention IV, the four 1949 Geneva Conventions, and the two 1977 protocols to the Geneva Conventions.

A. *Hague Convention IV*

The main prohibitions of the Hague Convention IV are outlined in Articles 23, 25, 27 and 28 of the Annex. One is not permitted to: 1) employ poison or poisoned weapons; 2) kill/wound treacherous individuals belonging to the hostile nation or army; or an enemy who, having laid down his arms, or having no means of defense, has surrendered; 3) employ arms, projectiles, or material calculated to cause unnecessary suffering; 4) make improper use of a flag of truce, of the national flag, or of the military insignia and the uniform of the enemy, as well as the distinctive badges of the Geneva Convention; 5) destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessities of war; 6) declare abolished, suspended, or inadmissible in a court of law the rights and actions of nations of the hostile party; and 7) destroy buildings dedicated to religion, art, science, or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not being used at the time for military purposes.

B. *The Geneva Convention*

The Geneva Convention safeguards so-called "protected persons," most simply described as detained civilians. Article 3 prohibitions include: 1) violence to life and person, in particular, murder of all kinds, mutilation, cruel treatment and torture; 2) the taking of hostages; 3) outrages upon personal dignity, in particular, humiliating and degrading treatment; and 4) executions without a trial. Detainees must at all times be humanely treated (Geneva III, art. 13; Geneva IV, art. 27). Detainees may be questioned, but any form of "physical or mental coercion" is prohibited (Geneva III, art. 17; Geneva IV, art. 31). Women shall be protected from rape and any form of indecent assault (Geneva IV, art. 27). Torture or inhuman treatment of prisoners-of-war (Geneva III, arts. 17 & 87) or protected persons (Geneva IV, art. 32) are grave breaches of the Geneva Conventions and are considered war crimes (Geneva III, art. 130; Geneva IV, art. 147). Grave breaches include: 1) attacking a prisoner of war; 2) inhuman and degrading practices involving outrages upon personal dignity, based upon racial discrimination; 3) biological experiments on the wounded and sick,

prisoners of war, and against civilians; 5) compelling a prisoner of war to serve in the hostile power's military forces; 6) any unlawful act which causes death or seriously endangers the health of a prisoner of war; 7) unlawful transfer, deportation or confinement of civilians, willful killing, hostage taking and torture; 8) attacking cultural objects when they are not located near a military target or used for the war effort; and 9) deprivation of the right to a fair trial. War crimes create an obligation on any state to prosecute the alleged perpetrators or turn them over to another state for prosecution. This obligation applies regardless of the nationality of the perpetrator, the nationality of the victim or the place where the act of torture or inhuman treatment was committed (Geneva III, art.129; Geneva IV, art. 146).

C. Other International Covenants and Conventions

The United States has ratified other international human rights instruments, such as the International Covenant on Civil and Political Rights and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Under both treaties, torture and other mistreatment of persons in custody are also prohibited in all circumstances under international human rights law, which applies in both peacetime and wartime. See, e.g., art. 5 of the Rome Statute of the International Criminal Court. However, U.S. is not a party to the International Criminal Tribunal except pursuant to a treaty made under Article II, section 2, clause 2 of the U.S. Constitution on or after October 21, 1998, or to any statute enacted by Congress on or after October 21, 1998. 22 U.S.C. § 262-1.

3. What United States statutes, regulations, or policy directives apply to private security firms?

Some U.S. statutes incorporate, for example, the Geneva Convention and the Hague Convention IV, into war crime and anti-torture statutes. These statutes apply to a national of the United States; generally, that term is used in section 101 of the Immigration and Nationality Act, 8 U.S.C. § 1101. See, e.g., 18 U.S.C. §§ 7, 32.

A. The Anti-Torture Statute

The Anti-Torture statute (18 U.S.C. § 2340A) provides that if a national of the United States outside of the United States who 1) commits or attempts to commit torture shall be fined, imprisoned not more than 20 years, or both, and 2) if death results to any person due to this torture, shall be punished by death or imprisoned for any term of years or for life. This statute also applies to any person present in the United States irrespective of the nationality of the victim or alleged offender.

B. U.S. War Crimes Act of 1996

Similarly the U.S. War Crimes Act of 1996 (18 U.S.C. § 2441) provides for criminal penalties, including up to life sentence or the death penalty, for war crimes—whether committed inside or outside the United States—if either the offender or the victim is a member of our Armed Forces or is a U.S. national. “War crime” means any conduct that is 1) in violation of the Geneva Convention, or any convention to which the U.S. is a party; 2) prohibited by the Hague Convention IV; or 3) of a person who, in relation to an armed conflict and contrary to the provisions of the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended at Geneva on 3 May 1996 (Protocol II as amended on 3 May 1996), when the United States is a party to such Protocol, willfully kills or causes serious injury to civilians.

C. Military Extraterritorial Jurisdiction Act

In addition, Blackwater, as a contractor accompanying a deployed force, would be subject to the Military Extraterritorial Jurisdiction Act (“MEJA”) (18 U.S.C. §§ 3261 – 3267). MEJA applies to all Department of Defense (“DoD”) contractors and subcontractors and their dependents. It was expanded to cover contractors of any other Federal agency, or any provisional authority, to the extent such employment relates to supporting the mission of the DoD overseas. The law does not, however, apply to a national of or resident in the host nation (e.g. an Iraqi national). MEJA provides for jurisdiction in U.S. Federal court to prosecute acts that would be felonies if they had occurred in the special maritime and territorial jurisdiction of the United States, such as 1) murder (including attempt); 2) manslaughter (including attempt); 3) maiming; 4) sexual exploitation of minors; 5) aggravated sexual abuse stalking; 6) receiving or sending child pornography; 7) destruction of real or personal property; 8) theft, robbery, burglary; 9) receiving stolen property; 10) drunk driving; and 11) manufacture, sale or possession of a switchblade knife.

D. Victims of Trafficking and Violence Protection Act of 2000, Public Law 106-386, and codified at 22 U.S.C. § 7102

To keep itself “ahead of the curve,” Blackwater’s implemented company policy that prohibits all human trafficking is consistent with the Victims of Trafficking and Violence Protection Act of 2000, Public Law 106-386, and codified at 22 U.S.C. § 7102, that was cited in National Security Presidential Directive/NSPD-22, which decreed that all U.S. government departments will take a zero tolerance approach to trafficking in persons. The proposed DFARS implementing clause for use in contracts outside the United States would require contractors, such as Blackwater and Presidential Airways, to establish policy and procedures for combating human trafficking in persons and to notify the contracting officer of any violations and corrective action taken. This clause also requires the contractor to manage effectively its subcontractors and to take remedial action against any subcontractor that violates policy against trafficking in persons. Possible consequences of a contractor’s noncompliance with this proposed clause would include suspension or debarment, suspension of contract payments, loss of award fee, and termination of contractor for default or cause. A January 30, 2004 Deputy Secretary of Defense Memorandum stated that provisions should be incorporated in overseas service contracts that prohibit any activities on the part of the contractor employees that support or promote trafficking in persons and that impose suitable penalties on contractors who fail to monitor the conduct of their employees. NSPD-22 used the definitions in 22 U.S.C. § 7102.

E. Gun Control Act

As government contractors and given the nature of the services that Blackwater and Presidential Airways provide, both entities are subject to the Gun Control Act by the terms of Defense Federal Acquisition Regulations Supplement (“DFARS”) § 225.7040, General Order No. 1A – United States Central Command, as amended 9 August 2003, General Order No. 1 – Multi-National Corps – Iraq, dated 12 February 2005, General Order No. 1 – Combined/Joint Task Force (CJTF) 76, dated 15 May 2004, and DoD Instruction No. 3020.41 (October 2005). The Gun Control Act (18 U.S.C. § 921 et seq.), in part, bans unlicensed individuals from acquiring handguns outside their State of residence, although long guns (rifles and shotguns) may (under Federal law) be acquired from Federally licensed firearms dealers located in other States, provided this is allowed by both the State of purchase and the State of residence. The following categories of individuals are prohibited from purchasing and owning firearms: 1) anyone who has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year; 2) anyone who is a fugitive from justice; 3) anyone who is an unlawful user of or addicted to any controlled substance;

4) anyone who has been adjudicated as a mental defective or has been committed to a mental institution; 5) any alien illegally or unlawfully in the United States or an alien admitted to the United States under a nonimmigrant visa; 6) anyone who has been discharged from the U.S. Armed Forces under dishonorable conditions; 7) anyone who, having been a citizen of the United States, has renounced his or her citizenship; 8) anyone that is subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner or child of such intimate partner; and 9) anyone who has been convicted of a misdemeanor crime of domestic violence. 18 U.S.C. §§ 922, 924, 931.

F. Arms Export Control Act and Export Administration Regulations

Blackwater is also subject to the Arms Export Control Act (22 U.S.C. § 2778), which controls the export of defense articles and services. Blackwater must register with the Department of State when exporting or importing any defense articles or defense services as defined by this Act. Any willful violation of this statute, or any rule or regulation issued under either section, or who willfully, in a registration or license application or required report, makes any untrue statement of a material fact or omits to state a material fact required to be stated therein, is subject to a fine for each violation of not more than \$1,000,000 or imprisonment of not more than ten years, or both. 22 U.S.C. § 2778(c). In addition, the Department of Commerce Bureau of Industry and Security (“BIS”) is responsible for implementing and enforcing the Export Administration Regulations (“EAR”), which regulate the export and re-export of most commercial items. Items that BIS regulates are often referred to as “dual-use” - items that have both commercial and military or proliferation applications - but purely commercial items without an obvious military use are also subject to the EAR. 22 C.F.R. Part 730. Criminal penalties for willful violations of EAR may result in a fine of up to the greater of \$1,000,000 or five times the value of the exports for each violation; for knowing violations, a fine of up to the greater of \$50,000 or five times the value of the exports for each violation. 22 C.F.R. § 764.3(b). Administrative penalties for violations of EAR include: 1) the denial of export privileges; 2) the exclusion from practice; and/or 3) the imposition of a fine of up to \$11,000 for each violation, except that the fine for violations involving items controlled for national security reasons is up to \$120,000 for each violation. 22 C.F.R. § 764.3(a).

G. Foreign Corrupt Practices Act of 1977

The Foreign Corrupt Practices Act (FCPA) prohibits payments or offering items of value to a foreign government official, government agency, political party, or political candidate in exchange for a business favor or when likewise intended to influence the action taken by any such individual or agency or to gain any competitive or improper business advantage. The Act applies to company personnel, any, and all of its consultants and agent.

H. Other U.S. Laws

Other statutes pertaining to accountability include the Defense Base Act, (42 U.S.C. §§ 1651-1654) (“DBA”) and the Inspector General Act of 1978. As a U. S. government contractor deployed overseas, Blackwater is mandated to secure DBA insurance benefits for personnel working overseas. As a government contractor, Blackwater is also subject to the Inspector General Act of 1978, (5 U.S.C. Appx § 1 et seq.) as amended. Under this Act, an Inspector General is authorized to conduct independent and objective audits, investigations and inspections of government contracts. In order to perform this duty, the Inspector General may have direct access to all records and information of the agency; issue subpoenas for information and documents outside the agency; and administer oaths for taking testimony. For example, upon receipt of a complaint, the Inspector General shall conduct an initial inquiry. FAR § 3.905. If the complaint should be investigated, the

Inspector General shall conduct an investigation and provide a written report of findings to the head of the agency or designee. Id.

H. Federal Aviation Regulations

As an air carrier certificated under Part 119 of the Federal Aviation Regulations (the "FARs") to conduct operations under Part 135 of the FARs, Blackwater affiliates are generally subject to statutes and regulations that, among other things, establish requirements, compliance obligations and accountability for safety, training, maintenance and operation of the aircraft, including oversight by the Federal Aviation Administration, the National Safety Transportation Board, and the Department of Homeland Security. See 49 U.S.C. § 101 et seq.; 6 U.S.C. § 101 et seq.

United States Regulations/Policy Statements

A. DFARS § 252.225-7040 – Contractors Supporting a Force Deployed for Contingency, Humanitarian, Peacekeeping, or Combat Operations (June 2005)

Blackwater must comply with the above referenced clause in the DFARS and in their contracts. This clause requires, among other things, compliance with applicable: 1) United States, host country, and third country national laws; 2) treaties and international agreements; 3) United States regulations, directives, instructions, policies, and procedures; and 4) orders, directives, and instructions issued by the Combatant Commander relating to force protection, security, health, safety, or relations and interaction with local nationals. Blackwater must incorporate the requirements of DFARS 225.7040 in all subcontracts that require subcontractor personnel to provide support in the theater of operations to U.S. military forces deployed outside the United States in -- (1) contingency operations; (2) humanitarian or peacekeeping operations; or (3) other military operations or exercises designated by the Combatant Commander.

These regulations and contract clause also require Blackwater to ensure that prior to deploying personnel to support the U.S. government: 1) all required security and background checks are complete and acceptable; 2) all personnel meet minimum medical requirements; 3) all necessary passports, visas, other documents, and Geneva Conventions card have been issued; and 4) country and theater clearances have been obtained for relevant personnel in accordance with DoD Directive 4500.54, Official Temporary Duty Abroad, and DoD 4500.54-G, DoD Foreign Clearance Guide. In addition, Blackwater must always maintain a current list of personnel deployed in support of the theater of operations.

Additionally, Blackwater professional contractor personnel supporting U. S. forces outside of the United States are prohibited from wearing military clothing unless specifically authorized in writing by the Combatant Commander. If authorized, Blackwater must wear distinctive patches, armbands, nametags, or headgear, to be distinguishable from military personnel, consistent with force protection measures and the Geneva Conventions. Moreover, should Blackwater professional contractor personnel be authorized to carry weapons in performing their duties in the theater of operations, Blackwater shall ensure that such authorized personnel 1) are adequately trained; 2) are not barred to possess weapons by the Gun Control Act; and 3) adhere to all orders issued by the U.S. government.

Blackwater is also responsible for next of kin notification and personnel recovery should one of its personnel die, require evacuation due to injury, or is missing, captured, or abducted.

B. DoD Instruction 3020.41 – Contractor Personnel Authorized to Accompany the U. S. Armed Forces

Blackwater is subject to DoD Instruction 3020.41 when under contract with the Department of Defense. This Instruction serves as DoD policy for all contractors to include Host Nation (HN) personnel and Third Country Nationals (TCN).

C. General Order No. 1A – United States Central Command, as amended 9 August 2003; General Order No. 1 – Multi-National Corps – Iraq, dated 12 February 2005; General Order No. 1 – Combined/Joint Task Force (CJTF) 76, dated 15 May 2004

Blackwater is also subject to General Order No. 1 issued by various commands. These General Orders, made applicable pursuant to DFARS 225.7040 discussed above, outline slightly different prohibitions. However, these three General Orders generally prohibit Blackwater personnel from engaging in the certain activities deemed prejudicial to good order. Some of the more prominent prohibited activities include: 1) purchase, possession, use or sale of privately owned firearms, ammunition, explosives, or the introduction of these items into USCENTOM AOR or MNC-1 AOR; 2) introduction, possession, sale, transfer or consumption of any alcoholic beverage within Kuwait, Saudi Arabia, Pakistan, Afghanistan, and Iraq; 3) sale, transfer, or consumption of any controlled substances; 4) gambling; 5) introduction, possession, sale, creation or display of any pornographic or sexually explicit photograph, videotapes, movie, drawing, book or magazine, or similar representations; 6) removing, possessing, selling, or destroying artifacts or national treasures; and 7) intimate relations between those individual not married to each other.

4. *What types of established standards are in place for private security firms?*

Blackwater demands from all employees and independent contractors that they meet the standards we set for ourselves and for our customers. The spectrum of these standards ranges from grooming standards to training, to legal accountability and most everything between. Training standards are generally contractually mandated and the contracting agency will most often have a representative on site to ensure that the required training is being conducted to the expected level of competency. Additionally, for those who have honorably served in the armed forces or law enforcement for at least four years but lack the specific job skills for some of our programs, Blackwater runs the “Blackwater Academy”; an 8-week professional program that gives to qualified applicants the skills to safely and professionally participate in our overseas operations. This program has been remarkably successful. Blackwater also has created the “Independent Contractor Handbook” which details to each security professional mandates and expectations while working with Blackwater. A copy of this handbook is included in the testimony package.

Additionally, as members of the International Peace Operations Association, we openly vow to uphold and conduct ourselves per the IPOA Code of Conduct. The Standards Committee of the IPOA is working diligently to institutionalize our business, humanitarian, and legal standards as well. Further, it should be noted that there are significant market forces at play in this industry in that failure comes quickest to those who openly violate sound business principles and disregard the moral, ethical and legal high ground. Once you have been labeled as a company who is guilty of these violations, you are no longer considered a viable solution to very complex challenges.

5. *How do private security firms vet their employees?*

Blackwater has a rigorous screening process both for U. S. independent contractors and for third country and local nation nationals.

All U. S. citizens who wish to apply to Blackwater first go through a self-selecting application process online. Once they have completed the online application, they then send a resume and participate in a phone screening so that our professional recruiters and detailers can make a determination of fit. If an applicant's resume contains the skills required for a specific project, we then conduct a reference check, a document check (DD-214s/retirement documents, etc.) and a credit and NCIC criminal background check. If the applicant has no "hits" then he or she may then be asked to come to Blackwater so that our professional trainers can further evaluate the applicant's skills. If our trainers determine that the applicant has the basic skills necessary, then the applicant is asked to interview with our recruiters and program managers. If a particular program requires a security clearance, the applicant completes an SF-86 National Security Questionnaire and the government proceeds with a security clearance background check. If the applicant obtains a security clearance, he then may undergo a psychological testing regimen to evaluate further his fitness for work in our industry. If all of these requirements are met, the applicant may then join a training class, and even then, he is subject to peer and instructor reviews. The vetting process continues while an independent contractor is performing his duties. If he is determined to be a bad fit by his peers or leadership team, he is removed from that contract.

The process for third country nationals and local nationals is much the same. In the countries where we recruit honorable, qualified professionals, we have local companies assisting us in the vetting process. We collect all of the same information and take a digital photograph of each TCN/LN applicant. We conduct local records checks and if necessary, submit certain TCNs/LNs for "public trust" clearances. TCNs and LNs are required to meet the same training requirements and are held to the same performance standards as all of our professionals.

6. *What type of training do private security firms provide their employees?*

The majority of training provided to private security professionals is contractually mandated. In many cases, the contract comes with a curriculum that must be taught and is generally supervised by an authorized representative of the contracting entity. At Blackwater, we go far beyond what is required by any contract. We spend significant time on leadership, ethics, and core values training. We provide instruction on the individual and collective responsibilities under international humanitarian law, and we explain the company's responsibilities to our security professionals and our clients. This training, of course, is in addition to the hundreds of hours of job-related training our professionals receive in firearms training and safe handling, security tactics, tactical driving, personal defense, rules of engagement and the continuum of force, regional and cultural awareness, local law and customs, and a plethora of other classes. All of this training is to ensure that each of our professionals is prepared to do his job in a safe, legal, professional manner.

Mr. SHAYS. Thank you very much, Mr. Taylor.
General Rosenkranz, thank you, sir.

STATEMENT OF MAJOR GENERAL ROBERT ROSENKRANZ

General ROSENKRANZ. Mr. Chairman, distinguished members of the committee, my name is Bob Rosenkranz.

I am a vice president of DynCorp International, and the president of DynCorp International's Technical Services Division. In that capacity, I am responsible for managing the company's law enforcement services, counternarcotics support, contingency and logistics support, facility operations, infrastructure development, and security services, including related DynCorp International operations in Iraq and Afghanistan. In addition to my experience with the private sector, I served with the U.S. Army for 34 years, and I retired at the rank of major general.

DynCorp International is pleased to provide this committee with respect to standards—cooperation and coordination of information with respect to standards, cooperation and coordination of contractors working with the U.S. Government in battlefield environments.

Before I respond to the specific issues that the committee addressed, permit me to clarify the role DynCorp International plays in Iraq and Afghanistan, because I think it is important to this discussion.

Providing security services is one of our areas of expertise. Indeed, we have extensive international security experience. We believe we are among the best of the companies who provide such services anywhere in the world. However, DynCorp International while providing comprehensive security services in battlefield environments is also involved in many other government services. In Iraq and Afghanistan, we serve as peacekeepers and provide advisers. We train and deploy civilian police forces after the cessation of conflict. We secure State Department personnel and assets. We provide logistics and give industry support, and we assist in recovery and rebuilding efforts. In Afghanistan, we provide services to eradicate illicit narcotic crops; we are engaged in the removal and destruction of land mines and like weapons.

We have a long history of supporting the U.S. Government in battlefield environments. We supported every major U.S. military campaign since Korea. We support State Department initiatives, produce stabilization and the rule of law in post-conflict societies.

Ensuring basic security in society is the fundamental element in establishing an environment where conflict is minimized and trust and confidence are restored. Providing security in high-threat environments is a critically important activity in support of the successful completion of the missions of the State Department, Defense Department and U.S. Government. And with that understanding, I will briefly address the issues raised in the letter of invitation.

Roles and responsibilities of DynCorp International and security work are largely mandated by specific contract requirements. Generally, those responsibilities are dictated by the individual customer with whom we are doing business. In all cases, the security we provide is fundamentally protective or defensive in nature.

The international legal controls that govern private security services are varied and fact-dependent. DynCorp International engages its corporate legal resources and human resource managers to clearly identify applicable regulations and maintains compliance with these requirements throughout the life of the contract. U.S. regulations and statutes are generally included as contract clause requirements but may also be promulgated by U.S. military commanders and the designated chief of mission in the area of operations. Due to the nature of the security business, these are generally related to the use of force and standards of conduct.

In addition to U.S. and international regulations and statutes, DynCorp International adheres to strict performance standards and imposes established professional standards of conduct which govern employees in all assignments.

As a result of DynCorp International's and other security related services since 1994, we have a mature vetting procedure for evaluating and selecting candidates for the provision of these security services. Our process includes extensive investigations, medical screening, psychological assessments and a variety of other screenings described in detail in our formal submission. As with our vetting procedures, we have the benefit of 12 years of active experience developing and refining our training procedures for security assignments. Programs of instruction and course curricula are designed and developed to apply to the specific field assignment, taking into consideration the prevailing security environment.

Our experience with the U.S. military, the Department of State and USAID organizations has been very productive. Almost without exception, coordination with these agencies has been very productive.

Despite the struggles we all face with respect to startup activities, we have developed effective working relationships with government counterparts that produce favorable results and a truly collaborative work environment.

In conclusion, providing security services in any environment presents a degree of risk to the individual employee and his employer. These risks increase dramatically in battlefield areas like Iraq and Afghanistan. As indicated in our submission, DynCorp International has lost over two dozen employees to hostile activity in the fight for freedom in Iraq and Afghanistan. Each death on the battlefield represents a loss to family, friends and society.

Private contractors provide the Federal Government and other agencies and organizations a critically important service that may otherwise not be available in support of reconstruction, stability and the establishment of the rule of law. We are confident that continued partnership between the U.S. Government and private companies will further refine the expertise and infrastructure that permit us to effectively operate as a team in this environment. As these relationships evolve and mature, greater success and enhanced capacity to respond to critical requirements on current and future battlefields will be the result.

Thank you, Mr. Chairman. I appreciate each member of the committee for providing us the opportunity to share our experiences and to participate in this important process.

[The prepared statement of General Rosenkranz follows:]

Statement of

Robert B. Rosenkranz

Vice President

DynCorp International LLC

before the

**Subcommittee on National Security, Emerging
Threats and International Relations**

Committee on Government Reform

U.S. House of Representatives

June 13, 2006

House Subcommittee on National Security
Hearing on, "Private Security Firms:
Standards, Cooperation and Coordination,"
2:00 pm, June 13th 2006

Mr. Chairman, Distinguished Members of the Committee:

My name is Robert Rosenkranz and I am a Vice President of DynCorp International LLC, and the president of DynCorp International's International Technical Services Division. In that capacity, I am responsible for managing the Company's law enforcement services, counter-narcotics support, contingency and logistics support services, facility operations, infrastructure development and security services, including related DynCorp International operations in Iraq and Afghanistan. In addition to my experience with the private sector, I served with the U.S. Army for 34 years and retired at the rank of Major General.

DynCorp International is pleased to provide information to this Committee with respect to standards, cooperation and coordination of contractors working with the U.S. Government in battlefield environments.

Before I respond to the specific issues the Committee requested that DynCorp International address, permit me to clarify the role DynCorp International plays in Iraq and Afghanistan, because it is important to this discussion.

Providing security services is one of our areas of expertise. Indeed, we have extensive international security experience, and we believe we are among the best of the companies who provide such services anywhere in the world. However, DynCorp International, while providing comprehensive security services in battlefield environments, is also involved in many other government services.

In Iraq and Afghanistan we serve as peacekeepers, we provide advisors, we train and deploy civilian police forces after the cessation of conflict, we secure State Department personnel and assets, we provide logistics and contingency support and we assist in recovery and rebuilding efforts. In Afghanistan, we provide services to eradicate illicit narcotics crops, and we are engaged in the removal and destruction of landmines and light weapons.

We have a long history of supporting the U.S. Government in battlefield environments. We have supported every major U.S. Military campaign since Korea. We support State Department initiatives to produce stabilization and the rule of law in post-conflict societies. Ensuring basic security in society is the fundamental element in establishing an environment where conflict is minimized and trust and confidence are restored. Providing security in high threat environments is a critically important activity in support of the successful completion of the missions of the State Department, the Defense Department and the U.S. Government.

With this understanding, I will briefly address the issues raised in the letter of invitation.

- Roles and responsibilities of DynCorp International in security work are largely mandated by specific contract requirements. Generally, those responsibilities are dictated by the individual customer with whom we are doing business. In all cases, the security we provide is fundamentally protective or defensive in nature.
- The international legal controls that govern private security services are varied and fact dependent. DynCorp International engages its corporate legal resources and human resource managers to clearly identify applicable regulations, and maintains compliance with these requirements throughout the life of the contract.
- U.S. regulations and statutes are generally included as contract clause requirements, but may also be promulgated by U.S. Military Commanders and the designated Chief of Mission in the area of operation. Due to the nature of the security business, these are generally related to use of force issues and standards of conduct.

- In addition to U.S. and International regulations and statutes, DynCorp International adheres to strict performance standards to qualify security personnel, and imposes established Professional Standards of Conduct which govern employees in all assignments.
- As a result of DynCorp International's involvement in law enforcement and other security related services since 1994, we have a mature vetting procedure for evaluating and selecting candidates for the provision of security services. Our process includes extensive investigations, medical screening, psychological assessments, and a variety of other screens described in detail in our formal submission.
- As with our vetting procedures, we have the benefit of 12 years of active experience developing and refining our training procedures for security assignments. Programs of instruction and course curricula are designed and developed to apply to the specific field assignment, taking into consideration the prevailing security/threat environment.
- Our experience with the U.S. Military, Department of State, and USAID organizations has been very productive. Almost without exception, coordination has been open and effective. Despite the struggles we all face with respect to start-up activities, we have developed effective working relationships with government counterparts that produce favorable results and a truly collaborative work environment.

Providing security services in any environment presents a degree of risk to the individual employee and employer. These risks increase dramatically in battlefield areas like Iraq and Afghanistan. As indicated in our submission, DynCorp International has lost over two-dozen employees to hostile activity in the fight for freedom in Iraq and Afghanistan. Each death on the battlefield represents a loss to family, friends, and society. Private contractors provide the Federal Government, and other agencies and organizations, a critically important service that may otherwise not be available in support of reconstruction, stability, and the establishment of the rule of law. We are confident that continued partnership between the U.S. Government and private companies will further

refine the expertise and infrastructure that permit us to effectively operate as a team in this environment. As these relationships evolve and mature, greater success and enhanced capacity to respond to critical requirements on current and future battlefields will be the result.

Thank you, Mr. Chairman, and my appreciation to each member of the committee, for providing us the opportunity to share our experiences and participate in this important process.

Written Testimony of
DynCorp International LLC
in Response to Issues Raised by the
Subcommittee on National Security, Emerging
Threats and International Relations
Committee on Government Reform
U.S. House of Representatives
June 13, 2006

WHAT ARE THE ROLES AND MISSIONS OF PRIVATE SECURITY FIRMS IN THE BATTLEFIELD?***1. Contracts in Support of the Military***

We have a long history of supporting the U.S. Government in battlefield environments. In 1951, DynCorp International's predecessor, then known as Land-Air, Inc., was awarded the first Contract Field Team (CFT) contract by the U. S. Air Force. The CFT concept was to provide a rapid response, mobile workforce of highly skilled aircraft technicians to provide maintenance support to the U. S. Air Force at remote locations. We have held the Contract Field Teams contract continuously since then and currently maintain rotary and fixed-wing aircraft for all branches of the U.S. Armed Forces throughout the world.

In addition to the CFT contract, we currently have two significant worldwide contracts in support of the military under which our personnel have been periodically stationed in Iraq and Afghanistan, the Army C-12 Program and the Air Force War Reserve Material (WRM) contract. The WRM program has as part of its mission a comprehensive approach to asset protection that includes active and passive methods of prevention, detection, and deterrence.

We have supported every major U.S. military campaign since Korea. We provided aviation support to the Army in Vietnam from 1964 – 1971 and aviation maintenance services and logistics support to the Army and U. S. Marines during Desert Shield/Desert Storm from August 1990 to December 1991.

In March 2003, we supported combat operations in Iraq under the WRM contract by establishing a reception center for war reserve materiel in the Middle East to support the onward movement of military forces. Maintenance of U.S. Army aircraft was provided by the CFT and C-12 contracts as the Army conducted deployment and combat operations.

We have operated in Iraq since Coalition Forces declared an official end to major combat, providing services that include program management, logistics, communications, and security. While in country, our personnel supporting these three programs live with their military customers and are afforded security by the military.

2. Contracts in Support of the State Department

DynCorp International has extensive experience in planning, mobilizing, and starting up programs in austere and high-threat environments in support of the Department of State. Since 1994, our management team has supported the Department of State's foreign policy initiatives by deploying civilian police forces to post-conflict societies. Our law enforcement programs began in Haiti and expanded to Bosnia-Herzegovina, Croatia, Kosovo, East Timor, Macedonia, Serbia, Liberia, Afghanistan, and Iraq.

The principal purpose of these programs and our mission has been to produce stabilization and the rule of law in post-conflict societies where ensuring basic security in society is the fundamental element in establishing an environment where conflict is minimized and trust and confidence are restored.

In May 2003 under the Department of State Advisory Support Mission (DASM) contract, DynCorp International deployed, supported, and equipped U.S. law enforcement personnel to provide police presence, enhance public security, and assist in re-establishing the Iraq National Police by providing necessary training to local national police in Iraq. On 15 July 2004, functions being performed in Iraq under the DSAM contract were shifted to a newly awarded DoS contract, CIVPOL and our current efforts are under that contract.

In early 2003, we began supporting combat operations in Iraq, and we have been operating there since the cessation of major combat was declared. We provide support services, including security, primarily pursuant to State Department contracts. We also secure our internal operations in Iraq and Afghanistan.

Our security services cover a broad spectrum (deterrence, detection, denial, and defeat) and can best be described as passive (protective and defensive) measures in an overt program. Our primary objective is to protect the asset, not destroy the threat. With the continuing escalation of violence against our personnel, DynCorp International is continuing to improve the security measures in and around our areas of responsibilities and take every measure to ensure the personal safety of each and every person we are tasked to support.

WHAT INTERNATIONAL LEGAL CONTROLS ARE IN PLACE FOR PRIVATE SECURITY FIRMS?

Prior to deployment to a new field of operations, DI will research the laws of the country and the treaties between the host nation and the U.S. Government to ascertain our legal obligations and the applicable laws and regulations that will govern our activities. We register to do business and research labor laws to ensure compliance with those requirements when and where applicable. Adherence to U.S. and international laws and treaties is fact dependent. Each contract with the U.S. Government is carefully reviewed and analyzed to clearly identify the laws, regulations, and statutes that will apply to our business activities in order to design our operations in accordance and compliance with all applicable legal requirements.

In Iraq, we followed the CPA Rules and the Rules of Engagement (ROE), later changed to Rules on Use of Force (RUF) promulgated by the U.S. military and/or the Chief of Mission in Baghdad as applicable. We maintained a defensive posture in all areas of operations. In Afghanistan, we apply the same level of adherence to local laws, Chief of Mission policies, and ISAF regulations where applicable.

Other international conventions that may be applicable to contractors in Iraq and Afghanistan are provided on the attached list.

WHAT UNITED STATES STATUTES, REGULATIONS OR POLICY DIRECTIVES APPLY TO PRIVATE SECURITY FIRMS?

We have attached a list of a number of statutes, regulations, and policy directives we identified that may apply to DynCorp International and other U.S. contractors working in a battlefield environment. The applicability of the items on the list is dependent upon the circumstances at the time.

Over the course of our performance in Iraq, the security situation changed in terms of terrorist tactics and the targets they selected. Initially, the terrorists primarily targeted U.S. military and other Coalition forces using IED, RPG, Mortar, and SAF attacks; attacks were most often not sustained or organized/coordinated. It was easier during that period to move about the theater in civilian vehicles rather than in military convoys. Later, a transition occurred and the terrorists began targeting softer targets including employees of contractors, their vehicles, and contractor facilities (quarters and work place).

DynCorp International prepared a security analysis and presented the State Department with a plan to secure personnel and facilities. We recommended that weapons be procured and the State Department approved the purchase of Bushmaster M-4 automatic rifles for personal safety of all personnel. Additional security personnel and explosive-detecting K-9 dog teams were also approved for the protection of personnel on the program.

We followed the U.S. export control laws and regulations as we were required to do. Export Licenses for the M-4 rifles proved to be a slow and complicated process. As a result, we had to U.S. non-U.S. sources for initial requirements on occasion.

As with international regulations, DynCorp International will conduct research of U.S. laws, regulations, and treaties that are applicable to the specific operating environment, and/or specified in Government contracts. Depending on the nature of the contract relationship, our personnel may be governed by Department of Defense regulations applicable to non-military personnel, local, or international governmental authority as was the case with ORHA and the CPA in Iraq, Chief of Mission policy, or other U.S., international, and local rules and regulations. At present, we adhere to Chief of Mission policies in Iraq and Afghanistan, existing local laws, and applicable international regulations.

WHAT TYPES OF ESTABLISHED STANDARDS ARE IN PLACE FOR PRIVATE SECURITY FIRMS?

DynCorp International has its own set of established standards, a core set of values that we expect our employees to follow. We require our employees to act as representatives of the U.S. when working outside of the country. We restrict where employees can go during their off hours to avoid the appearance of inappropriate activities and we require our employees to report illegal activities and inappropriate behavior. Our written policy states: "It is the responsibility of all employees to be vigilant regarding corporate operations, and to report any circumstances which are potential violations of the standards described in this booklet immediately."

If the employee cannot report a problem through supervisory channels, the employee is encouraged to call or email our Hotline. The Hotline is accessible 24 hours a day, 7 days a week. In addition, annually, we send every employee a questionnaire that requires them to report illegal activity and violations of the Company's Code of Conduct and Standards of Conduct.

HOW DO PRIVATE SECURITY FIRMS VET THEIR EMPLOYEES?

All applicants are considered on the basis of individual merit and afforded an equal opportunity for employment with DynCorp International (DI). We review each application for completeness, job history, technical training and skills, certifications and licenses, past experience, and medical history. During this initial review, we inform each candidate of the screening and vetting processes, which vary according to contract requirements and may include a pre-employment drug test, medical and dental exams, psychological assessment, criminal records and credit check, and background investigation.

DynCorp International (DI) utilizes experienced screeners to review all incoming résumés and determine if the applicant's work experience meets the minimum qualifications for the position. Each applicant whose résumé passes this initial screen receives an Abbreviated Hiring Packet (AHP). Once the applicant receives the AHP, the applicant must sign and return the consent forms for the credit/criminal history check and employer interviews. Depending on the position, the candidate may be required to take an online psyche test which is normally required for personnel that will be required to be armed while performing their duties. No background investigation will begin until the preliminary consent forms are returned to the recruiting unit.

Background Investigation

The background investigation process begins with the submission of the criminal records and credit check request. This review of criminal and financial records using nationwide databases ascertains the candidate's financial stability and criminal history. This check reflects the current status or disposition of any misdemeanor or felony case associated with the individual in question within the last seven years. A social security number search produces a report of aliases and documented jurisdictions associated with the applicant. A credit history report includes an electronic verification of the applicant's current credit file information. The report indicates the number of trade

account ratings and public record information, including civil court judgments or liens and collection information. When the report is returned to DynCorp International, a trained recruiter reviews the information and determines if the applicant's criminal and credit history is acceptable based on established minimum criteria, if there are any pending issues that can be resolved, or if the report precludes further consideration.

If there are pending issues that can be resolved, the candidate is notified and advised of the procedures to seek resolution. The following criteria will cause a candidate to be disqualified:

- ◆ Criminal convictions for any felony by jury or a judge. It also includes a plea of guilty or no contest.
- ◆ Misdemeanor convictions which demonstrate a pattern of alcohol or drug abuse, crimes of moral turpitude, or sexual harassment. Other misdemeanors will be judged on a case-by-case basis.
- ◆ A bankruptcy that has not been discharged by a court within five years of its filing.
- ◆ Indebtedness that is not being paid off (classified on their report as bad debts).
- ◆ Tax liens and court judgments that have not been paid or satisfied.

Negative indicators, such as excessive debt, open litigation in civil or criminal court, or other reports of past criminal history are all indicators that may contribute to a decision to disqualify the candidate. Information about the candidate's integrity, honesty, resourcefulness, attitude, willingness to accept added responsibilities, and general demeanor provide DynCorp International with an in-depth view of the candidate's suitability for the demanding and unique environment of international policing missions.

For those programs requiring a detailed background check, DynCorp International actively recruits candidates that would best meet the solicitation criteria. After the initial screening, applicants are divided into three general categories: new applicants, rehires, and foreign nationals. A corresponding investigation is then conducted. DynCorp International investigators perform telephone interviews with the references indicated in

the applicant's new hire documentation and collect information from current and former employers. The particular investigation requirements for each category are described below:

New Applicants—Interviews are conducted and documentation is provided for each new applicant as follows:

- ◆ Initial applicant interview.
- ◆ Interviews with family and/or close relatives (such as spouse, significant other, parents, siblings).
- ◆ Interviews with personal references.
- ◆ Supervisor interviews.
- ◆ Co-worker interviews.
- ◆ For law enforcement candidates, Internal Affairs Reports from each law enforcement agency worked within the past ten years, weapons qualification records (most recent or within one year prior to the application date), performance evaluations, and documentation from the Police Officer Standards and Training (POST) office, or the agency that certifies the applicant's training records, are also included.

Rehires—Investigators will conduct the following checks for the time period from the end of the previous contract to the present.

- ◆ Re-hire interview.
- ◆ References from family, friends and close relatives.
- ◆ If law enforcement, obtain Internal Affairs Reports and supervisor interview.
- ◆ Exit interview eligibility recommendation from the DynCorp International Site Manager.

Foreign Nationals—The DynCorp International Recruiting Manager solicits résumés from third party recruiting agencies worldwide.

- ◆ Third party recruiting agencies provide résumés of interested candidates which are screened for minimum requirements.

- ◆ Potential candidates undergo an MK Data Denial check to identify any persons that may have participated in human rights or international law violations, or engaged in acts of terrorism.
- ◆ A pass/fail online Mission Compatibility Assessment is given to each applicant.
- ◆ All remaining candidates are given a New Hire Packet and must have a medical exam.
- ◆ Each candidate must provide a criminal history report from their local law enforcement agency.

Security Clearances

For those positions requiring a security clearance, DynCorp International will assist potential candidates with obtaining the required clearance. The candidate must provide fingerprinting cards, a current passport, a copy of DD-214 if prior military, and an IRR letter if current reservist. Once the passport is verified as valid and a Security Clearance Request Form is filled out and signed by the Recruiting Manager, the DynCorp International Security Department begins clearance processing.

Civilian Police (CIVPOL) Candidates

Upon completion of the initial screening and background investigation process, all CIVPOL candidates undergo a 10-day Police Assessment, Selection and Training (PAST) which includes orientation, evaluation, and rigorous fitness and agility testing at the Crucible Learning Center in Fredericksburg, Virginia. The 10-day PAST class completes the CIVPOL candidate's application process and certifies the candidate as capable of deploying and performing on an International Police Mission.

PAST Orientation/Evaluation consists of processing personnel for deployment and includes in-country briefings, medical evaluations, oral psychological assessments, management interviews, physical fitness and agility testing, firearms qualification, and other required training on the following topics:

- ◆ Professional and Ethical Standards of Conduct.
- ◆ Human Resource Policies.
- ◆ CIVPOL Program organization, leadership authority and relationships.
- ◆ Policies and procedures relative to the CIVPOL Program; Foreign National Police, Justice, and Prisons Programs; and Coalition Forces.
- ◆ Disciplinary Procedures.

PAST Testing is validated by a thorough job task analysis that is appropriate to mission requirements and all applicable Department of State standards. Testing includes the specific evaluation of a candidate's:

- ◆ Endurance or aerobic capacity
- ◆ Strength and power
- ◆ Flexibility
- ◆ Agility and reaction time
- ◆ Overall health (blood pressure and lung function)
- ◆ Psychological stability
- ◆ Firearms proficiency
- ◆ Capacity to work in a team environment

All personnel are qualified, tested, and trained on the various weapons applicable to a CIVPOL mission. This includes qualification on the Berretta 9-mm pistol, M-4, and a familiarization course involving the AK-47.

All employment contracts are contingent on the employee's proven ability to meet the established physical and mental health requirements to perform his or her obligations in an overseas mission. Candidates recruited by DynCorp International for service in Iraq must proceed to the CONUS Replacement Center (CRC) at Fort Bliss, Texas, and meet Department of Defense requirements in order to be deployable. DynCorp International's experience has resulted in a 99 percent pass rate for all candidates trained at the CRC.

The leadership team at DynCorp International is very sensitive to the mission goals of the U.S. Government in its effort to export democracy to emerging nations. The recruiting, screening, vetting, hiring, and deployment of the most qualified candidates for international missions is our highest priority. We view our candidates as ambassadors of a democratic society and understand their importance as representatives of DynCorp International and as citizens of the United States of America.

WHAT TYPE OF TRAINING DO PRIVATE SECURITY FIRMS PROVIDE THEIR EMPLOYEES?

DynCorp International's management team has partnered with the U.S. Government providing law enforcement and security personnel for overseas assignments since 1994. As a result of conducting operations in a variety of high-threat environments, DynCorp International has developed comprehensive programs of instruction for law enforcement and security related training adapted to the particular area of operation and nature of assignment.

Our law enforcement training program incorporates industry-standard training methodologies and course curriculum, with an adaptation to the specific overseas mission environment and mandate. DynCorp International's program of instruction includes course curriculum certified by the Department of State's International Narcotics and Law Enforcement Bureau. Lesson Plans have also been accepted as certified law enforcement training curriculum by multiple Peace Officer Standards and Training (POST) boards across the country.

The basic premise for all DynCorp International security training is to establish, ensure, or enhance protection for personnel and property. Our fundamental philosophy in "battlefield" or "high-threat" training is to provide employees with the skills, ability, and tools to:

- ◆ Recognize potential threats
- ◆ Take proactive action to avoid or eliminate danger

- ◆ Initiate emergency response procedures to protect life and remove ourselves and others from immediate threat of harm/attack

The training we provide for law enforcement and security employees is administered in pre-deployment and mobilization phases, and continues as recurring in-service or ongoing training in the field of operations. Our training incorporates instruction in a wide variety of subjects including, but not limited to, the following:

Security Related Training Programs

Course Subject	Training Purpose	Instructed By
Program Objectives	Information briefings are conducted to provide a clear understanding of the company's mission goals and objectives within the context of the customer's goals and objectives and contract requirements; also includes instruction on the specific mission mandate/authority, defined limits of authority, basic knowledge of local laws, and jurisdictional awareness	Customer Representatives; UN Staff; DynCorp International Managers
Cultural Awareness	Tailored to each mission area providing a background understanding of cultural considerations as they relate to and impact the discharge of individual duties, as well as interaction with the local population	Customer Representatives; University Professors
Political and Historical Perspectives	Intended to familiarize each employee with the working environment in the mission area and equip them with a basic understanding of societal issues as they relate to operational requirements	Customer Representatives; University Professors
Living in the Region	Briefings provided by former/current mission employees who discuss living and working conditions in the field environment, describing as closely as possible the actual details of daily life in the mission	Current/Former Employees
Security Briefings	Intelligence information and analysis are used to familiarize employees with the particular security environment concerns	Customer Representatives; Certified Security Training Professionals
Threat Recognition and Operational Security Awareness	Instruction in recognizing potential threats, and the importance of operational security as it relates to individual assignments, mission environment, and travel overseas	Certified Security Training Instructors
Defensive Tactics	Instruction in personal defense measures, including the use of physical force, arrest control techniques, impact weapons, chemical agents, and lethal weapons	Certified Training Instructors

Security Tactics	Instruction in the application of tactical techniques for the purpose of preventing or deterring attacks in the conduct of daily operations, as well as responding to emergency requirements	Certified Training Instructors
Use of Force Continuum and Rules of Engagement	Instruction in the use and application of force or chemical agents as preventive and/or reactive methods to avoid, mitigate and eliminate threats; Rules of Engagement (ROE) proffered by the U.S. Chief of Mission, or primary U.S. Government Official in the mission area; employees are briefed on the specifics of the ROE, and receive this policy in hard copy for reference	Customer Representative; Certified Training Instructors
Crowd Control	Training for responding to situations of large scale civil disturbance, crowd management, and mob psychology	Certified Training Instructors
Medical	Basic instruction in first aid, first responder, chemical and biological attack, and medical intervention related to security operations	Certified Training Instructors
Vehicle Dynamics	Driver's training in the use and operation of vehicles specific to individual assignments and application; this instruction may include high-speed and vehicle security operations	Certified Training Instructors
Motorcade Operations	Vehicle training in how to conduct motorcade, convoy, and escort operations	Certified Training Instructors
Firearms	Familiarization, maintenance, safety, security, gun handling and marksmanship skills; training is provided for a variety of pistols, rifles, and shotguns; includes target discrimination and tactical shooting	Certified Training Instructors
Physical Fitness/Wellness	Instruction regarding healthy lifestyles and fitness considerations adapted to the mission environment	Fitness/Wellness Counselors; Certified Training Instructors
Conflict Resolution	Instruction providing employees with alternative methods for resolving conflicts, dealing with non-responsive or unwilling interaction to uncooperative or abusive tendencies	U.S. Institute Of Peace
Terrorist Operations	Training regarding terrorist operations, including identification of threats, preventive measures, and mitigation strategies; includes IED, VBIED threats and countermeasures	Certified Training Instructors
Surveillance/Counter-Surveillance	Techniques and operational considerations related to surveillance and counter surveillance as intelligence gathering and proactive measures to prevent/reduce potential targeting by hostile elements/insurgents	Certified Training Instructors

Training is designed to reflect the specific field assignment, taking into consideration the security environment where the individual(s) will be deployed. Preliminary intelligence information about the mission area is considered when developing course curriculum. Intelligence is collected from open source data, U.S. Department of State security recommendations, U.S. Department of Defense security bulletins/postings, and advance reconnaissance threat assessments by security professionals in the actual area of operation. Curriculum is developed by qualified/certified trainers who design programs of instruction based on industry accepted/mandated criteria, and administer instruction using certified training methods. Each training course includes individual evaluations to ensure that learning to minimum acceptable standards is accomplished. Evaluations are conducted by observation, written assessments, and practical application. Training is tailored and adapted both to the specific assignment and threat environment.

Organizational Structure of Training Program

The balance of all DynCorp International law enforcement and security-related training is conducted by Crucible, our subcontractor. Organizationally, DynCorp International employs a Training Manager to act as the liaison between DynCorp International, Crucible, and DynCorp International's customers for all training requirements. DynCorp International also employs a staff to provide all administrative support related to the movement, enrollment, and logistics support for all training candidates. A qualified Director of Training is assigned primary responsibility for the administration of all training programs, which includes but is not limited to, the following:

- ◆ Planning, scheduling, and conducting training
- ◆ Supervising instructors and instruction
- ◆ Performing ongoing critical analysis of the quality of training
- ◆ Establishing performance metrics based on industry standards
- ◆ Conducting performance evaluations of students and instructors
- ◆ Functioning as a liaison with DynCorp International and its customer(s)

- ◆ Providing status reports on the conduct of training
- ◆ Ensuring customer satisfaction

The Director of Training ensures that sufficient resources are available to accomplish each training session. He will also ensure that all training performance standards are satisfied. The Director of Training works side by side with the DynCorp International Training Manager. The Director of Training supervises a section of subject matter expert (SME) instructors dedicated to the specific training session. A pool of Adjunct Instructors, who have been vetted and approved, provide an augmentation resource for training support as required.

For each training course, a program of instruction is designed and submitted for approval to the individual customer's training representative(s). For all law enforcement training, the program of instruction has been approved by the training coordinator for the Department of State's International Law Enforcement and Narcotics Bureau. All personal protective, facility security, and vehicle training has been approved by training directors from the Department of State's Diplomatic Security Training Center.

Training Analysis

Generally, training requirements are specifically identified in customer solicitation documents. When a solicitation is received, it is analyzed by DynCorp International's Training Manager and the Director of Training for the type and number of personnel required to administer the course. A training plan and schedule are developed and a program of instruction is defined. Once a plan has been adopted, any modification to support requirements that may exist or adjustments that must be made to accommodate any variation are identified and plans made to satisfy the changes.

Training Plans

Law enforcement and security-related training is provided by labor category specification, or position assignment. As part of the training curriculum, updated informational briefings are delivered and realistic scenarios with stress inducing drills are conducted for tactical training that produce combat-like distraction and confusion. All law enforcement candidates receive training in the following general subjects:

Law Enforcement Course—This course provides 80 hours of training in the following areas:

- ◆ Program Objectives
- ◆ Cultural Awareness
- ◆ Political and Historical Perspectives
- ◆ Living in the Region
- ◆ Security Briefings
- ◆ Threat Recognition and Operational Security
- ◆ Defensive Tactics
- ◆ Security Tactics
- ◆ Use of Force Continuum and Rules of Engagement
- ◆ Crowd Control
- ◆ Medical
- ◆ Vehicle Dynamics
- ◆ Motorcade Operations
- ◆ Firearms
- ◆ Physical Fitness/Wellness
- ◆ Conflict Resolution

In addition to the foregoing, candidates receive 20 hours of administrative processing prior to the commencement of training. Evaluations are conducted during that time to determine a candidate's suitability for deployment and compatibility with the destination

mission environment. A job function test is conducted in connection with medical screening to determine individual health and compatibility with the rigors of mission responsibilities, as well as the capability of existing in-country medical support to maintain treatment for individual medical conditions. This test requires candidates to perform job related skills that test their physical abilities in the performance of job related duties.

All candidates, whether assigned to a law enforcement mission or security assignment, receive a psychological profile, providing an assessment of mental health and stability as they relate to an assignment in a high-threat environment. Oral board evaluations are also conducted by DynCorp International Managers, customer representatives, and law enforcement or security advisors.

Personal Protective Security Course—This course is certified by the U.S. Department of State's Diplomatic Security Training Center (DSTC) as a High-Threat Protection course, and provides 164 hours of intense security training. The course is designed to provide instruction in a progressive manner, using new skills acquired each day to incrementally build competence in subsequent aspects of protective service operations on successive training days. Students are taught the following subjects:

- ◆ Introduction to the Protective Details
- ◆ Organization of a Detail
- ◆ Protective Service (PRS) Formations
- ◆ Arrivals & Departures (motorcade/foot movements)
- ◆ Intel Brief
- ◆ Attacks on Principals
 - Walking formations
 - Fence lines
 - Arrivals & Departures
- ◆ Running the Fenders

- ◆ Emergency Evacuation
- ◆ IED's/Vehicle Search
- ◆ Terrorist Operations
- ◆ Advances
 - Contingency Planning
 - Site Surveys
- ◆ Vehicle Dynamics I (basic operation)
- ◆ Vehicle Dynamics II (high speed operations)
- ◆ Vehicle Dynamics III (high speed evasion)
- ◆ Technical Driving
- ◆ Backing
 - Fundamental Skills
 - Incapacitated Driver
- ◆ Right Front Seat Driving
 - Incapacitated Driver
- ◆ Night Driving
- ◆ Precision Immobilization Technique (PIT)
- ◆ Barricade Breaching
- ◆ Street Line
- ◆ Motorcade Operations
- ◆ Motorcade Immediate Action Drills
- ◆ Fence Line Crowd Movement
- ◆ Non-lethal PRS Situations
- ◆ Foot Movement
- ◆ Defensive Tactics—Principles & Mindset
- ◆ Pressure Points & Striking Areas
- ◆ Weapons Disarming Techniques
 - Hand gun
 - Long guns
- ◆ Non-lethal PRS Situations
- ◆ Front & Rear Takedowns

- ◆ Handgun Retention
- ◆ Long Gun Retention
- ◆ ASP Familiarization, Carry & Draws
- ◆ Baton Retention
- ◆ Baton Strikes
- ◆ Introduction to Oleoresinacpsecum (OC), Delivery Systems & Effects
- ◆ OC Procedures
- ◆ OC Decontamination

Motorcade Attack Scenarios

- ◆ Vehicle
 - IED
 - Road Block
 - Ambush
- ◆ Pedestrian
 - Pre-positioned
 - Random
 - Opportunistic

Firearms (Pistol, Rifle, Medium/Long Machine Guns)

- ◆ Safety Brief
- ◆ Operation/Disassembly/Assembly M240B/M249
- ◆ Zero Weapons/Familiarization Fire/Practice Qualification
- ◆ Medium Machine Gun/Light Machine Gun Qualification Course M240B/M249
- ◆ Post-Qualification Drills (Combat Course)
- ◆ Deadly Force/Safety Brief
- ◆ M-4 Loading, Unloading & Failure/Stoppage
- ◆ M-4 Zeroing & Drills
- ◆ M-4 Firing Drills

- ◆ Qualification Course
- ◆ M-4 'Post-Qual' Firing Drills
- ◆ G-19 Loading, Unloading & Failure/Stoppage
- ◆ G-19 Firing Drills (Belt Holster)
- ◆ Weapons Maintenance
- ◆ G-19 Combat Reload & Immediate Action
- ◆ G-19 Firing Drills (Belt Holster)
- ◆ Qualification Course (Belt Holster)
- ◆ G-19 'Post-Qual' Firing Drills (Belt Holster)
- ◆ G-19 Firing Drills (Drop Holster)
- ◆ Qualification Course (Drop Holster)
- ◆ G-19 'Post-Qual' Firing Drills (Drop Holster)
- ◆ Shotgun Loading, Unloading & Stoppages
- ◆ Shotgun Firing Drills
- ◆ Qualification Course
- ◆ Weapons Maintenance
- ◆ Close Quarter Battle (CQB) Principles & Survival
- ◆ Tactical Procedures at Initial Entry Point
- ◆ Basic Procedures for Clearing & Securing a Room
- ◆ Tactical Procedures for Clearing Danger Areas
- ◆ 4 Man CQB
- ◆ Chem-Bio
- ◆ First Responder
- ◆ Attacks On Principal (AOP) Scenarios
 - Rural/Open area ambush
 - Disabled Vehicle
 - Residential (close quarter)
 - Public Event
 - Open House
- ◆ Land navigation and GPS usage
- ◆ FAV familiarization driving

- ◆ Shooting from within a moving vehicle
- ◆ M203 Grenade Launcher
- ◆ IED recognition and demonstration

For specific weapons training, students learn skills through an incremental instruction approach. First they learn nomenclature and pertinent information about the weapon system such as cyclic rate, weight, and length. Subsequently, they learn proper disassembly and assembly procedures for each weapon. Once the student has satisfactorily mastered assembly and disassembly skills based on established performance metrics, they are taught proper shooting form and how to “zero” the weapon. Training includes a variety of shooting drills to teach proper methods of traversing and manipulating elevation. A qualification course of fire is conducted after each student satisfactorily completes all pre-qualification drills. The course is designed to maximize student time manipulating the weapon so that all users of these specialized weapons will possess the necessary skills to perform adequately in stressful situations.

Training is also provided in specialized skill areas such as Dedicated Defensive Marksman, M203 Grenade Launchers, Explosive Detection Dog Teams, and Guard Force training.

For Guard Force candidates, a 120-hour local Guard Force training is designed to train Third Country and Local Nationals providing force protection at DynCorp International facilities to DSTC standards while conforming to Government policies and procedures. The course covers relevant topics such as roles and responsibilities of guard force members, deadly force policy, restraint techniques and defensive tactics, and the use of security equipment such as magnetometers. Training is administered so that new guards, as well as veterans, gain additional knowledge. Students learn prescribed manipulation and handling procedures to ensure safe weapons handling by guard force members.

WHAT DIFFICULTIES HAVE YOU, AS A PRIVATE SECURITY FIRM, ENCOUNTERED DEALING WITH THE U.S. MILITARY, DEPARTMENT OF STATE, AND/OR THE U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT IN THE BATTLEFIELD ENVIRONMENT?

Operationally, DynCorp International has encountered relatively few difficulties in coordinating its efforts with other U.S. Government agencies in the battlefield. DynCorp International has worked in cooperation with the U.S. Department of State, USAID, the U.S. military, and other military organizations such as NATO in numerous international peacekeeping missions. In the Balkans, NATO initially provided security forces and policing services throughout rural areas of Kosovo, while U.S. Police Officers provided municipal law enforcement services in all of the cities and townships of Kosovo as part of the UN Peacekeeping Mission. This was an unprecedented collaborative participation between the military and community-policing providers to establish security and stability necessary to implement the Rule of Law in Kosovo. Although still faced with significant challenges, indigenous forces have assumed responsibility for providing law enforcement services in their own communities. A similar model is now being applied to Iraqi communities emerging from a dictatorship struggling to embrace democratic style policing methods.

Iraq created an opportunity not previously encountered to work directly and simultaneously with both the U.S. Department of Defense and the U.S. Department of State in their leadership roles in reconstruction efforts in Iraq. As part of our contribution to those efforts, DynCorp International has deployed and supports more than 600 U.S. Police Officers/Mentors who are assigned training responsibility in reconstruction teams around the country. They are supported by the U.S. military within the military's organizational infrastructure in Iraq. These police officers are provided movement control and support in concert with the military and are afforded the requisite protections in the course of their assigned duties.

We have experienced few difficulties interfacing and coordinating with the U.S. military and other Government agencies in the context of providing security services. Any issues we may have faced have been minor in nature and can be linked to the natural

challenges associated with the initiation of a new mission or deployment, particularly in regions where activity is still in its relatively early stages of development.

The majority of challenges we have faced have largely been mitigated through pre-mission briefs, shared SOP's and regular, consistent communication. A Personal Security Detail's basic approach is to ensure security for its protectee(s) by avoiding danger, hostile elements, and attack at all costs, as opposed to "moving into and securing an area" where hostile activity may have been detected.

As a Private Contractor providing security services, we conduct business based on direction from our customer(s). As mentioned previously, there are naturally occurring challenges for all stakeholders in early deployment stages that contribute to the difficulty of conducting mission operations. However, without exception DynCorp International personnel have been able to work with Government representatives to resolve concerns and develop working relationships that are productive and professional. Generally, issues are resolved through training, regular communication, and a better understanding of the mission by customers and employees alike.

In general, USAID mission personnel have been averse to including security services in their working environments, usually because they felt it was counterproductive to their objectives, and hampered or hindered their effectiveness and efficiency. This approach led to differences of opinion on the proper security posture/measures defined by security professionals and applied to USAID operations. Increased violence and targeted attacks, including attacks against USAID mission personnel, produced recognition of the need for security services. That realization, coupled with pre-mission briefs and continual education of both USAID personnel and PSD teams alike, has also mitigated difficulties in working with and coordinating security services with USAID. Coordination and interface with other private contractors providing security services has been one of mutual benefit and understanding. Employees of differing organizations understand the working environment, which underscores the need for and highlights the benefits of cooperation and collaboration between private security personnel.

As the primary intelligence collection and analysis office in Iraq, DOD contractor Aegis Corporation oversees the Multinational Security Transition Command-Iraq (MNSTC-I) Regional Operations Centers (ROC) which disseminates intelligence information to all contractors and DOD personnel throughout Iraq. DynCorp International receives regular contact from the ROCs and combines information received from the MNSTC-I with its own collected intelligence to provide personnel with the latest intelligence information.

In addition to cooperative information exchanges with the ROC, DynCorp International also uses Crucible Security Management Center (SMC) teams to collect intelligence information which is shared internally and with DoS and the Civilian Police Assistance Training Team (CPATT). DynCorp International has also established a Tactical Operations Center (TOC) in the Baghdad Hotel. That intelligence center receives a daily event summary from the DoS Regional Security Office (RSO) on incidents or security matters of concern.

The DynCorp International Deputy Program Manager for the Civilian Police program has regular meetings with CPATT officials and attends weekly meetings with the 49th MP Brigade security personnel to discuss security related issues or concerns regarding the Police Training Teams where our International Police Liaison Officers (IPLOs) are imbedded.

Movement of PSD teams is coordinated with the TOC located in Baghdad, and with the 49th MP Brigade units to arrange for IPLO movements in Military Police convoys.

IPLOs Imbedded in Military Units—DynCorp International currently has over 650 IPLOs deployed throughout Iraq. They are assigned to CPATT specialized units (50-60 IPLOs) and the six Multinational Division (MNDs) in Regions 1-6 (Baghdad, Tikrit, Mosul, Ramadi, Babylon and Basrah. The majority of the IPLOs assigned to the MNDs are imbedded in the Police Training Teams (PTTs), which are subordinate to the 49th Military Police Brigade. IPLOs live and work with these PTTs in over 30 FOBs/Camps. All tactical information received through these imbedded teams is passed on to the DynCorp International TOC and the Crucible SMC in the Baghdad Hotel.

Protective Security Services/Personal Security Details

Coordination of security movements is conducted through a Tactical Security Team (TST). In addition to personnel directly assigned to the TST, an integrated Military Police (MP) unit is attached to work closely with the TST for coordination of operations. The assigned TST is also part of PSD planning processes. This is most often done by the PSD and TST Tactical Commanders jointly planning the routes. Mission information is also provided to the military unit assigned to the TST for the purpose of coordinating with all security providers as part of the planning process. That information is then relayed to the military TOC, where it is also cleared through Military Intelligence units. Any issues raised by the military are discussed and considered part of a mission operation "GO/NO-GO" decision process. If the determination is made to conduct a mission, the integrated military unit accompanies the TST on the movement. The military unit and TST team train together in all phases of operations, including conducting recurring firearms training together. The military unit is an imbedded part of the team, not a rotating unit.

Mission Operation Coordination and Decision Process

- ◆ Request for movement received in the TOC (minimum 48 hours lead time)
- ◆ Request is reviewed by OPS and Intel (including TST and military units)
- ◆ Request is then discussed with the Department of State High-Threat OPS Diplomatic Security Agent and decision is made on GO/NO GO
- ◆ If the request is a NO-GO, client is advised
- ◆ If the request is a GO, it is assigned to a PSD team and TST support team
- ◆ The PSD team then plans the mission and submits the paperwork to the TOC (24 hours out)
- ◆ The mission packet is submitted to Intel for route analysis and venue threat analysis update

- ◆ If there are no issues that would cause the mission to be cancelled, then the movement is executed. Cancellation may occur at any time prior to departure due to intel information, which is constantly monitored

Afghanistan

DynCorp International Tactical Operations Centers (TOC) are located in Kabul at the Afghanistan Police Program (APP), at each of the seven Regional Training Centers (RTC), the Afghanistan Eradication Force (AEF) headquarters, the AEF Forward Operating Bases (FOB) during eradication operations, and the Wet Lease Program headquarters when flight operations are being conducted. Additionally, Crucible, a DI subcontractor, operates a Security Management Center (SMC) that provides support operations through each of the TOCs.

The SMC provides daily updates to all CIVPOL Task Orders in Afghanistan. The products are emailed at least nightly and as required to each program. Products include route assessments, daily incident reports, and intelligence information for all Provinces in Afghanistan. Sources of information are from the DOD, the Regional Security Office (RSO), the Afghanistan National Police, and other sources. Program security managers distribute SMC products to their subordinate headquarters which in turn provide information to personnel through DI TOCs.

In addition to SMC information, the Afghanistan NGO Safety Office provides information on a weekly and monthly basis to all programs.

Physical—Movements from site locations are controlled by Deputy Program Managers and Regional Commanders through the TOCs. Poppy Elimination Program (PEP) teams coordinate movements with Provincial Reconstruction Teams (PRTs), RTCs, and the APP TOC in the Kabul headquarters. Movements are tracked by Tactical Operation Centers having responsibility for each corresponding region.

Communications—Security Managers coordinate with the International Security Assistance Force (ISAF), the Combined Security Transition Command-Afghanistan (CSTC-A), PRTs, FOBs and the Afghanistan National Police to obtain information on procedures for quick reaction forces (QRFs) if required. In the event of a serious incident requiring assistance over and above DynCorp International capabilities, the organization possessing the capability to provide assistance, corresponding to each regional area or location, is contacted and coordination takes place to provide assistance (medical, security etc.).

Flight Following—Aircraft mission information is provided the day prior to missions to CSTC-A and Afghanistan Ministry of Interior (Tower) to track movements. Each aircraft utilizes redundant methods to provide tracking information and communicate with the air operations TOC, civil aviation authorities, and DOD aviation facilities in the region.

Reporting—If required, Serious Incident Reports (SIRs) are immediately created by DI TOCs and sent to INL Kabul for distribution.

Conclusion

DynCorp International has lost over two-dozen employees to hostile activity in the fight for freedom in Iraq and Afghanistan along with other groups, agencies, and organizations that operate in the same environments. All losses on the battlefield exact a high price from everyone involved in the effort. We believe the contribution private companies can and have made add a significantly important dimension of support and assistance in augmenting the U.S. Government's capacity to implement foreign policy objectives that might not otherwise be considered. We are confident that continued partnership between the U.S. Government and private companies will further develop the operational expertise and infrastructure organizations that interact and co-exist in this environment. As these relationships evolve and mature, greater successes and enhanced capacity to respond to critical requirements on current and future battlefields will be the result.

We wish to express our deep appreciation to the Committee Chairman, Congressman Shays, and other distinguished members of this House Subcommittee for the opportunity to participate in this important process.

Thank you.

I. United States Statutes

The Anti-Torture Statute (18 U.S.C. § 2340A)

U.S. War Crimes Act of 1996 (18 U.S.C. § 2441)

Military Extraterritorial Jurisdiction Act ("MEJA") (18 U.S.C. §§ 3261 – 3267) Victims of Trafficking and Violence Protection Act of 2000, Public Law 106-386, and codified at 22 U.S.C. § 7102

Gun Control Act (18 U.S.C. § 921 et seq.)

Gun Control Act by the terms of DFAR § 225.7040, General Order No. 1 – United States Central Command, as amended 9 August 2003, General Order No. 1 – Multi-National Corps – Iraq, dated 12 February 2005, General Order No. 1 – Combined/Joint Task Force (CJTF) 76, dated 15 May 2004, and DoD Instruction No. 3020.41 (October 2005).

Arms Export Control Act (22 U.S.C. § 2778) and Export Administration Regulations
Defense Base Act (42 U.S.C. §§ 1651-1654) ("DBA")

Inspector General Act of 1978, (5 U.S.C. Appx § 1 et seq.), as amended

II. United States Regulations/Policy Statements

General Order No. 1 – United States Central Command, as amended 9 August 2003;
General Order No. 1 – Multi-National Corps – Iraq, dated 12 February 2005; General Order No. 1 – Combined/Joint Task Force (CJTF) 76, dated 15 May 2004.

- FAR § 28.309(a) – Workers' Compensation Insurance (DBA)
- FAR § 28.309(b) – Workers' Compensation and War Hazard Insurance Overseas
- FAR § 51.107 – Government Supply Sources
- DFAR § 252.225-7040 -- Contractors Supporting a Force Deployed for Contingency, Humanitarian, Peacekeeping, or Combat Operations (June 2005)
- DFAR § 228.311-1 – Insurance – Liability to Third Persons
- DFAR § 251.107 – Ordering from Government Supply Sources

- DFAR § 228.370(a) – Reimbursement for War-Hazard Losses
- DFAR § 228.370(d) – Capture and Detention
- DFAR § 225.7403-2 – Antiterrorism/Force Protection for Defense Base Contractors Outside the United States

III. International Legal Controls

Hague Convention IV:

- Main prohibitions in Articles 23, 25, 27 and 28 of the Annex, forbidding the following:
 - employ poison or poisoned weapons;
 - kill/wound treacherous individuals belonging to the hostile nation or army; or an enemy who, having laid down his arms, or having no means of defense, has surrendered;
 - employ arms, projectiles, or material calculated to cause unnecessary suffering;
 - make improper use of a flag of truce, of the national flag, or of the military insignia and the uniform of the enemy, as well as the distinctive badges of the Geneva Convention;
 - destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessities of war;
 - declare abolished, suspended, or inadmissible in a court of law the rights and actions of nations of the hostile party; or
 - destroy buildings dedicated to religion, art, science, or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not being used at the time for military purposes.

The Geneva Convention:

- safeguards “protected persons,” typically detained civilians.
- Article 3 prohibits the following:
 - Violence to life and person, in particular, murder of all kinds, mutilation, cruel treatment and torture;
 - The taking of hostages;
 - Outrages upon personal dignity, in particular, humiliating and degrading treatment; or
 - Executions without a trial.
- Article 13 requires humane treatment of detainees.
- Under Article 17, questioning permitted, but no form of “physical or mental coercion”.
- Article 27 requires that women be protected from rape and any form of indecent assault.
- Grave breaches that constitute war crimes include:
 - attacking a prisoner of war;
 - inhuman and degrading practices involving outrages upon personal dignity, based upon racial discrimination;
 - biological experiments on the wounded and sick, prisoners of war, and against civilians;
 - compelling a prisoner of war to serve in the hostile power’s military forces;
 - any unlawful act which causes death or seriously endangers the health of a prisoner of war;
 - unlawful transfer, deportation or confinement of civilians, willful killing, hostage taking and torture;
 - attacking cultural objects when they are not located near a military target or used for the war effort; or
 - deprivation of the right to a fair trial.
- War crimes oblige states to prosecute the alleged perpetrators or turn them over to another state for prosecution, regardless of the nationality of

the perpetrator, the nationality of the victim or the place where the act of torture or inhuman treatment was committed.

IV. Other International Covenants and Conventions

- The United Nations Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Both treaties prohibit torture and other mistreatment of persons in custody in both peacetime and wartime

Mr. SHAYS. Let me ask you very quickly, General. Were your folks the individuals that were killed in Gaza in that bomb incident a few years ago?

General ROSENKRANZ. In where, sir?

Mr. SHAYS. In Gaza.

General ROSENKRANZ. I don't know. I just joined the company.

Mr. SHAYS. Well, they were protecting me. Those were the same folks that just previously when I went into Gaza protected me, and they were just top notch. And it just is instructive to me and others. You were part of that?

Mr. BALDERAS. We took over the contract from DynCorp. It was actually Triple Canopy people, Mr. Shays.

Mr. SHAYS. OK. Thank you. You are on. How did you get the name Iggy?

Mr. BALDERAS. That goes way back when I first joined the unit over 18 years ago, that they have a tradition of giving you a call sign and that was the one that was given to me. I think it was a little easier for them to say my name that way.

Mr. SHAYS. Well, you are well known in the industry. And welcome to this committee. And I think we are probably screwing you up a bit, because I think you are not making the plane you hoped you would make.

STATEMENT OF IGNACIO BALDERAS

Mr. BALDERAS. Well, thank you anyway, Mr. Chairman and members, for the opportunity to testify before the subcommittee. I was Triple Canopy's CEO until December 2005 and now serve on the company's board of directors.

Before joining Triple Canopy, I was a command major of the U.S. Army First Operational Detachment Delta.

I will tell you a little bit about Triple Canopy, our culture and our experience in providing protective services in Iraq. Finally I will share my perspective on government regulation of private security contractors who serve on the battlefield.

Triple Canopy, was founded in 2003 by U.S. Army Special Forces veterans to provide integrated security solutions to the U.S. Government and private corporations. Our services include personal security details, fixed site security, threat assessments and counterterrorism training. We provide protective services in extremely hostile environments throughout Iraq. We also provide security services worldwide and have employees in Africa, Asia, the Middle East and the United States.

Triple Canopy has the "Do the Right Thing" culture. We are dedicated to legal, moral and ethical behavior and business practices. We firmly believe that honesty and integrity in all we do serves our clients, employees and society. We are committed to setting the standard for ethical conduct within the industry and strive to be a good neighbor to the United States and abroad.

In all of our contracts, Triple Canopy works hard to provide the best possible service at a fair and reasonable price. While placing emphasis on the quality of service, we still continually strive for cost reductions that can be passed on to our customer as the form of a lower price.

It is important to note that all of Triple Canopy's U.S. Government contracts are and all have been firm fixed price agreements that were all competitively awarded. Under firm fixed price contracts, Triple Canopy assumes all risk for unforecasted increases and company costs and wartime losses.

Triple Canopy's record of success stems from our commitment to safety, recruiting, training and retention. Since the commencement of our operations, Triple Canopy has achieved the fewest reported incidents, injuries and casualties of any security company that provides protective services on a comparable scale in Iraq. We firmly believe that hiring only highly experienced and professional personnel, providing them with thorough and relevant training prior to deployment, and holding them accountable to high standards once deployed is critical not only to operational success but also to employee satisfaction and retention.

Triple Canopy's recruiting and screening standards are among the industry's most stringent and are explained in detail in my written testimony. Our training produces highly capable operators who are prepared to perform demanding tasks in challenging high-risk environments. We fully realize the grave responsibility incurred when filling protective details and will not compromise the safety of our clients by fielding anything but the most qualified personnel. Maintaining rigorous hiring and training standards is the only way to reduce performance problems in the field.

Triple Canopy strongly endorses the establishment of U.S. regulations, setting standards for the hiring and training of protective security specialists who support critical government missions on the battlefield. We are all for establishing standards and holding people to them. Substandard recruitment and training creates an environment of poor quality security and potentially increases the threat level on the battlefield. Regulations need to be strong enough to readily identify substandard performers.

And, finally, private contractors should never provide offensive combat operations. Triple Canopy supports the FAR regulations which prohibit the government from contracting with organizations that offer quasi-military armed forces for hire.

Thank you for your time and the opportunity to testify this afternoon. I look forward to answering your questions.

[The prepared statement of Mr. Balderas follows:]



Statement of Ignacio "Iggy" Balderas, Director, Triple Canopy Board of Directors

Before the U.S. House Government Reform Subcommittee on National Security, Emerging Threats
and International Relations

Private Security Firms: Standards, Cooperation and Coordination on the Battlefield

June 13, 2006

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to discuss U.S. government regulation of private security contractors on the battlefield.

I was Triple Canopy's CEO until December 2005 and now serve on the company's Board of Directors. Before joining Triple Canopy, I was the Command Sergeant Major for the U.S. Army's 1st Special Forces Operational Detachment-Delta (Delta Force) and have over two decades of experience in Special Forces units. I supervised the construction of one of the first military compounds on Bagram Airfield, Afghanistan, in January 2002 and filled in as a forward-deployed detachment commander during Operation Iraqi Freedom.

Today, I will tell you a little bit about Triple Canopy, our culture and our experiences providing protective services in Iraq. Finally, I will share my perspective on government regulation of private security contractors who serve on the battlefield.

Background

Triple Canopy was founded in 2003 by U.S. Army Special Forces veterans to provide integrated security solutions to the U.S. government and private corporations. We develop and sustain secure operational environments for our clients by integrating security, communications, logistics, training, medical and life-support services. We provide services worldwide and have employees in Africa, Asia, the Middle East and the U.S.

We provide protective services in extremely hostile environments throughout Iraq. In all of our contracts, Triple Canopy strives to provide the best possible service at a fair and reasonable price. All of Triple Canopy's U.S. government contracts are and have been firm-fixed-price agreements that were competitively awarded. Under a firm-fixed-price contract, Triple Canopy assumes all risks for unforecasted increases in company costs and wartime losses.

Triple Canopy has a unique do-the-right-thing culture. We are dedicated to legal, moral and ethical behavior and business practices. We firmly believe that honesty and integrity in all we do best serves our clients, employees and society—in whichever country we

operate. Triple Canopy is committed to setting the standard for ethical conduct within the industry and strives to be a good neighbor in the U.S. and abroad.

Triple Canopy's success stems from our commitment to maintaining high standards for safety, recruiting, training and retention.

Since the commencement of our operations, Triple Canopy has achieved the fewest reported incidents, injuries and casualties of any security company providing protective services on a comparable scale in Iraq. We believe in hiring only highly experienced and professional personnel, providing them with thorough and relevant training prior to deployment and then holding them accountable to high standards. This is critical not only to the operational successes of our clients but also to employee satisfaction and retention. Good people like to serve along with good people.

Triple Canopy's 85% retention rate for protective security specialists is one of the highest in the industry. One of the ways we reinforce our do-the-right-thing culture is by doing the right thing for our employees. Our protective security specialists, managers, and guards are hired as intermittent employees, not independent contractors. As a result, they qualify for company benefits, including health insurance and a 401(k). In addition, U.S. and state taxes are taken out of their pay.

Triple Canopy is a proud employer of third-country nationals who are also intermittent employees and part of the Triple Canopy family. As intermittent employees, Triple Canopy pays for their health and life insurance as required by the U.S. Defense Base Act. They also receive incentive bonuses. Triple Canopy promotes from within, encourages professional development and provides supervisor training to employees that have provided excellent performance.

Roles and Missions of Private Security Contractors on the Battlefield

Boiled down to its essence, our mission is to protect lives. Our services include personal security details, fixed-site security, threat assessments and counterterrorism training. Our missions are defensive in nature and require intensive training and advance preparation. In Iraq, we provide protective services to the Department of State, Department of Defense, U.S. Agency for International Development and private corporations.

Legal and Regulatory Controls

As are my colleagues', Triple Canopy's security team in Iraq is subject to several U.S. laws, including the Anti-Torture Act, Defense Base Act, Foreign Corrupt Practices Act, Military Extraterritorial Jurisdiction Act (MEJA), Victims of Trafficking and Violence Protection Act and War Crimes Act of 1996.

In Iraq, private security companies are regulated by CPA Memorandum 17, a rule enacted under the Coalition Provisional Authority. Memorandum 17 requires private security companies to obtain a license from the Iraq Ministry of Interior (MoI) and Ministry of Trade (MoT). The memorandum also includes rules governing the use of "necessary force" in self defense when required to prevent life-threatening offenses against civilians. Triple Canopy is registered as a security provider with the Iraq MoI and MoT. As a condition of obtaining the license, Triple Canopy has posted a \$25,000 refundable bond with the MoI and has an Iraq lawyer on retainer.



Triple Canopy's standards of performance are spelled out in our contracts and may include requirements for the screening and vetting of guards, security clearances, training, equipment and billing documentation. They also include penalties for non-compliance with contract terms, which may include fines.

Triple Canopy is also subject to various policies and directives issued by the military for contractors providing support in hostile areas. Some of these apply to all U.S. contractors that operate in a hostile area. These include travel and movement in and out of particular countries, and other policies apply to the company by virtue of its services, such as "Rules on the Use of Force" briefings that must be given to U.S. contractor personnel that will be permitted to carry weapons.

Another area of law frequently applied to the company is export law, including the Export Administration Regulations (EAR) and the International Traffic in Arms Regulation (ITAR). Not unexpectedly, the company often must move goods and equipment that are restricted under U.S. law, and the company must take steps to ensure that the proper approvals are received. The company has an efficient and thorough logistics system in place to ensure that it complies with U.S. export law requirements.

A final example of applicable law includes both state and federal firearms licensing and permitting. These laws also apply primarily to operations that the company conducts in the U.S., such as its security assessment work and its training programs. For example, the company frequently must train its personnel on weapons specified by the U.S. government under a government contract, only to find that, under federal law, it cannot obtain a permit to own such weapons. Instead, it must rent these weapons from third parties with proper licenses for far more than it would cost the company to own and maintain them itself. This results in the U.S. government being charged more by the company under the government contract. I believe it would benefit both the industry and the U.S. government to reassess federal law in this area so that companies such as Triple Canopy can use these specialized weapons for training purposes. At this very moment, the U.S. government is paying additional money for their own mandated training requirements due to the application of outdated laws onto a new industry that is providing critical services in support of government needs. As the government continues to assess and address security needs, whether they be port security, nuclear power plant security or other needs, private industries will be in need of qualified sources of training. And without necessary changes, these training needs could be delayed or even prevented by laws that do not meet the demands of a post-9/11 world.

Industry Standards

Every company has different standards. Legal, moral and ethical business practices are the foundation of Triple Canopy's success. Triple Canopy's Canon of Ethics and Code of Conduct provide strict, measurable guidelines for all Triple Canopy employees. Our security professionals adhere to an additional set of guidelines unique to the profession.

Risk-management processes also vary widely among companies. Triple Canopy has rigorous procedures for assessing risks and implementing mitigating measures to reduce risks.

Hiring Standards

Hiring standards vary widely within the industry. Triple Canopy's recruiting and screening standards are among the industry's most stringent.



Triple Canopy requires a minimum of four years of experience in military special operations assignments or four years of advanced police experience, current shooting skills and excellent health and physical fitness. Our dedicated recruiting team conducts thorough phone interviews and checks multiple references, not from friends or peers, but from former supervisors of each candidate. We also conduct criminal and credit checks. We require strong performance, leadership skills, maturity, teamwork and a constant focus on safety and customer service.

Once candidates arrive at Triple Canopy's training site, the screening process continues with drug tests and a physical fitness test. We also conduct a comprehensive battery of psychometric evaluations, including the Profile XT, Wonderlic Personality Test, Short Employment Test Battery and Inwald Personality Inventory. Using our proprietary success-profile data, we have been able to identify those candidates with the highest likelihood of training success and operational performance. This unique proprietary tool gives us a distinct advantage over industry peers in the ability to deploy quality personnel.

As a testament to our best-in-class recruiting practices, Triple Canopy was the only private security company selected to describe its screening process at a recent international conference in Zurich, Switzerland, sponsored by the Swiss government and the International Committee of the Red Cross.

Triple Canopy does not target active-duty units during our recruiting process.

Training Standards

Triple Canopy recruits receive training in defense tactics, advanced marksmanship, high-threat driving and the local escalation-of-force rules of engagement.

Our training produces highly capable operators who are prepared to perform demanding tasks in challenging, high-risk environments. Our instructors include Tier One U.S. Special Operations personnel with extensive and recent experience conducting security operations in high-threat environments worldwide.

We fully realize the grave responsibility of fielding protective details and will not compromise the safety of our clients by fielding anything less than the most qualified personnel, using our standards. Triple Canopy's rigorous training program has an attrition rate of up to 30% among an already highly screened pool of students. This level of selectivity is reflective of our uncompromising standards for performance, ethics, suitability for assignment to high-threat areas, aptitude, and demonstration of positive attitude and work ethic. I believe the quality and thoroughness of our recruiting and training within Triple Canopy is a major, contributing factor to our successes and safety record.

Challenges on the Battlefield

Coordination and communication between private security companies and the U.S. military in Iraq is essential. Triple Canopy is a member of the Private Security Company Association of Iraq (PSCAI), which has established formal communication channels between private security companies and the local U.S. military Commanders in Iraq as well as various Iraqi ministries. Additionally, Triple Canopy has fostered informal lines of communication with the U.S. military in Iraq.



Need for Government Regulations

Maintaining rigorous hiring and training standards is the only way to reduce performance problems in the field.

Triple Canopy strongly endorses the establishment of U.S. regulations setting standards for the hiring and training of protective security specialists who support critical government missions on the battlefield. We are all for establishing standards and holding people to them. Substandard recruitment and training creates an environment for poor-quality security and potentially increases the threat level on the battlefield. Regulations need to be strong enough to readily identify substandard performers.

And finally, private contractors should never provide offensive combat operations. Triple Canopy supports Part 37.109 of the FAR (Federal Acquisition Regulations), which prohibits the government from contracting with organizations that offer quasi-military armed forces for hire.

Thank you for your time and the opportunity to testify this morning. I look forward to answering any questions.



Mr. SHAYS. Thank you for your time.
Mr. Brooks.

STATEMENT OF DOUG BROOKS

Mr. BROOKS. Thank you very much. Mr. Chairman, members of the subcommittee, I would like to thank you for inviting IPOA's testimony. It is an honor to appear before you today.

As president of the International Peace Operations Association [IPOA], I represent firms from all over the world that provide essential services, including logistics, training and security in support of international peace and stability operations in conflict and post-conflict regions. IPOA predates September 11th, and our focus has always been to ensure that the private sectors' enormous capabilities are utilized to support peace operations with professionalism and high ethical standards. IPOA member companies are operating in every peace and stability operation in the world, including Afghanistan, the Democratic Republic of Congo, Haiti, Iraq and Sudan.

Indeed, international peace operations simply would not happen without the critical services of the private sector which brings enormous efficiencies, capabilities and cost savings. Ultimately, the more effective our support of international peace and stability operations, the more lives that will be saved in the long run.

Our IPOA code of conduct was originally written by human rights lawyers and nongovernmental organizations, and has subsequently been embraced by all IPOA member companies. IPOA and its members work continuously to improve upon the code and to enhance IPOA's enforcement mechanisms.

Coincidentally, at the same time as this hearing, or actually previously when the hearing first started, our standards committee was meeting at George Mason University working with humanitarian experts and academics to test our accountability mechanisms related to our code of conduct.

We believe that the IPOA code of conduct is a valuable tool for ensuring ethical behavior. Clients, be they states, NGO's or international organizations, would be well advised to include adherence to the standards set by the IPOA code in their request for proposals.

I also want to recognize two partner industry organizations that have been instrumental in advancing industry standards, codes and accountability: The British Association of Private Security Companies in the United Kingdom, and especially the Private Security Company Association of Iraq that works closely with Iraqi authorities to ensure proper laws, regulations and accountability.

I should note that IPOA represents a broader industry, not just private security companies. The vast majority of private sector employees providing valuable services in complex contingency operations are actually involved in logistics, support and training operations. Some 90 percent of the personnel and contract value is actually in logistics and support and training.

In general, companies in complex contingency operations can be divided into three general categories: Logistics and support companies, the private security companies and the sector company reform companies.

The first category, the logistic and support companies, that is 90 percent of the industry in value, personnel and everything. That is where the big money is.

The second category, the professional security companies, are the ones that protect nouns, as we say, people, places or things, during a complex contingency operation. They defend things, either armed or unarmed, but they provide the security for them.

And the third category of the security sector reform companies are the ones that create a more stable environment in the long run so that you can end the peace or stability operation in the long run.

Outsourcing services to the private sector has been hugely successful in terms of efficiencies, quality, speed and results. It is safe to say that the U.S. military in Iraq is the best supported, best supplied military force in history. However, it also makes sense to ensure that the government oversight capabilities are available and capable of ensuring the best results. This can be accomplished through an expansion of contract officer numbers and resources.

From a contractor perspective, we strongly support professional and effective oversight that is also standardized between government departments, which has been a problem in the past. Effective oversight simplifies our jobs enormously and allows better competition, reduction in cost and improvements in quality.

Another concern that the industry has faced has been the blue on white issue, the so-called friendly fire incidents where PSCs are accidentally fired upon by military units. This has been brought up in previous reports. The nature of complex contingency operations means that mistaken identity will always be a hazard, but there are ways to minimize a problem. This can be done through awareness training in the military, standardized recognition signals and better coordination of civilian and military movements in the field, all of which are being done to much greater extent since 2003. At IPOA, we worked with our partners to develop wallet cards that can be distributed to deploying GIs that will give them an idea of what PSCs are doing and what they look like in the field. A draft version of those cards is available here today on the table.

One recurring issue that we face is licensing. Member services, training operations and equipment exports require licenses from the Department of Defense and the Department of State, which is entirely appropriate. However, despite special efforts, the scale of operations in Afghanistan and Iraq have made this requirement a real bottleneck. We believe these offices could be better resourced and the process safely streamlined without compromising appropriate controls over exports of services and equipment.

One of the more critical issues that we face or the complex issues in Iraq is regarding the access badges that contractors use. Contractors require these badges to be able to fulfill their contracts. International personnel used to be able to obtain the badges in 2 to 3 days; now the process can take 10 to 90 days. This dangerous and frustrating bureaucratic bottleneck has been enormously wasteful in time and resources, and is having a seriously adverse impact on the larger mission. This is a problem that could be largely solved by allowing electronic applications or giving international sites outside of Iraq necessary authority.

Mr. SHAYS. Let me ask you, how much longer do you have?

General ROSENKRANZ. One short paragraph.

This industry is highly responsive. My own field research in Iraq and elsewhere has amply revealed that companies in this highly competitive market are eager to ensure that their clients are satisfied with the quality of work. IPOA includes the most professional forward-thinking and ethical companies in the industry, and our members are all publicly committed to our code of conduct. While operations and chaotic conflict in post-conflict regions necessarily require a high degree of flexibility, we should not resign ourselves to compromise on quality. Thanks very much. I look forward to the questions.

[The prepared statement of Mr. Brooks follows:]



CONGRESSIONAL TESTIMONY BY DOUG BROOKS

COMMITTEE ON GOVERNMENT REFORM
Subcommittee on National Security, Emerging Threats, and International Relations
 June 13, 2006

Mr. Chairman, members of the Subcommittee, I would like to thank you for inviting IPOA's testimony. It is an honor to appear before you today.

As president of the International Peace Operations Association (IPOA), I represent firms from all over the world that provide essential services including logistics, training and security in support of international peace and stability operations in conflict and post-conflict regions. IPOA predates 9-11 and our focus has always been to ensure that the private sector's enormous capabilities are utilized to support peace operations with professionalism and high ethical standards. Our Code of Conduct was originally written by human rights lawyers and nongovernmental organizations and has subsequently been embraced by all IPOA member companies. Adherence to the Code is a prerequisite for membership. IPOA and its members work continuously to improve upon the Code and to enhance IPOA's enforcement mechanisms.

The Peace and Stability Industry is growing. Although our member companies come from a variety of nations and backgrounds and range in size from quite small to very large, they are united in a belief that the private sector can fulfill a critical role in supporting international peace and stability operations professionally and ethically. IPOA member services include aviation, training, logistics, security, medical support, humanitarian relief, construction, demining and unexploded ordnance disposal, armoring and many others. Employees of IPOA member companies are operating in every peace and stability operation in the world, including Afghanistan, the DR Congo, Haiti, Iraq and Sudan. Indeed, international peace operations simply could not happen without the

critical services of the private sector which brings enormous efficiencies, capabilities and cost savings that are vital to the success of humanitarian peace and stability operations.

That IPOA has doubled in size in less than a year is testimony to the value the industry places on our association and our message of industry standards and ethical operations. Currently we include 24 leading companies that are proactive in advocating ethical industry standards, appropriate national and international regulations, and increasing accountability and transparency. It is our belief that our association can be useful in addressing the critical legal and ethical concerns raised by critics, and we actively engage all key actors involved in complex contingency operations (CCOs), including the humanitarian, governmental, nongovernmental and media sectors. IPOA and its members recognize our critical role in supporting peace and stability operations and we are guided by humanitarian, ethical, moral and professional considerations. Ultimately, the more effective our support of international peace and stability operations, the more lives will be saved in the long-run.

While IPOA represents a broader industry, we recognize that the primary focus of this hearing is on the Private Security Companies, which make up about half of IPOA's membership. It might be of interest to the committee to know that the vast majority of private sector employees providing valuable services in CCOs are actually involved in logistics, support and training operations. We estimate the total annual value of services provided in the field to support peace and stability efforts at \$20 billion, of which PSCs amount to some \$2-4 billion. The following chart might be useful in understanding the Peace and Stability Industry.

PEACE AND STABILITY INDUSTRY			
Sector	LSCs Logistics and Support Companies	PSCs Private Security Companies	SSR Development and Security Sector Reform Companies
Service Goal	Logistics and Technical Support	Security	Sustainable Development, Training and Security Sector Reform
Services	Logistics and supply Threat assessment Consultancy Mine Clearance Medical services Construction/engineering Waste management	Site protection Travel and transportation protection Private security details Threat assessment and management Survival training	Security Sector Reform Democracy and Governance Economic development Business development Crisis Mitigation and Recovery
Companies	AMECO AYR Aviation Centigon Demining Enterprises Int. Evergreen J-3 Global Medical Support Solutions Main Street Supply and Logistics PAE PWC Logistics RONCO Security Support Solutions Tollor	ArmorGroup Blackwater EOC Technology Erhys Hart Oliva Group OSSI-Safenet Reed, Inc SOC-SMG	Creative Associates MPRI

The quality of personnel we have worked with in the Department of Defense and Department of State has often been remarkably high. Many are military veterans of previous conflicts who bring enormous experience, dedication and a can-do attitude that helps us to work out the many bureaucratic barriers and complexities that would otherwise hamper our industry's support for peace and stability operations in Afghanistan, Iraq, Sudan and other conflicts. It has been a privilege to support their efforts.

We welcome these hearings, as one of the great problems we face as an industry is irresponsible sensationalism. IPOA represents legitimate companies doing legitimate work of real humanitarian value, and our industry will continue to support international peace operations into the future. The reality is that our members specialize in providing critical services professionally and ethically in chaotic environments. Such operations are inherently risky, and implementation is always challenging but too often misunderstood and misconstrued by outsiders. Frequently we find ourselves responding to inaccuracies propagated by irresponsible journalists, activists and even academics. We appreciate the interest and

concerns of this Committee and welcome this forum as an opportunity to address the sensationalism and to set the record straight.

Specific Committee Questions:

What are the roles and missions of private security firms on the battlefield?

The term 'battlefield,' especially in regards to PSCs, is a misnomer. While PSCs are contracted specifically for protective services in high-risk CCOs, they are not contracted to participate in anti-insurgent operations or offensive operations but rather in a defensive mode only to protect facilities and persons at risk from banditry or violence. This is an important distinction from an international law perspective. The Department of Defense has been very clear that PSCs are non-combatants and they cannot be used either offensively or as a planned component of an organized military defense. It should be noted that PSCs were not involved in the original incursions into Afghanistan and Iraq and were only contracted after the international phase of the war had ended.

Private Security Companies (PSCs) provide essential defensive security in inherently dangerous CCOs for

private sector, media, nongovernmental organizations (NGOs) and government clients. PSCs are defensive in nature, can be armed or unarmed, and are contracted to protect 'nouns' – people, places and things. Ultimately PSC services boil down to keeping people alive and ensuring reconstruction and relief efforts can continue. Their primary missions in Iraq include personal protection (also known as Protective Security Details - PSDs), static site security (such as government buildings, training grounds and such), protection of critical infrastructure (ports, oil installations and pipelines, power stations and power lines), convoy protection and security consulting, planning and advice. PSCs do not engage in offensive combat operations. Like other firms in the private sector, many PSCs hire a large proportion of their workforce locally, often comprising as much as 80% of their on-the-ground employees. PSCs free the U.S. military to focus its resources and personnel on its core mission of addressing the anti-Iraqi Forces.

What international legal controls are in place for private security firms?

Everyone is under international humanitarian law. Companies do not have standing in international law, but individuals do, as do states. States contracting PSCs and host states are obligated to enforce international law. From the IPOA perspective we have worked with appropriate organizations including the International Committee of the Red Cross to support our membership's understanding of their responsibilities under international humanitarian law. Companies must take responsibility for employees who violate the law. State clients should also make clear to contracted companies that such transgressions will not be tolerated. Companies should be expected to operate professionally and legally and should be replaced if they tolerate violations of international humanitarian law by their employees.

The Private Security Company Association of Iraq (PSCAI) works closely with the Iraqi government to institute laws and regulations and to ensure that their membership of more than fifty PSCs are licensed by the Iraqi government and abide by licensing and laws. The PSCAI has partnered with IPOA on a number of projects to address many of the key issues facing Iraqis and the industry, and has been extremely proactive in helping to create appropriate legal frameworks for the operation of an ethical and professional PSC industry.

In Iraq, companies operate in accordance with Iraqi law and residual laws from the Coalition Provisional Authority that apply until modified or revoked by the Iraqi government. Such legacy CPA directives laws include CPA Memo 17 and CPA Order 3, CPA Order 17, CPA Order 100 (The full texts of these laws are available on the PSCAI web site at <http://www.psc.ai.org/cpadocs.html>). In addition, the Rules for the Use of Force provided by USCENTCOM are also important to PSCs and can be summarized to three instances in which the use of force is considered legitimate: self-defense, defense of items or persons in the contract, and protection of Iraqi civilians under imminent threat (Appendix II). Once it is determined that force is necessary, graduated levels of force are itemized in the Rules.

In some cases contractors are covered under Status Of Forces Agreements (SOFAs) negotiated by the U.S. government, an arrangement that most companies have found desirable. As of today no such agreement has yet been created with the new Iraqi government.

What United States statutes, regulations or policy directives apply to private security firms?

One of the great misconceptions is that the industry seeks to evade laws, regulations and accountability. In fact, rules and guidelines can make commercial operations far easier, more predictable and simpler. They also serve as a barrier to entry to less professional companies and limit the ability of those firms to tarnish the entire industry. Although laws and regulations are necessary, poorly conceived and written laws and regulations can make flexibility difficult, even substantially more dangerous than necessary. The chaotic nature of CCOs means that companies in our industry must have the flexibility to address the evolving challenges. The industry looks forward to working with policymakers to ensure that the net effect is positive for the companies engaged in remarkably difficult environments and, more importantly, for civilians suffering from the conflict.

The principal Department of Defense policy governing contractors – with specific provision for armed contractors is found in DoD Instruction 3020.41:

Contractor Personnel Authorized to Accompany US Forces. In this instruction contractor personnel are required to "conform to all general orders applicable to DoD civilian personnel issues by the ranking military commander." Military commanders may also limit security accesses and requests for removal of specific individuals are predictably honored by the

companies. See section 6.1.3 in the DoD Instruction for a discussion of applicable U.S. law. Service specific regulation of armed contractors can also be found in service regulations, such as AR 190-56: *The Army Civilian Police and Security Guard Program*. Short of actual legal efforts, the industry self-polices most personnel issues. Even minor infractions by contractor employees can be punished with loss of employment and repatriation by companies keen to ensure contractual compliance and client satisfaction. Although somewhat ruthless from a human resources perspective, the nature of CCOs and demanding clients leaves little room for employee hearings or boards of enquiry.

It is important to highlight the value and potential of the Military Extraterritorial Jurisdiction Act (MEJA), 18 U.S.C.2441, which is designed to be utilized in place of the Universal Code of Military Justice (UCMJ) for holding civilian contractors accountable. The courts have determined on several occasions in the past that the UCMJ cannot be applied to U.S. civilians unless war has been declared by Congress, and MEJA was designed to fill this legal gap. The act permits the Justice Department to go into U.S. district courts to prosecute employees of Defense Department contractors and subcontractors accused of felony misconduct on foreign soil. It also covers non-U.S. citizen employees unless their countries of citizenship elect to try the case. MEJA originally applied specifically to Department of Defense contractors, but was subsequently expanded by Congress in 2004 to include all contractors working in support of DoD missions. MEJA has been challenged by critics, primarily for the small number of prosecuted cases. IPOA members believe that MEJA can work, but would support improvements and expansions as we have in the past.

In addition to MEJA, the Patriot Act can apply to contractors for non-Department of Defense agencies and addresses "offences committed by or against a U.S. national" on lands or facilities used by United States personnel in foreign states. One case has already been tried using the Act. Additionally there is the DFARS, a set of rules that all contractors must follow. A recent rule (Case 2003-Do87) specifies that contractor personnel that deploy with or support U.S. military forces deployed outside the United States are responsible for ensuring that their employees comply with applicable U.S. and host nation laws and regulations as well as the principles of international law.

What types of established standards are in place for private security firms?

The major industry groups including the PSCAI, the British Association of Private Security Companies (BAPSC) and IPOA are all active in working to ensure appropriate industry standards. PSCs generally maintain their own codes of conduct. IPOA, however, has developed its own code that member companies are required to adhere to as well (see Appendix I).

Originally written by NGOs and human rights lawyers and constantly being improved and enhanced, the IPOA Code of Conduct is designed to address the key concerns raised by policymakers, humanitarian organizations and NGOs, and to ensure the highest level of conduct and professionalism possible in the uniquely chaotic environments CCOs.

It is both a fortunate and unfortunate coincidence that IPOA's Standards Committee is running a long-scheduled simulation exercise at George Mason University at precisely the same time as these hearings. The simulation is being monitored and assisted by academics and human rights organizations and will test the Committee's ability to assess simulated complaints from a number of different sources and test IPOA's response and enforcement mechanisms. Our goal is to allow anyone - including journalists, human rights organizations, civilians and others - to bring a complaint about a Code of Conduct violation to the Standards Committee and have it properly addressed. At the same time, we are developing an external advisory body to monitor this process as well as all aspects of our Association to ensure that our standards and policies are of the highest possible caliber.

We believe that the IPOA Code of Conduct is a valuable tool for ensuring ethical behavior and for setting the standard for all companies specializing in CCOs. Clients - be they states, NGOs or international organizations - would be well advised to include adherence to the standards set by the IPOA Code in their Requests for Proposals. At the very least, we believe that our Code is an excellent demonstration of a company's dedication to ethical behavior, something that cannot be underplayed in any peace and stability operation where internationally recognized neutral and effective legal systems are the exception rather than the rule.

How do private security firms vet their employees?

Although the DoD Instruction 3021.41, section 6.3.5

has specific vetting requirements, every company also maintains their own vetting procedures which also depend on the nationality of the employees being hired. Ability to do background checks and research individual histories varies substantially among countries, and while many government contracts require monitoring of this vetting process, they do allow flexibility based on the realities on the ground. The Peace and Stability Industry is truly international, and IPOA believes that no matter how thorough a company's vetting procedures, it is critical that firms take responsibility for the employees and contractors they hire.

For Western employees from countries such as Australia, France, Germany, the United Kingdom and the United States, conducting fairly thorough background checks is easily achievable. For 'third country nationals' (TCNs) from developing countries, the process can be substantially more difficult. When utilizing local employees, the process can be even more complex. In countries such as Iraq and Liberia, years of conflict and upheaval have destroyed many personal records. Often the remaining records originated with regimes that are inherently suspect in nature. Vetting is often done through the use of trusted local intermediaries, which is hardly ideal, but many companies have refined such processes to a high art form with excellent results.

In addition, IPOA developed a strategy for the hiring of TCNs to ensure that they are aware of the risk they will face once recruited and that industry employees are fairly treated. An IPOA opinion editorial on this topic is included in Appendix III.

What type of training do private security firms provide their employees?

Training requirements are often contract-dependent. Some contracts require different skill sets than others, and some contracts specify exactly the kinds of training required of personnel. Training varies widely between companies and between contracts within companies, and is also set by levels of risk and complexity. We do not need to have Delta-trained individuals guarding gates, nor do we want half-trained mall cops protecting newly elected leaders in extremely dangerous environments. The key is flexibility and good contract management by both contract managers and PSCs.

Even individuals with the highest level of military training often require special reorientation to do

the kind of defensive security required by PSCs. As one former Delta Force soldier now employed by a PSC contracted in Iraq told me, "I had to learn that our job is to run away." In other words, PSC employees, no matter how elite their military background, benefit from training to address their new realities. PSCs often find that their contracted start times preclude a full training regime for the initial deployments of employees, but it has been our experience that companies are quickly able to address these weaknesses as the contracts mature. At the same time, many have found it helpful to include cultural and language training beyond the requirements of contracts, which IPOA strongly encourages.

What difficulties have you, as a private security firm, encountered dealing with the U.S. military, Department of State and/or the U.S. Agency for International Development in a battlefield environment?

While the Peace and Stability Industry has been privileged to work in support of U.S. military operations and in support of long-term stability and security in Iraq and elsewhere, a number of key issues have surfaced that could be improved.

Improving Oversight

One of the key issues that our member companies have been concerned about is effective and standardized oversight by government clients. An early complaint of IPOA member companies in Iraq was the shortage of Contract Officers and the short deployment times in the field - sometimes as short as three months. To put this in perspective, at the peak of the Vietnam War, with some 80,000 contractors deployed in country, the number one complaint about Contract Officers was their short deployment times of only one year.

While we have seen an improvement in Iraq on this issue, there are two reasons for these concerns. First, the higher quality companies that comprise IPOA members want their efforts and quality to be recognized by the government and differentiated from companies incapable or unwilling to provide the same quality. Second, the nature of contracts in CCOs where levels of risk can change on a weekly or even daily basis requires a high degree of flexibility and frequent contract modifications. It is essential that clients have the flexibility and field authority to alter contracts on short notice. The existing Federal Acquisition Regulations (FAR) were simply not written to address contracting in CCOs and fall somewhat short in providing the necessary flexibility that is required in this environment.

A second key issue that needs to be addressed is the variances in oversight techniques. While one might assume that contract law is standardized, and especially so within the U.S. Government, our member companies have discovered that contract management between the Department of Defense and Department of State can be quite different and often in conflict. We believe that government departments should ensure that Contract Officers and oversight personnel attend cross-training programs to establish connections and standardization of oversight and requirements from contractors.

Another aggravating factor that makes efficient oversight difficult is the remarkably heavy workload faced by contract officers that precludes them from any sort of effective oversight. One of the key findings of the GAO reports is that Contract Officers are trying to manage vast numbers of contracts worth billions of dollars with predictable results.

Outsourcing services to the private sector has been hugely successful in terms of efficiencies, quality, speed and results. It is safe to say that the U.S. military in Iraq is the best supported, best supplied military force in history. However, having taken advantage of the outsourcing potential, it makes sense to ensure that the government oversight capabilities are available and capable of ensuring the best results. This can be accomplished through an expansion of Contract Officer numbers and resources. From a contractor perspective, effective oversight simplifies our jobs enormously and allows better competition, reduction in costs and improvements in quality.

Blue on White

Another concern that the industry has faced is the 'blue on white' issue, so called 'friendly-fire' incidents where PSCs are accidentally fired on by military units. The nature of CCOs means that mistaken identity will always be a hazard, but there are ways to minimize the problem. While PSCs are generally not allowed to wear military uniforms, most companies do wear some form of corporate uniform, usually a polo shirt of a certain color with the company logo. Some security work requires the use of 'low-profile' vehicles that blend in with civilian traffic, but also puts employees at greater risk of mistaken identity at military checkpoints or on encountering military convoys.

These complications are compounded by the fact that most companies utilize local personnel as

much as possible to carry out their contracts. The use of local employees provides numerous legal and financial benefits while helping to provide jobs, support the local economy and enhance ties with the local community. The problem in Iraq is that too often armed Iraqi employees are mistaken for insurgents by coalition forces. This issue has been highlighted in GAO reports as well [see the July 2005 report (GAO-05-737)].

A 2005 IPOA roundtable discussed this issue and brainstormed with Pentagon and industry management officers. Subsequently, IPOA, the Private Security Company Association of Iraq (PSCAI), and the British Association of Private Security Companies (BAPSC) collaborated to produce wallet cards with the key points for deploying coalition troops to consider:

What to Know About Private Security Companies (PSCs) in Iraq:

- PSCs are valuable, legal, armed security partners of MNFI.
- PSC personnel come from a variety of countries and backgrounds and include experienced military veterans. PSCs also employ many Iraqis who work alongside non-Iraqi personnel.
- PSCs protect important sites and individuals and travel in an assortment of armored and unarmored SUVs, cars and convoys.
- PSCs are civilians operating under strict rules of engagement and identify themselves with high visibility orange placards, country flags, or other means. They will have government issued identification.
- **Remember . . . PSCs are friendlies working in support of the reconstruction effort!**

DoD has been highly supportive of this project, but did request some additional text changes recently which has slightly delayed production and deployment of the cards (we have some samples available here today).

Another activity that substantially enhanced coordination between the military and civilian sectors was the creation of the Regional Operations Centers (ROCs) which use a sophisticated GPS system to track the movement of civilian convoys, warn them of potential hazards and threats, and deconflict their movements with the military. I personally witnessed the operations of these centers during my visit over the holidays in December/January 2005-2006. While there were inevitable complaints about such a complex and sophisticated system, it nevertheless forms the

centerpiece for the operations of many PSCs. Similar systems should be required from the beginning in future operations.

Export Licensing

One recurrent issue is licensing. Member services, training operations and exports require licenses from the Department of Defense and Department of State, which is entirely appropriate. However, the scale of operations in Afghanistan and Iraq has made this requirement something of a bottleneck. Special measures have been taken by the relevant offices to facilitate license requests for these operations, but we still believe these offices could be better resourced and the process safely streamlined without compromising appropriate controls over exports of services and equipment.

Access Badges in Iraq

One of the more critical but complex issues in Iraq is regarding access badges. In a high-security environment such as we see in Iraq, contractors require these badges to be able to fulfill their contracts. It used to be possible for contractor personnel to obtain necessary access badges in 2-3 days but recent changes have meant that for international personnel the required badges can now take between 10 and 90 days. In the mean time the personnel are required to sit idle in-country and at risk while waiting for the badge. This frustrating bureaucratic bottleneck has been enormously wasteful in time and resources and is having a seriously adverse impact on the larger mission. This is a problem that could be largely solved by allowing electronic applications in which finger prints and so on could be sent through a secure server. Alternatively, allowing remote sites to do the badging, including Kuwait, Jordan or even the United States would reduce costs and smooth out the process.

Smart Clients

IPOA includes the top companies in the industry and we believe that our public adherence to the IPOA Code of Conduct and our commitment to higher ethical standards gives our member companies an edge on competitors. We are working domestically and internationally to make IPOA membership a quality point that clients can recognize when awarding contracts. Nevertheless, the industry is very much demand driven, and clients can and should demand and expect higher standards from the companies they utilize.

Competition has been one of the key reasons for qualitative improvements in contracting in Afghanistan and Iraq, and we believe much more can be done by utilizing contractual requirements, and by ensuring proper oversight. My own field research in Iraq and elsewhere has amply revealed that companies in this highly competitive market are eager to ensure that their clients are satisfied with the quality of work. While operations in chaotic conflict and post-conflict regions necessarily require a high degree of flexibility, we should not resign ourselves to compromise on quality.

Mr. Doug Brooks is the President of the International Peace Operations Association.



APPENDIX 1: INTERNATIONAL PEACE OPERATIONS ASSOCIATION CODE OF CONDUCT

PREAMBLE: PURPOSE

This Code of Conduct seeks to ensure the ethical standards of IPOA member companies operating in conflict/post-conflict environments so that they may contribute their valuable services to be utilized for the benefit of international peace and human security.

Members of IPOA are pledged to the following principles in all their operations:

1. HUMAN RIGHTS

- 1.1 In all their operations, Signatories will respect the dignity of all human beings and strictly adhere to all relevant international laws and protocols on human rights.
- 1.2 In all their operations, Signatories will take every practicable measure to minimize loss of life and destruction of property.
- 1.3 Signatories agree to follow all rules of international humanitarian law and human rights law that are applicable as well as all relevant international protocols and conventions, including but not limited to:
 - 1.3.1 Universal Declaration of Human Rights (1948)
 - 1.3.2 Geneva Conventions (1949)
 - 1.3.3 Protocols Additional to the Geneva Conventions (1977)
 - 1.3.4 Protocol on the use of Toxic and Chemical Weapons (1979)
 - 1.3.5 Voluntary Principles on Security and Human Rights (2000)

2. TRANSPARENCY

- 2.1 Signatories will operate with integrity, honesty and fairness.
- 2.2 Signatories engaged in peace or stability operations pledge, to the extent possible and subject to contractual and legal limitations, to be open and forthcoming with the International Committee of the Red Cross and other relevant authorities on the nature of their operations and any conflicts of interest that might in any way be perceived as influencing their current or potential ventures.

3. ACCOUNTABILITY

- 3.1 Signatories understand the unique nature of the conflict/post-conflict environment in which many of their operations take place, and they fully recognize the importance of clear and operative lines of accountability to ensuring effective peace operations and to the long-term viability of the industry.
- 3.2 Signatories support effective legal accountability to relevant authorities for their actions and the actions of

company employees. While minor infractions should be proactively addressed by companies themselves, Signatories pledge, to the extent possible and subject to contractual and legal limitations, to fully cooperate with official investigations into allegations of contractual violations and violations of international humanitarian law and human rights law.

- 3.3 Signatories further pledge that they will take firm and definitive action if employees of their organization engage in unlawful activities.

4. CLIENTS

- 4.1 Signatories pledge to work only for legitimate, recognized governments, international organizations, non-governmental organizations and lawful private companies.
- 4.2 Signatories refuse to engage any unlawful clients or clients who are actively thwarting international efforts towards peace.

5. SAFETY

- 5.1 Recognizing the often high levels of risk inherent to business operations in conflict/post-conflict environments, Signatories will always strive to operate in a safe, responsible, conscientious and prudent manner and will make their best efforts to ensure that all company personnel adhere to these principles.

6. EMPLOYEES

- 6.1 Signatories ensure that all their employees are fully informed regarding the level of risk associated with their employment, as well as the terms, conditions, and significance of their contracts.
- 6.2 Signatories pledge to ensure their employees are medically fit, and that all their employees are appropriately screened for the physical and mental requirements for their applicable duties according to the terms of their contract.
- 6.3 Signatories pledge to utilize adequately trained and prepared personnel in all their operations in accordance with clearly defined company standards.
- 6.4 Signatories pledge that all personnel will be vetted, properly trained and supervised and provided with additional instruction about the applicable legal framework and regional sensitivities of the area of operation.
- 6.5 Signatories pledge that all their employees are in good legal standing in their respective countries of citizenship as well as at the international level.

- 6.6 Signatories agree to act responsibly and ethically toward all their employees, including ensuring employees are treated with respect and dignity and responding appropriately if allegations of employee misconduct arise.
- 6.7 Signatories agree to provide all employees with the appropriate training, equipment, and materials necessary to perform their duties as laid out in their contract.
- 6.8 Employees will be expected to conduct themselves humanely with honesty, integrity, objectivity, and diligence.
- 7. INSURANCE**
- 7.1 Foreign and local employees will be provided with health and life insurance policies appropriate to their wage structure and the level of risk of their service as required by law.
- 8. CONTROL**
- 8.1 Signatories strongly endorse the use of detailed contracts specifying the mandate, restrictions, goals, benchmarks, criteria for withdrawal and accountability for the operation.
- 8.2 In all cases—and allowing for safe extraction of personnel and others under the Signatories' protection—Signatories pledge to speedily and professionally comply with lawful requests from the client, including the withdrawal from an operation if so requested by the client or appropriate governing authorities.
- 9. ETHICS**
- 9.1 Signatories pledge to go beyond the minimum legal requirements, and support additional ethical imperatives that are essential for effective security and peace related operations:
- 9.2 Rules of Engagement*
- 9.2.1 Signatories that could potentially become involved in armed hostilities will have appropriate "Rules of Engagement" established with their clients before deployment, and will work with their client to make any necessary modifications should threat levels or the political situation substantially change.
- 9.2.2 All Rules of Engagement should be in compliance with international humanitarian law and human rights law and emphasize appropriate restraint and caution to minimize casualties and damage, while preserving a person's inherent right of self-defense.
- 9.3 Support of International Organizations and NGOs/Civil Society and Reconstruction**
- 9.3.1 Signatories recognize that the services relief organizations provide are necessary for ending conflicts and alleviation of associated human suffering.
- 9.3.2 To the extent possible and subject to contractual and legal limitations, Signatories pledge to support the efforts of international organizations, humanitarian and non-governmental organizations and other entities working to minimize human suffering and support reconstructive and reconciliatory goals of peace operations.
- 9.4 Arms Control**
- 9.4.1 Signatories using weapons pledge to put the highest emphasis on accounting for and controlling all weapons and ammunition utilized during an operation and for ensuring their legal and proper accounting and disposal at the end of a contract.
- 9.4.2 Signatories refuse to utilize illegal weapons, toxic chemicals or weapons that could create long-term health problems or complicate post-conflict cleanup and will limit themselves to appropriate weapons common to military, security, or law enforcement operations.
- 10. QUALITY**
- 10.1 Signatories are committed to quality and client satisfaction.
- 11. PARTNER COMPANIES & SUBCONTRACTORS**
- 11.1 Due to the complex nature of the conflict/post-conflict environments, companies often employ the services of partner companies and subcontractors to fulfill the duties of their contract.
- 11.2 Signatories agree that they select partner companies and subcontractors with the utmost care and due diligence to ensure that they comply with all appropriate ethical standards, such as this Code of Conduct.
- 12. ENFORCEMENT**
- 12.1 This Code of Conduct is the official code of IPOA and its member organizations. Signatories pledge to maintain the standards laid down in this Code.
- 12.2 Signatories who fail to uphold any provision contained in this Code may be subject to dismissal from IPOA at the discretion of the IPOA Board of Directors.

First Adopted: April 1, 2001

Tenth Version: March 31, 2005



INTERNATIONAL PEACE
OPERATIONS ASSOCIATION

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APPENDIX II: USCENTCOM DOCUMENT

RULES FOR THE USE OF FORCE

UNCLASSIFIED//FOUO 20 September 2006 (rev4)

USCENTCOM

RULES FOR THE USE OF FORCE BY CONTRACTED SECURITY IN IRAQ

NOTHING IN THESE RULES LIMITS YOUR INHERENT RIGHT TO TAKE ACTION NECESSARY TO DEFEND YOURSELF.

1. **CONTRACTORS:** Are noncombatants, you may not engage in offensive operations with Coalition Forces. You always retain your ability to exercise self-defense against hostile acts or demonstrated hostile intent.
2. **CONTRACTED SECURITY FORCES:** Cooperate with Coalition & Iraqi Police/Security Forces and comply with theater force protection policies. Do not avoid or run Coalition or Iraqi Police/Security checkpoints. If authorized to carry weapons, do not aim them at Coalition or Iraqi Police Security Forces.
3. **USE OF DEADLY FORCE.** Deadly force is that force, which one reasonably believes will cause death or serious bodily harm. You may use **NECESSARY FORCE**, up to & including deadly force, against persons in the following circumstances:
 - a. In self-defense.
 - b. In defense of facilities & persons as specified in your contract.
 - c. To prevent life threatening offenses against civilians.
 - d. In defense of Coalition-approved property specified in your contract.
4. **GRADUATED FORCE:** You will use the reasonable amount of force necessary. The following are some techniques you can use, if their use will not unnecessarily endanger you or others:
 - a. **SHOUT:** Verbal warnings to **HALT** in native language (AWGAF TE-RA AR-MEE = STOP OR I'LL SHOOT) (ERMY SE-LA-HACK = DROP YOUR WEAPON)
 - b. **SHOW:** your weapon & demonstrate intent to use it.
 - c. **SHOOT:** to remove the threat only where necessary.
5. **IF YOU MUST FIRE YOUR WEAPON:**
 - a. Fire only aimed shots.
 - b. Fire with due regard for the safety of innocent bystanders.
 - c. **Immediately report the incident** & request assistance.
6. **CIVILIANS:** Treat Civilians with Dignity & Respect.
 - a. Make every effort to avoid civilian casualties.
 - b. You may stop, detain, search, & disarm civilian persons if required for your safety or if specified in your contract.
 - c. Civilians will be treated humanely.
 - d. Detained civilians will be turned over to the Iraqi Police/Security or Coalition Forces as soon as possible.



APPENDIX III: OPINION-EDITORIAL

THE USE OF INTERNATIONAL EMPLOYEES IN PEACE OPERATIONS

January, 2005

There is growing attention to the fact that private companies working in Iraq and elsewhere utilize international employees (occasionally called Third Country Nationals or TCNs) to support their operations in the field. Although this attention is in general negative, based on the utilization of employees from Asia or Latin America, it is quite common for private companies to engage the services of a global workforce. In a globalized economy, all transnational companies – whether their focus is manufacturing, extraction, transportation or even security – look for employees with the required skill sets from both local and international sources.

This is true of universities, hospitals, construction companies, and television stations. Even national armies engage the services of internationals. The British army, for instance, has maintained at least one regiment of Nepalese Gurkhas in their army since the middle of the 19th Century, while the Indian army also makes extensive use of Nepalese citizens. The French Foreign Legion is comprised almost entirely of foreign citizens, and virtually every military in the world – including the United States – counts numbers of non-citizens among its ranks. United Nations peacekeeping missions as well as African Union and NATO operations are built around the very idea of employing people of diverse nationalities.

While there have been attempts to restrict the recruiting of international employees for work in dangerous conflict and post-conflict environments, such efforts are misguided and ultimately do little more than obstruct the basic human right of individuals to choose their employment. There are many risky jobs in the world, from coal mining to construction, from assembly line work to arctic fishing. Each of these professions carries

an associated risk which was must be factored into an individual's decisions to pursue employment in that field. The same is equally true of reconstruction or security work, though it is difficult to imagine vocations where the appropriate skills could have a more beneficial impact.

Although people working in challenging environments generally earn higher salaries by way of hazard pay, many international employees are enticed by the higher wages as they often live in developing countries where options for employment are limited. While larger wages may be attractive for some individuals, each individual must weigh the benefits against the many other factors of employment, including the associated risks. It is the responsibility of the company to inform individuals of the rewards as well as the risks associated with their employment, and it is the right of the individual to decide where and from whom to seek employment.

While there should not be any fundamental objections to the practice of hiring voluntary employees from less developed countries, there are three key guidelines which companies should follow. First, companies should ensure that all employees fully understand the level of risk as well as the terms, conditions, and significance of their contracts. Secondly, companies should ensure that all their employees are screened appropriately for the applicable operation. And thirdly, companies must act responsibly and ethically toward all their employees: this includes ensuring employees are treated with respect and dignity and responding appropriately if allegations of employee misconduct arise.

The use of TCNs is not surprising nor should it be alarming. International peace requires international talent.

Mr. SHAYS. Now, I have to get advice from a Croatian.
It's Chvotkin?
Mr. CHVOTKIN. Yes, sir.
Mr. SHAYS. OK.

STATEMENT OF ALAN CHVOTKIN

Mr. CHVOTKIN. Mr. Chairman, Congressman Van Hollen, members of the subcommittee, thank you for the invitation to testify today.

Professional Services Council is the leading trade association representing hundreds of companies. Several of our member companies provide security services, including two who are on the panel today. Some also have contracts directly with the U.S. Government, and as such, we know their concerns as service providers and have been working with them on a myriad of issues. In addition, many of our member companies are operating in Iraq pursuant to contracts awarded by the U.S. Government. These terms are consumers of these security services. We have worked with them to highlight and address their concerns as well.

Over the past several years, the Professional Services Council has had extensive interactions with the Department of Defense. In 2004, we conducted an extensive lessons learned project with the Army Materiel Command. We've worked closely with the Department of State, USAID and other agencies on their Iraq initiatives and their policies and practices affecting our member companies.

Finally, we have partnered with the Special Inspector General for Iraq Reconstruction on his comprehensive activities including his three-part lessons learned project. In Iraq, there were three types of operations taking place concurrently, often in the same geographic space: The military action, the reconstruction activities across the 10 critical sectors, and developmental assistance.

Hiring private security support is common for many of our member companies who are routinely engaged in reconstruction and developmental assistance overseas. So Iraq is not new in that regard. However, it is obvious that Iraq has been and continues to be a very dangerous place to live and work, particularly for those individuals and organizations in any way associated with the U.S. Government. Thus, work in Iraq continues to present special challenges and issues. Because of the number of projects the U.S. Government has contracted for and that are underway simultaneously, the number of contractors, contractor employees and facilities that simultaneously require private security support and the evolving and often deteriorating security situation where the work is to be performed, private contractors are playing a critical role in each of these concurrent operations. In fact, it would be impossible for the U.S. Government to execute the number and scope of projects without the contractor support, and as such, private security firms are an essential adjunct to the U.S. companies executing contracts.

The private security firms provide personal security firm employees, housing locations and work sites. They coordinate and provide security for the transportation of key company personnel and resources and coordinate with government officials when their clients require interaction for official government business. To the extent possible, these private security firms also routinely seek to coordi-

nate with the U.S. military in Iraq on the overall security threat environment.

Only recently has the U.S. Government established the reconstruction operation centers in various regions in Iraq to provide a formal channel for such coordination, even on a voluntary basis. In fact, one of the key lessons learned from our Army Materiel Command effort was the fact that contractor force protection requirements were not integrated into the military planning process. We found too many examples where even the planning required by the Defense Department for contractors accompanying the force were not followed and that the rules, numbers and life support needs of those contractors were not fully addressed.

In light of these experiences, the Professional Services Council worked with members of the House Armed Services Committee last year on what became known as the Contractors on the Battlefield Regulatory Act, Title XVI of the House passed fiscal year 2006 National Defense Authorization bill. While that title did not become law, the conference report accompanying the law directs the Defense Department to review all policies and guidance and instructions to address security issues raised by both contractors accompanying the force, those directly supporting the military, and those contractors not accompanying the force, and specifically addressed five enumerated issues in that report. I mention those in my statement, my lengthy statement.

And today, we are not aware of any formal steps the Defense Department has taken to address those matters. The number, scope of the projects in Iraq, the need to retract, retain and employ personnel who are essentially on their own for force protection and the highly variable security environment force contractors to put a premium on hiring skilled, trained and well-managed security services. Thus, almost from the outset of the Iraq conflict, PSC has strongly recommended that the U.S. Government generally and particularly the Defense Department adopt a nontraditional role with respect to private security firms.

As Mr. Waxman noted in his opening questions in March 2003, the Professional Services Council recommended to DOD that it consider taking at least one of three initiatives: first, set standards for private security firms; or better yet, establish a qualified list of firms from which the private sector could contract directly for security services that were needed; or even better still, that DOD directly contract for and supervise those firms that the contracting firms would reimburse. The essence of these requirements was included in the GAO report from July 2005. In fact, the most vocal supporters for these standards are the industry leaders themselves, as you have heard at this table this afternoon. The U.S. Government has valid reasons why they did not concur. I think there was a missed opportunity for the government to address what we feared would become a significant growing challenge.

Our lessons-learned efforts with both the Army Materiel Command and the Special Inspector General for Iraq Reconstruction highlighted the lack of advanced planning for the security needs of those government organizations. The most significant portion of the State Department's December 2004 revision to their acquisition regulations proposed new coverage requiring State Department

contracting officers to address the administrative logistics and security support for contractors performing overseas in high-risk activities. The rule was explicit that, unless stated otherwise, the contractor's responsible for all of their support.

In-country coordination and communications is essential. It must be a two-way effort, and there's every reason for the government to take advantage of the information that the companies have about the security situation in various parts of the country. Over time, despite the lack of formal methodology or doctrine, many firms have nonetheless created those informal mechanisms.

Mr. SHAYS. Would you give me a sense of how much longer you have?

Mr. CHVOTKIN. Thirty seconds. In conclusion, hiring private security is common in overseas operations. Iraq is not new in that regard. However, the magnitude and the work and the concurrent operations taking place in the almost unprecedented security environment create unique challenges, but solutions must be approached carefully and with full consultation to address real issues without creating new problems. We would love for the opportunity to work with the subcommittee and others on these important policy matters. Thank you for the opportunity to appear.

[The prepared statement of Mr. Chvotkin follows:]



STATEMENT OF

ALAN CHVOTKIN
SENIOR VICE PRESIDENT AND COUNSEL

BEFORE THE

SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING THREATS AND
INTERNATIONAL RELATIONS

COMMITTEE ON GOVERNMENT REFORM

HEARING ON

“PRIVATE SECURITY FIRMS: STANDARDS, COOPERATION AND
COORDINATION”

JUNE 13, 2006

INTRODUCTION

Mr. Chairman, members of the Subcommittee, thank you for the invitation to testify today at your hearing titled "Private Security Firms: Standards, Cooperation and Coordination." My name is Alan Chvotkin, and I'm the senior vice president and counsel for the Professional Services Council (PSC).

The Professional Services Council is the leading national trade association representing hundreds of companies of all sizes that provide professional and technical services to the federal government, including information technology, engineering, logistics, operations and maintenance, consulting, international development, scientific, and environmental services.

Several of our member companies provide security services to firms in Iraq, in the U.S. and around the globe. Some also have contracts directly with the U.S. government. As such, we know their concerns as service providers and have been working with them on a myriad of issues raised by their activities. In addition, many of our member companies are operating in Iraq pursuant to contracts awarded by numerous departments and agencies of the U.S. government; these firms are consumers of these security services and we have worked with them to highlight and address their concerns, as well.

PSC PARTNERSHIP WITH FEDERAL AGENCIES

Over the past several years, we have had extensive interactions with the Department of Defense, including the Offices of the Under Secretary of Defense for Acquisition, Technology and Logistics and the Assistant Secretary of the Army for Acquisition, Technology and Logistics and with the Army Materiel Command, who is the Defense Department's lead service for Iraq. In 2004, we conducted an extensive "lessons learned" project with the Army Materiel Command staff with the support of and guidance from the former AMC Commander. We have worked closely with the Department of State, USAID and other agencies on their Iraq initiatives and their policies and practices affecting our member companies. Finally, we have partnered with the Special Inspector General for Iraq Reconstruction (SIGIR) on his comprehensive activities, including his three-part lessons learned project.

UNIQUE IRAQ SITUATION

Today, and almost from the outset of the Iraq war, we have seen unique activities in Iraq. Three types of operations are taking place concurrently, often in the same geographic space, in a country the size of California: (1) military actions; (2) reconstruction activities across ten critical sectors; and (3) developmental assistance. Hiring private security support is common for many of our companies who are routinely engaged in reconstruction and developmental assistance overseas, so Iraq is not new in that regard. However, it is obvious that Iraq has been and continues to be a very dangerous place to live and work, particularly for those individuals and organizations associated with the U.S. government. Thus, work in Iraq continues to present special issues and challenges because of the number of projects the U.S. government has contracted for and that are underway simultaneously; the number of contractors, contractor

employees and contractor facilities that simultaneously require private security support; and the evolving and often deteriorating security situation where the work is to be performed.

ROLES OF CONTRACTORS

Private contractors are playing critical roles in each of these concurrent operational areas. It would be impossible for the U.S. government, even with all of the coalition partners, to execute the number and scope of projects underway without contractors. But only for those contractors who are providing support to the military and are directly "accompanying the force" is the military even tasked with the responsibility for providing the necessary force protection for people and property. As such, private security firms (PSFs) are an essential adjunct to the U.S. companies executing all other contracts for U.S. government agencies. Of course, these private security firms are also employed by organizations in Iraq who are not under contract to the U.S. government; these may include firms supporting other coalition partners' initiatives and non-governmental organizations.

The need for private security firms is also driven by the projects that are, of necessity, being undertaken by U.S. firms outside the green zone and other military-fortified areas. In fact, it is impractical for the military to provide force protection for all of these activities; some of the contractors don't believe that they can effectively carry out their contractual work if the U.S. military is providing security support.

But the need for personal and perimeter security is vital and inescapable and the companies have an obligation to protect their personnel and their resources. Thus, these private security firms provide personal security for employees, housing locations and work sites. They coordinate and provide security for the transportation of key company personnel and resources and coordinate with government officials when their clients require interaction for official government business.

It is understandable why many of the sources and methods of these private security firms are confidential. By and large, it is our experience from our PSC member company firms' that contracting for these security services have been sound and, more significantly, effective. However, the experience of our member companies, who are among the most sophisticated in the international reconstruction and developmental assistance communities, may not be typical of all firms who are contracting for security services in Iraq. Factors such as cost, availability, scope of the security responsibilities and others also factor into the decision of whether to contract for such services and from whom to obtain them.

To the extent possible, these private security firms also routinely seek to coordinate with the U.S. military on the overall security threat environment. Yet only recently has the U.S. government established reconstruction operations centers in Iraq that provide a formal channel for such coordination, on a voluntary basis. In fact, one of the key "lessons learned" from our Army Materiel Command effort was the fact that contractor force requirements were not integrated into the military planning process. Even within the military contracting process for contractors accompanying the force, where DoD policy dictates that the government contracting officer is required to validate any force protection requirements and provide that information to the geographic combatant commander, we found too many examples where that was not followed

and that the roles, numbers, and life support needs of those contractors accompanying the force were not fully addressed.

In light of these experiences, PSC worked with members of the House Armed Services Committee last year as they developed what became the “Contractors on the Battlefield Regulatory Act,” title 16 of the House-passed fiscal year 2006 National Defense Authorization Act (H.R. 1815). In our view, that title properly required the geographic combatant commander to plan and communicate with those contractors who are “accompanying the force” and to also reach out to those contractors “not accompanying the force” to share information about the threat environment and to communicate with both groups as much as possible. While this title was not enacted as part of the final conference agreement, the statement of managers accompanying the conference report (H. Rept. 109-360; 12/15/05) directs the Defense Department to review all relevant policy, guidance and instructions to address security issues raised by contractors not accompanying the force, and to specifically address five enumerated issues, including integrated planning and communication of relevant threat information. To date, we are not aware of any formal steps the Defense Department has taken to address these matters.

On May 5, 2005, the Defense Department finalized its “contractor accompanying the force” contract regulations (See 70 F.R. 23790, et seq.). In addition, on October 3, 2005, the Defense Department issued an internal instruction (DoD Instruction 3020.41) that establishes and implements policy and guidance concerning DoD contractor personnel authorized to accompany the U.S. Armed Forces (referred to therein as “contingency contracting personnel”). But more can and should be done.

As you know, since June 2005, the U.S. government has had diplomatic relations with the Government of Iraq. Some of these same private security firms provide their security services to the Department of State for itself and to fulfill the State Department’s responsibility to provide protection to other U.S. government employees in-country. Before the State Department had a formal role in Iraq, it is well known that Ambassador Bremer’s security detail at the Coalition Provisional Authority was provided primarily by a private security firm.

The number and scope of the projects in Iraq, the need to attract, retain and employ personnel who are “on their own” for force protection, and the highly variable security environment forced contractors to put a premium on hiring skilled, trained and well-managed security services. Thus, from almost the outset of this Iraq conflict, PSC has strongly recommended that the U.S. government (and in particular the Defense Department), adopt a non-traditional role with respect to private security firms.

In March 2003, PSC recommended to the senior acquisition leadership of the Department of Defense, through the Defense Acquisition Excellence Council, that DoD consider taking at least one of three initiatives: first, setting standards for the private security firms who wanted to operate in Iraq; or better yet, establish a qualified list of firms from which the private sector could contract directly for services needed; or even better still, that DoD directly contract for and supervise these private security firms that the contracting firms would reimburse. The essence of this recommendation was included in the Government Accountability Office’s (GAO) July 2005 report: “Rebuilding Iraq — Actions Needed to Improve Use of Private Security Providers (GAO

05-737; 7/28/05). Among the most vocal supporters for these standards is the industry leaders themselves. While U.S. government agencies raised valid reasons why they did not concur with these recommendations, there was a missed early opportunity for the government to address what we feared would become a significantly growing challenge.

THE IMPORTANCE OF ADVANCE PLANNING AND COORDINATION

Our lessons learned efforts with both the Army Materiel Command and the Special Inspector General for Iraq Reconstruction highlighted the lack of advance planning for the security needs of those U.S. government organizations responsible for non-DoD contracts to support either reconstruction or developmental assistance. The most significant portion of the State Department's December 22, 2004 revision to their acquisition regulation proposed new coverage requiring State Department contracting officers to address the administrative, logistical and security support to contractors performing overseas in "high-risk" activities.

The proposed rule was explicit that contract performance under Department of State contracts outside the United States "may be inherently dangerous" and that, unless specified in the contract, the contractor is responsible for all administrative, logistical and security support required for contractor personnel engaged in this contract."

While our members understand and accept the fact that they are responsible for these functions, PSC strongly opposed this portion of the State Department's initiative in our February 22, 2005 written comments (available on the PSC website at www.pscouncil.org) in part because the rule failed to provide necessary flexibility to address the real-world situations that were then obvious in Iraq and elsewhere. To date, the State Department has not taken further public action on our comments or on the proposed rule.

In-country coordination and communication is essential. It must be a two-way effort and there is every reason for the government to take advantage of the information that these companies have about the security situation in various parts of the country. Over time, despite the lack of any formal methodology or doctrine, many firms have created informal mechanisms to assist them in getting the job done as effectively and as efficiently as possible.

CONTRACTOR LIABILITY

Beyond the risk associated with these security arrangements, private security firms face significant legal challenges from third parties. Some of these cases arise out of the actions by contractors accompanying the force; others are the result of injuries suffered by others as a result of the security situation in Iraq. Each death is tragic and our thoughts and prayers go out to the families of all of those who have been injured or killed while supporting the U.S. activities in Iraq. We have tried to address this important liability issue from a variety of perspectives.

First, we looked at the current regulatory coverage for third-party liability while performing government contracts. PSC identified a problem with respect to third party liability arising from litigation brought in the United States based on acts or omissions of contractors supporting U.S. and Coalition forces overseas under fixed-price contracts. Third parties potentially subject to

inadvertent injury or death include host country citizens, third country nationals, personnel of other contractors, and even uniformed and civilian members of the U.S. and coalition forces.

Performing what may be considered routine work in the U.S. becomes significantly more dangerous and often uninsurable when performed overseas in a theater of operations. The Air Force recognizes this heightened risk in its published guidance regarding contractors accompanying a deployed military force:

Even if a contractor performs in accordance with the contract, the contractor may be vulnerable to claims that services in support of a war effort are inherently risky. Poor performance of systems support services (e.g., calibrating a weapon) could result in casualties or fatalities involving the military members using those weapons as well as unintended civilians. Air Force General Counsel Guidance Document Deploying with Contractors: Contracting Considerations, November 2003, at 9.

Under current circumstances, particularly in Iraq, commercial liability insurance is still often unavailable, insufficient or unreasonably expensive. In addition, many commercial policies often exclude "war risks" or risks associated with terrorist activities. Furthermore, as we know from PSC's continuing work in this area, insurance companies are increasingly concerned about their ability to insure against the full range of risks associated with performing work in an area that is experiencing violent extremism against U.S. military forces, contractor personnel and the local citizenry. The increasing number of well publicized lawsuits filed in the U.S. by third parties against contractors alleging wrongful death support the concerns of both contractors and insurance companies.

If commercial liability insurance is insufficient, unaffordable or unavailable to contractors (and particularly to those performing fixed-price work) the number and quality of the contractors willing to accept such financial risks will decline. Boards of Directors, corporate officers, and audit committees -- particularly of publicly traded companies -- will decide that they cannot assume the full risk of a potential, catastrophic incident and may decline to pursue such work. As a result, the DoD will lack full access to the depth of experience and resources these contractors could otherwise provide.

Providing contractors with indemnification under Public Law 85-804 is an available solution, but that approach is viewed by many inside and outside of DoD as too burdensome or unpredictable, and certainly not consistently applied across a broad range of even related circumstances. Thus, while Public Law 85-804 remains a viable potential strategy to address the risk of third party liability under fixed price contracts on a case-by-case basis, we are not suggesting that DoD consider using that indemnification authority to address the concerns raised here.

We believe a less burdensome and more expedient remedy to address these liability concerns is to tailor the existing FAR clause to provide contractual indemnification under fixed-price contracts. As you know, contractors performing under *cost reimbursement* contracts are entitled to have included in their contract the clause at FAR 52.228-7 titled "Insurance - Liability to Third Persons." That clause requires contractors to maintain a specified level of insurance and provides government indemnification for certain liabilities (and expenses incidental to such

liabilities) to third persons not compensated by insurance or otherwise. Since an increasingly large percentage of a contractor's cost is attributable to insurance and "reserves" for self-insurance, in these fixed price circumstances, it may be more economical for the U.S. to rely on its self-insurance through contractual indemnification for amounts not covered by a company's commercial insurance or otherwise.

On September 22, 2005, PSC sent a letter to Army Deputy General Counsel Levator Norsworthy recommending that the Army take the lead in pursuing a change to the Federal Acquisition Regulation to permit this tailoring. A copy of this letter is available on the PSC website at www.pscouncil.org.

In addition, on November 9, PSC and the International Peace Operations Association (IPOA) jointly filed a "friend of the court" brief with the 4th Circuit United States Court of Appeals in litigation relating to the scope of coverage of the Defense Base Act (DBA), a law that generally applies to all contractors working overseas in support of U.S. government activities. A lower federal court ruled that state law may apply to hold contractors liable for compensation for injury or death of company employees working overseas while performing these government contracts. In submitting this brief, PSC and IPOA called the Court's attention to the broad federal interests involved in the case. In particular, the brief highlights (1) the U.S. military's expanded use of contractors in support of the U.S. military operations overseas; (2) the critical services provided by those contractors; (3) the life-threatening risks faced by such contractors; (4) the legislative purpose behind the Defense Base Act, 42 U.S.C. § 1651 *et seq.*, to provide exclusivity, uniformity, and certainty in the availability of compensation to employees of contractors injured or killed overseas; and (5) the adverse impact on the Commander-in-Chief's ability to rely on contractors to support combat operations if any uncertainty arises in connection with the DBA's exclusive liability provisions. A copy of this amicus brief is also available on the PSC website at www.pscouncil.org.

Finally, David Hammond, an attorney at PSC member company Crowell and Moring, addressed a directly related issue of the appropriate forum for resolving litigation that arises in these cases. His Legal Backgrounder article, "Holding Contractor Battlefield Contractors Accountable," was published by the Washington Legal Foundation on April 7, 2006. A copy of that article is available at <http://www.wlf.org/upload/040706LBHammond.pdf>.

CONCLUSION

Hiring private security is common in overseas operations. Iraq is not new in that regard. However, the magnitude of the work, the concurrent operations taking place and the almost unprecedented security environment create unique challenges. But "solutions" must be approached carefully and with full consultation to address real issues without creating new problems. PSC would welcome the opportunity to work with the Subcommittee and others on these important policy matters.

Thank you for the opportunity to provide this information. I would be pleased to respond to your questions.

Mr. SHAYS. Thank you.

I think what we'll do is do 5-minute rounds the first time so we can get through and come back for a second round.

Mr. Marchant.

Mr. MARCHANT. Thank you, Mr. Chairman.

As we heard in the first panel's testimony, coordination with reconstruction operation centers is voluntary. I would like to know each of your opinions as to whether that ought to be mandatory or if you think it ought to be voluntary, and I'd like to know whether your company is coordinating with the regional operation centers.

Mr. SHAYS. Excuse me. We're going to do 10-minute rounds if this is the Members we have. So you have 10 minutes.

Mr. TAYLOR. Blackwater does indeed participate in the regional operation centers. We do coordinate through them.

Mr. MARCHANT. Do you think it ought to be mandatory?

Mr. TAYLOR. I think that to the extent that it can be—that it affects area commanders, visibility of the battle space, absolutely.

Mr. MARCHANT. Thank you.

Mr. ROSENKRANZ. Mr. Congressman, we are participants in the ROC. The type of work we do with the State Department already has the operation centers, so for us it's sort of a redundancy. I think it's useful, and it's certainly very important for those who do not have direct contracts with the government.

Mr. MARCHANT. Thank you.

Mr. BALDERAS. Yes, we do. Triple Canopy does. I think we were talking a little earlier about when Aegis, which runs that contract, came in, came and helped us set it up, they asked us to help them set it up, the issue of everyone reporting; it's just commonsense. You have to do that in order to get support from the military. If you have an accident or incident on the road, they're the ones they call, and ROC is the one that coordinates that. So definitely, in my opinion, everyone needs to do that. It should be mandatory.

Mr. MARCHANT. Thank you.

Mr. Brooks.

Mr. BROOKS. Well, of course, we're a trade association, but I think, during my visit in December, January, I was quite impressed with the system. I think it's quite useful. Both for the contractors and for the military. So I would say it would probably be a good idea to put it in contracts if it's a requirement.

Mr. CHVOTKIN. I would generally agree. I would just echo Mr. Kunder's earlier comments. Many of the companies are providing support to the U.S. Government agencies well outside of those areas, and so the nature of the coordination is such that they may not need as much. So there has to be some tempering, but by and large, I agree that coordination at least from the contractor end not to be mandatory. We've suggested that two-way communication because the military knows a lot that could help in the planning on our side, and there are some concerns about how much information can actually be shared out, but by and large, I think that communication is an important one.

Mr. MARCHANT. Is the risk of a clash with the military decreased the more coordination you have with the regional operation centers? And do you know of any instances where specifically there was no coordination and it resulted in a very tragic consequence?

Mr. TAYLOR. Mr. Marchant, I can't offhand recall a specific incident, but obviously, more coordination should result in decreased incidence.

Mr. MARCHANT. Each of you, would you mind saying—General Rosenkranz stated how many casualties, deaths you've experienced in your operations in Iraq.

Mr. TAYLOR. Blackwater has experienced—we have had 22 deaths in Iraq.

Mr. MARCHANT. And this is mostly stateside civilians?

Mr. TAYLOR. In that 22, I believe 4 were third-country nationals.

Mr. MARCHANT. Thank you.

Thank you.

Mr. ROSENKRANZ. As I mentioned, we had 26 killed in Iraq. There were a few TCNs in that number. I didn't bring with me the exact number of wounded, but it's a fairly large number.

Mr. SHAYS. Would the gentleman just yield a second?

Mr. MARCHANT. Yes.

Mr. SHAYS. When they're wounded, do they go right to the military complex or do they go through the private sector?

Mr. ROSENKRANZ. They're given the same kind of medical support as the soldiers are.

Mr. SHAYS. Good.

Mr. ROSENKRANZ. They get very good support. Even on the KIA, the evacuation procedures, it's really quite good.

Mr. SHAYS. Thank the gentleman for yielding.

Mr. MARCHANT. Mr. Balderas.

Mr. BALDERAS. Yes. Triple Canopy suffered four casualties since September 2005, and the military does a great job in assisting private contractors. What the military does, they move them to Ramstein, Germany, where if they're wounded, then the private company picks up and moves them to wherever they need to in the United States, so all four of Triple Canopy's personnel were expats.

Mr. MARCHANT. Thank you.

Mr. Brooks, I know your chair association.

Mr. CHVOTKIN. I don't have anything from the association, but I would call your attention to a report that the Defense Department submitted to the Congress last year in response to Section 1206 of the National Defense Authorization Act, and in that, for the period May 2001 through October 28, 2004—I'm sorry—May 2003 through October 28, 2004: Total casualties, 1,171; total fatalities, 166; of which, 175 casualties were United States, and 64 fatalities were United States. That's a period May 2003 through October 2004. Have not looked at the Defense Base Act or Department of Labor report for any more current information.

Mr. MARCHANT. I can say as a Congressman that went to Iraq and Afghanistan in the same trip, I was very thankful for the Blackwater people that were there with me. I was not as aware of the danger, I don't think, as they were, and on the trip, I was, it was—the security was so integrated with the military that it was very difficult for a civilian to know in whose hands you were at any given time. And to me, that seems to be the best possible situation.

I just have a couple of more questions. What would you say the biggest threat today to your forces that are there, your security forces that are there? Is it the new IEDs? Is it ambushes? Is it peo-

ple that are communicating to the insurgent forces? What would you identify as the biggest threat?

Mr. ROSENKRANZ. I don't think there's any doubt that the IED and DBIEDs are lethal, and they're getting better, and they're more prevalent, particularly in Afghanistan. We've noticed an uptick, considerable uptick in the last few months. I would say IEDs and variations on IEDs.

Mr. TAYLOR. I would agree. IEDs, DBIEDs are the most dangerous threat we face right now.

Mr. MARCHANT. Have you experienced that in other places in the world if you have personnel? Or is it just, just Iraq and Afghanistan that—

Mr. TAYLOR. I can't say that it's just Iraq, but it's certainly most intense in Iraq.

Mr. MARCHANT. Mr. Balderas.

Mr. BALDERAS. Yes. I agree with Chris on that. Afghanistan, Iraq and to some extent also Israel, because it seems that area there has a preponderance for the items that were mentioned, IEDs and the DBIEDs.

Mr. MARCHANT. OK.

Mr. Chairman, thank you for allowing my questions.

Mr. SHAYS. Thank the gentleman.

Mr. Kucinich.

Mr. KUCINICH. To Mr. Taylor from Blackwater, what's the approximate annual gross revenue from your company's security work in Iraq?

Mr. TAYLOR. I don't have that figure with me, Mr. Kucinich. I just don't from—I don't have it.

Mr. KUCINICH. Would you make it available to the committee?

Mr. TAYLOR. I can certainly—yes, I will go back with that request to make it available.

Mr. KUCINICH. Do you know what the trend in your revenue is over the past 3 years?

Mr. TAYLOR. In revenue, with regard to—are we talking about Federal contracts?

Mr. KUCINICH. In your revenue generally.

Mr. TAYLOR. Well, clearly, there's been growth in our industry, and we have experienced growth in the industry.

Mr. KUCINICH. What about Iraq?

Mr. TAYLOR. We have experienced growth in Iraq as well. The demand for our services has been—is much—is greater.

Mr. KUCINICH. And could I ask, Mr. Chairman, if the chair would request—if the committee would request the approximate annual gross revenue from all the companies represented here today?

Mr. SHAYS. I would be happy to request their gross revenues, yes.

Mr. KUCINICH. I'd like to ask the gentleman from Blackwater some questions about contracting. Has Blackwater participated in contracts with Regency Hotel and Hospital Company at all?

Mr. TAYLOR. We were contract—as your exhibit—or I'm sorry, Mr. Waxman's exhibit denotes, we did participate in that contract.

Mr. KUCINICH. And Environmental Support Services [ESS]—

Mr. TAYLOR. That's correct.

Mr. KUCINICH. And in those contracts, is it true that you were paying your men \$600 a day but billing Regency \$815 a day?

Mr. TAYLOR. Per the presentation, Mr. Kucinich, \$815 a day is the right figure, but it's a fully burdened figure. That includes travel, training, gear, housing, food, the works. That is a fully burdened number. So \$815 is the correct number, but it includes everything.

Mr. KUCINICH. Were you involved personally in any of those discussions at all between Blackwater and Regency?

Mr. TAYLOR. I was not.

Mr. KUCINICH. Are you familiar with a person who works for Blackwater by the name of John Potter?

Mr. TAYLOR. I know who John Potter is.

Mr. KUCINICH. OK. John Potter is currently in your employ. Is that correct?

Mr. TAYLOR. I don't believe John Potter is in our employ right now, Mr. Kucinich. But I will have to go back and check, but I don't believe he is right now.

Mr. KUCINICH. Would you be willing to provide for this committee correspondence or internal memoranda relative to the hiring, departure and rehiring of Mr. Potter by Blackwater in connection with his work under this contract with the government?

Mr. TAYLOR. Mr. Kucinich, I can certainly take that request back to legal counsel for Blackwater.

Mr. KUCINICH. Mr. Taylor, is it your understanding that Blackwater cannot be sued for workers' debts or injuries and that all liability lies with the government?

Mr. TAYLOR. Mr. Kucinich, I am not an attorney. I'm certainly not an expert at all in that area. However, again, I could certainly take that question back to our legal counsel.

Mr. KUCINICH. And does Blackwater urge the families who have lost loved ones who have been in your employ to apply for benefits under the Defense Base Act?

Mr. TAYLOR. Under numerous—under different contracts, the Defense Base Act benefits are provided. They are actually mandated by the programs—the program insurance for contracting entities. So that is at the family's—we don't urge anybody, but the benefit is made available to our independent contractors.

Mr. KUCINICH. Do you advertise the Defense Base Act as a way for Blackwater to service the war, to avoid being sued?

Mr. TAYLOR. Again, Mr. Kucinich, it is a—the Defense Base Act insurance is provided as a passthrough cost to the government and is generally mandated to us.

Mr. KUCINICH. Does Blackwater currently provide security for Ambassador Khalilzad in Baghdad?

Mr. TAYLOR. Yes, we do.

Mr. KUCINICH. How much does the government pay Blackwater for these services?

Mr. TAYLOR. Mr. Kucinich, I don't have those numbers in front of me.

Mr. KUCINICH. Could you provide that information?

Mr. TAYLOR. Mr. Starr mentioned in the earlier panel that was an open and competitively bid contract, and I'm sure that it can be made available to the committee.

Mr. KUCINICH. Can you provide the information to the committee?

Mr. TAYLOR. If I cannot, sir, I'm sure the Department of State can.

Mr. KUCINICH. What other government contracts does Blackwater have in Iraq? How many contracts do you have in Iraq?

Mr. TAYLOR. Government contracts?

Mr. KUCINICH. Right.

Mr. TAYLOR. The majority of our work is with the Department of State. We have other contracts in Iraq that are not—that don't fall under USG.

Mr. KUCINICH. Can you provide this committee with information about how much the government pays Blackwater for their services?

Mr. TAYLOR. Again, our contracts are open and competitively bid. And one—I'm sure that they can be made available to the committee. They are public knowledge.

Mr. KUCINICH. Can you provide us with that information?

Mr. TAYLOR. I would have to go back and talk to legal counsel about our specifically providing it, Mr. Kucinich, but I'm sure that the committee can get the information.

Mr. KUCINICH. In Iraq, what is Blackwater's policy for the type of armor vehicle, weapons and personnel required for security escort missions?

Mr. TAYLOR. That is actually mandated to us by our—by our client, the Department of State.

Mr. KUCINICH. And does the Department of State set the terms of your contracts?

Mr. TAYLOR. Yes, they do.

Mr. KUCINICH. And does the Department of State in some cases require that you provide armor?

Mr. TAYLOR. We have actually a contract through the Department of State for armored vehicles that is mandated by the Department of State to us.

Mr. KUCINICH. Have you ever had an instance where you were required by the Department of State to provide armor and you did not?

Mr. TAYLOR. I cannot—I don't believe so. I don't believe so.

Mr. KUCINICH. Does the Department of State require you to have a certain number of personnel on carriers?

Mr. TAYLOR. The Department of State has very strict procedures for—for movements, personal security detail movements, and we follow those to the T.

Mr. KUCINICH. And has there ever been a time where you didn't follow these requirements of the Department of State and in order to save money?

Mr. TAYLOR. Again, Mr. Kucinich, these are mandated movements and processes by the Department of State.

Mr. KUCINICH. I know they're mandated. I'm asking you if you can recall a time.

Mr. TAYLOR. I cannot, sir.

Mr. KUCINICH. You have no knowledge of any time—

Mr. TAYLOR. I have no knowledge of any time that we did not fulfill our Department of State mandate.

Mr. KUCINICH. All right. Could you talk about Blackwater's expansion into the Philippines?

Mr. TAYLOR. It is a proposed—we have great demand for our training services, and one of the places that we have been looking into, into offering those training services was in the Philippines.

Mr. KUCINICH. And are you building a training center in the Philippines?

Mr. TAYLOR. We are in negotiations, in exploration in trying to find out if that's possible.

Mr. KUCINICH. And who are you negotiating with, the State Department or the Philippine Government?

Mr. TAYLOR. This would be the—this would be Metropolitan Authority, who I believe has control over—control over that, but I would have to go back and check particularly because I am not working that particular project, Mr. Kucinich.

Mr. KUCINICH. Are you planning to go into Darfur for work?

Mr. TAYLOR. We're not planning—of course, we have had discussions on how the resources that Blackwater has could be useful in situations such as the Darfur genocide.

Mr. KUCINICH. And have you hired Chilean troops that have been trained under Mr. Pinochet? Is that true?

Mr. TAYLOR. I don't know. We have indeed used Chilean third-country nationals before. I have no knowledge of whether or not they served under Pinochet or not.

Mr. KUCINICH. Are you putting together new training facilities in California?

Mr. TAYLOR. Again, we're exploring opportunities to expand our training operations in many places.

Mr. KUCINICH. Does Blackwater engage in offensive operations?

Mr. TAYLOR. Absolutely not, Mr. Kucinich.

Mr. KUCINICH. On behalf of the U.S. Government?

Mr. TAYLOR. Absolutely not.

Mr. KUCINICH. On behalf of foreign governments?

Mr. TAYLOR. Absolutely not.

Mr. KUCINICH. Or private entities in Iraq?

Mr. TAYLOR. Absolutely not.

Mr. KUCINICH. In Afghanistan, anywhere in the world?

Mr. TAYLOR. We do not engage in offensive operations, Mr. Kucinich.

Mr. SHAYS. I just want to say that you answered quickly. I just want to make sure you were comfortable with all those answers because he hadn't even finished his questions. I'm not trying to change the answer. I just want to make sure that you've thought about his questions because you are under oath, and I just want to make sure.

Mr. TAYLOR. Chairman Shays, it is a common question for the industry, and we do not execute offensive operations.

Mr. SHAYS. OK. Thank you.

Mr. KUCINICH. I thank the Chair.

Mr. SHAYS. I thank the gentleman.

We'll go to my colleague from Maryland. He has the floor.

Mr. VAN HOLLEN. Well, thank you. Thank you, Mr. Chairman, and thank all of you gentlemen for your testimony as well.

As I said in my opening statement, I think clearly there's an appropriate role for private security contractors in places like Iraq and elsewhere. The issue is exactly what functions and roles are being played and what kind of oversight there is. And it's my view that the U.S. Government, the Federal Government has a responsibility in making sure that the taxpayer is getting a fair treatment. It is the responsibility of the contractor to make sure you provide the quality services under the contract, that you don't gouge the taxpayer. But the oversight from the Federal Government is important, and the Federal Government, seems to me, should have a system set up to assure that the taxpayer gets the best deal. And in that context, I would like to ask you, Mr. Taylor, just a couple of questions because I think the chart we've got here today actually illustrates some of the problems with the overall system, from my perspective in the cost-plus with a percentage at the top.

Let me ask you first, are you familiar with the article that appeared in the News Observer several years ago that talked about the pricing structure for your company, for Blackwater U.S.A.? It was a couple years ago. It was after the four individuals who were members of your company had been killed in Fallujah, and the newspaper wrote a story about that. They also obtained information about the payments you received from those four individuals. Are you familiar with that?

Mr. TAYLOR. I am not, actually. If there was an article—understand, I read many things that are printed about our industry.

Mr. VAN HOLLEN. I understand. That's the basis for a number of the charts—the numbers on the charts Mr. Waxman presented. My understanding is a number of the family members of the people who got killed were upset about the fact that despite the amount of money being charged to the Federal Government and the taxpayers for these services, not enough was provided for security, and that's the basis of the information.

So the information drawn on these charts is based on documents that were obtained by this newspaper about those particular individuals. I just want to make sure I understood your response to a question by Mr. Kucinich regarding the \$815 a day charge. As I understand, you said that was fully loaded; is that correct?

Mr. TAYLOR. That's correct, sir.

Mr. VAN HOLLEN. Because that article—and this is an opportunity to correct the article if you want—it said that the Blackwater charges to Regency for Zovko's work, he was one of the individual contractors involved in that terrible incident, were \$815 a day. A mark-up of \$215 then goes on to—say, in addition, Blackwater billed Regency separately for all its overhead and costs in Iraq insurance, room and board, travel, weapons, ammunition, vehicles, office space. In other words, they say that you billed separately for that overhead, and you're saying—I just want to make it clear, you are saying that overhead was part of the \$815 a day charge.

Mr. TAYLOR. I am told that the \$815 was a fully burdened charge, sir.

Mr. VAN HOLLEN. OK. If you could—I don't know if you have documents, just because the article was based on documents that were

obtained through some people who worked for Blackwater, and they reached a different conclusion. If you could provide the committee with those documents, it would be helpful.

Mr. TAYLOR. Again, I can certainly take that request back to legal counsel.

Mr. SHAYS. Let me just tell you this part though, because you are on record, and I feel like I'm a friendly participant in this dialog. You are on record as saying that basically constitutes the full force. So you do need to document that. This \$800 is the full cost of all the things that involve the training, the housing and so on. It's not—and so we just want documentation that shows that to be correct.

Mr. TAYLOR. Again, Congressman Shays, I will certainly go back to legal counsel.

Mr. SHAYS. I'm trying to say it differently. I know you are going to go back. I need to make sure that you provide us that information. Now, whether it's you that provides it or someone else, I just want to say this, it is not an issue of, you know, you have the option to not provide that information. Please tell your superiors that you have testified—and I believe you, so you don't have a problem with me—that you testified that this constitutes the full cost. If it, in fact, doesn't, you need to set the record straight that it doesn't with documentation, and if it does, you need to just provide us the documentation that shows it's true. It's a common request, and one to which I know you would—you can't commit what your company does, I understand it. You're not the man in charge, but you're close to it. So that's all.

Mr. TAYLOR. I understand the request. Yes, sir.

Mr. SHAYS. OK, good. And we understand what you're saying to us. Just as long as that gets conveyed to them.

Mr. TAYLOR. Absolutely.

Mr. VAN HOLLEN. Thank you, Mr. Chairman.

Now, under the contract structure you had, as I understand, if you could look at that chart, Halliburton had the umbrella contract; is that correct?

Mr. TAYLOR. I am not personally aware of that, sir.

Mr. VAN HOLLEN. OK. You did not know that at the top of the subcontracting pyramid was Halliburton?

Mr. TAYLOR. I'm not personally aware of that, sir.

Mr. VAN HOLLEN. OK. Let me just ask you and maybe some of the others just a general question. There's a quote from a fellow by the name of Henry Bunting. He is a former Halliburton purchasing officer, and he said a common refrain in 2003 in Kuwait for managers of KBR—that's Kellogg Brown & Root, a division of Halliburton—was, don't worry about price. It's a cost-plus. And he goes on to say, there's no question the taxpayers are getting screwed. This is a fellow who was an Army staff sergeant in Vietnam. There's no incentive for KBR or their subs to try to reduce costs; no matter what it costs, KBR gets 100 percent back plus overhead plus profit. That is right. Right? In other words, that is the structure. It's a cost-plus structure, and assuming you have a number of subs, from Halliburton's perspective or whoever's at the top of the pyramid, the more subs and the more costs, the better off in terms of the return for the person at the top. Is that right?

Mr. TAYLOR. Mr. Van Hollen, for Blackwater, we only engage in firm fixed-price contracts. We don't have cost-plus contracts. We don't propose cost-plus contracts. We have only firm fixed-price.

Mr. VAN HOLLEN. OK. But at least in this particular instance, you're at the—you know, near the bottom. The individual employee who is your employee is the only other person you are paying out. So now my question to you—and this is maybe a general question. If we could keep our answers as short as possible because we have limited time. But under this design, the design for a cost-plus contract, is it not true that there's no incentive for the person at the top of the pyramid if they're getting cost plus a percentage fee to keep their costs at a minimum? Is there any incentive? Can you tell me how—if there's any incentive there for the person at the top of the pyramid to keep their overall costs low?

Mr. CHVOTKIN. The incentive is in the award fee because the—in your hypothetical, and I don't know enough about the specific contract, but in the hypothetical, if the award fee is tied to cost, then the lower the cost, the higher the award fee. And so there is an incentive through the award fee. And that's what the 2 percent was explained earlier with respect to—if I understand this portion of the contract, how it would apply.

Mr. VAN HOLLEN. My understanding is this was a cost-plus. I don't know if there was any award fee for coming under cost. I mean, if anyone knows about this, I'm talking about this particular—

Mr. BROOKS. I'm going to stick my neck out a little bit. KBR is not a member company. When there is a task that has been given to KBR or another company on a cost-plus basis, the company sits down with the contract officers or with the procurement people, and they decide on how much the maximum cost will be, and then the company has to go and stay under that cost. So there is a process that comes up with a cap of how much it's going to cost, say \$10 million for a base in the desert or something like that. So that's where you get the controls.

Now, the value of the cost-plus is that it gives you the flexibility you need in a complex contingency operation where you don't know what the final cost will be, and you can come up with a—some sort of accurate estimate.

Mr. VAN HOLLEN. My understanding is, in the LOGCAP contracts, that did not happen, what you were just talking about. We can go back and take a look at that. But let me ask you, because we talk about the fact that private contracting for security services can provide a return to the taxpayer. Now, I think under certain circumstances, that's true. I just want to pursue this idea a little bit with respect to Iraq because in the particular case that we're talking about here with respect to the \$600 a day for the security officer which comes out to, as I understand it, it's approximately \$180,000 a year; if you were to take somebody of Mr. Zovko's experience and rank—he'd been a sergeant—and you took that sergeant in the active duty military, the equivalent in terms of the salary would be about \$38,000 a year. So my question to you is, this, I mean, isn't it the case that the administration is essentially relying on private contractors in many cases not to provide cost savings but because to add 48,000 additional troops—and 48,000, according

to the GAO report, is the number of private security people in Iraq right now—would not be politically palatable because at least in this case, maybe, Mr. Taylor, you can correct the figures if I'm wrong, \$180,000 a year for the employee you are paying versus \$38,000 a year plus maybe health benefits and others for a sergeant in the regular Army, that does not seem to be a benefit to the taxpayer. If you could explain.

Mr. SHAYS. And I'm going to just say that the gentleman's time has concluded, but this is—this is a very important question that I'd like all of you to answer. And this is, frankly, an opportunity. Make your case. Why you guys instead of the military? And I'll be happy to let the gentleman followup.

Mr. VAN HOLLEN. Thank you, Mr. Chairman.

Mr. SHAYS. So just make your case.

Why don't you start? We've had Mr. Taylor ask and answer a lot of questions. Let's give him a rest.

Mr. ROSENKRANZ. First of all, we have to compete for the contracts. Even the ones—

Mr. SHAYS. Can you make sure your mic is on?

Mr. ROSENKRANZ. Perhaps I'm not close enough. You have to compete for your contracts. They're not indefinite. And so if you're not competitive, if you don't deliver the value, then you won't return, and certainly all of us have had that experience.

Mr. SHAYS. Let me just interrupt by saying, you've lost contracts; someone else got the contract instead of you?

Mr. ROSENKRANZ. Absolutely, yes. And you lose because of a variety of reasons. It's up to the customer, but certainly one of the facets of that is the cost you have to the customer. I think that we tried to bring people into Iraq at the most competitive price that we can get to, and as it gets—and certain conditions in Iraq, depending on the scarcity of the population, of, say, police, to recruit police, that changes the amount of money you have to pay to get them to go.

But the number that you end up with does not necessarily reflect what you normally would call salary because of the uplifts, because of the tax break and other factors that are entered into that total number. And that's why people choose to go there, but they go there for 1 year, and they make enough money, and they go back to wherever they came from, and they go back to \$40,000 a year. I think we're competitive; our company is competitive. I think you won't find a large variation on what we have to pay to get certain skills and particularly if it's a management skill.

But the number that you're using there I think is a little bit deceptive in the fact of what that actual salary is, and that's not including the other pieces that get added to it.

Mr. SHAYS. Let's keep going.

Mr. BALDERAS. Yes, one of the things on the—that was already talked about is salary, is that we don't set the salary rates. The contracting office does. It's market rates. We propose labor rates, and whether the bid is successful or not is dependent on the contracting officer and the entire proposal, and they usually go with the lowest cost. So that's how you lose a competitive bid. So, again, we don't set the rates. We just suggest what they could be and what labor we could get.

Now, as far as the total costs, again, you have to look at the total picture, what it buys, what the individual contractor has to do. There is no retirement plan for him. He has to get his own health insurance. His family, where an individual has always been mentioned, a military person already has that. We're not talking long-term costs either. Looking at the military, it is that an individual has a retirement plan, you know. I encourage people that—in the military, to stay there at least 20 years so you get the retirement benefit, you get healthcare. One of the issues under the TRICARE is that it's a great program, but only if you complete your 20 years. So I advise guys to stay there and get that, because out on the civilian market, health costs are climbing twice, twice, almost double every year. It's gone from 8 to 10 to 16 to 20 percent. So corporations have to deal with that as well for employees. An individual working contracts, spending the short time over there, trying to get a high paycheck, has to support his family off of that, as I said, before healthcare; there is no long-term plan for a guy doing this type of work. It's high risk, and it's an individual choice to go over there.

Anyway, in my opinion, it is cost effective because of the fact of long-term care. If you look at the military, you can see the military is not married. They have personnel that are married. When I came in the Army over 25 years ago, most of the military personnel in the service were not married. Now we have schools. We have additional building construction for housing units on posts. We have healthcare issues for the family their entire career service members' time, and after, when he retires, that support's still there for that service member. So that's a long-term care plan that military and DOD has to deal with where a contractor, DOD contractor, or any contracting officer can end that contract tomorrow, and that person's out of work.

Mr. BROOKS. I think this is a really great question and really gets to the heart of the whole issue of using contractors for services in a lot of areas of conflict. It really comes down to a case of capability versus cost effectiveness. When you have a soldier, a second lieutenant in Iraq, theoretically at least, they can call in a B-52 strike. They can call in tanks. They have all this sort of enormous capability behind them to do this sort of thing. You don't necessarily need that capability to guard a fence, you know, or to guard the gate. Maybe you need somebody with a different kind of capability or less capability. The way the military—I've talked to people at the Pentagon about this, the way they calculated. It's costing them \$15,000 per soldier per month in Iraq, which is pretty expensive. Now, obviously, that's not salary. That's all sorts of other things that have been mentioned already. That's just for the guys in Iraq. And of course, the other issue you have to remember is that the military rotates these people out. So you have a two or three to one ratio of people outside Iraq that are leaving Iraq, that are getting ready to come back to Iraq, that are training or whatever else. So there's all this other money that's sort of going on behind the scenes that's involved in keeping the military there.

You need the military there. It has its own reasons for being there, its own capabilities. What our companies do is support that military option. I also want to point out that when they kick

around these numbers of contractors in Iraq, we need to be clear whether we're talking about security contractors or nonsecurity contractors and whether they're Iraqi or not. Many of our member companies have ratios or have percentages of Iraqi employees of upwards of 70 or 80 percent. And this is normal. Most companies when they work in areas in Balkans or in Sierra Leone or in Liberia, they hire as many locals as they can, which is a good thing for the economy. It's a good thing from an ethical perspective. It's a good thing from a legal perspective. So when you get your open number of 48,000, you're probably talking an awful lot of Iraqis, 50, 60 percent at least, probably higher.

I think the other thing I wanted to point out, even in the United States, we have three times as many private security as we do police. So it's not unusual that Iraq would have a large number of private security people.

Mr. CHVOTKIN. I would just add to that, first of all, is the size of the available work force to meet the number of projects that are underway. Simply insufficient military. Even if all of the military, even if number of available was not the issue or the policy was not the issue, I don't think there's enough to provide the force protection that's necessary.

Mr. Van Hollen, I think you are familiar with many of the developmental assistance programs around the globe and in some cases, even in Iraq and Afghanistan, where the companies prefer to have distance between themselves and the U.S. military in order to carry out their work, and so in many cases, there's a preference both on the government side as well as on the company's side to avoid that force protection.

Finally, benefit, this is a sheddable work force. If the project ends, the work force goes away and not so on the military. You've got to task them. You've got to continue to train them. And so another benefit to having the—using contractors, the other panelists have said there's a cost effectiveness; there's a resource capability. There's a resource availability. All have to come into play.

Mr. VAN HOLLEN. If I could just very quickly—

Mr. SHAYS. Sure. Sure. Just respond.

Mr. VAN HOLLEN. Thank you, Mr. Chairman.

Mr. SHAYS. Just remember that the last gentleman who spoke was the individual that you introduced. He's first among equals in this group. You had to have been persuaded by his comments.

Mr. VAN HOLLEN. I understand.

Mr. SHAYS. It's the quid pro quo.

Mr. VAN HOLLEN. He did a very good job. But let me just ask a couple questions here because, again, as I said in my opening statement, and again—

Mr. SHAYS. Don't get carried away. Your time ended a long time ago. You want to make a comment; I want some time.

Mr. VAN HOLLEN. Let me make two comments, a couple comments. First of all, Mr. Taylor, just for the record, the contract with Regency and Blackwater specifically makes it clear that Regency is a subcontractor of Kellogg, Brown & Root. So it's in the contract that your company signed with Regency, at the top of the pyramid was KBR, and so just to—which is consistent with this chart that we're showing.

Second, again, the question is not whether there are certain circumstances under which it's good to have private security contractors. I just want to go back to the cost because, you know, what was the figure you gave, Mr. Brooks, for the military?

Mr. BROOKS. \$15,000 per month, and that's an average.

Mr. VAN HOLLEN. That includes the whole overhead.

Mr. BROOKS. Oh, absolutely.

Mr. VAN HOLLEN. OK. But we're talking in this case an individual employee with the rank of and the experience of a sergeant, \$600 a day, which does calculate out to \$180,000 a year, and—well, anyway, I'm just quoting from the Regency. They did the math. The newspaper did the math. And so the question is, what is the—is the taxpayer getting the best for the tax dollar that we're paying? I must say that we've been trying to get to the bottom of a lot of these questions. The subcommittee—and I will end with this, Mr. Chairman.

Mr. Waxman long ago wrote to Brigadier General Jerome Johnson with the Army Field Support Command asking for questions, any Defense Department reports comparing the costs of paying contractors to provide security services or logistical support under the LOGCAP contract with the cost to the Army of providing the services or support itself. That's the question that we've been asking here.

We've received no response back to this letter. It's dated November 30, 2004.

Thank you, Mr. Chairman.

Mr. SHAYS. Thank the gentleman.

I want to thank all of you for being here. I think that the men and women who serve with you are true heroes, and they are risking their lives every day. Bottom line.

I do want to clarify, because I may not have been as clear as I want, and I want to be clear about this, when my staff director and I went to the West Bank for a week, DynCorp was protecting us because that was 2003. We were there during the Easter recess, and when we went into Gaza City for the day, we went with three cars plus an additional car behind us, and that additional car, we didn't know who was in it. It was all black. They went in. They never got out of that car, but when we got out of the gate, they walked out. And they were covered from head to toe with everything you could imagine. And I said, what would happen if your services were required? And they explained, you wouldn't want to be anywhere around us. Now, those individuals, two of those individuals I think died a week—about a month later because they were blown up by an IED on the way in or out of Gaza City, and I'm forgetting which. And I just want to say, having looked in their eyes, knowing that they were there to protect us and to know they lost their lives, this is not child's play. I'm not suggesting anyone is suggesting that, but I want to put it on the record. They are doing extraordinarily dangerous work.

And I do think the question that was asked about cost and benefit, I do buy in totally, completely, to the fact that the military has three shifts, and you have one—one training, you have one kind of in the back, and you have one in the action. And in this case, you are totally right. We only pay for when they're there. And when we

want to dump them, we can just get rid of them. There is a cost effective aspect to this. And if there were earlier contracts that did cost-plus, even then the government has to be looking at this and saying, you know, we don't like your cost-plus. We're going to look at someone else to come in. But a cost-plus is not, in my judgment, the way we would want to design contracts as a general rule.

I want to ask you all, and I'm going to say to you, Mr. Balderas, I notice that the colonel on my staff seemed to be more impressed with you as the Delta Force, and I said, what the heck's going on here? And he said, you know, he used to fly you guys into Laos and some other places when he was in Vietnam, manning the helicopter. And I said, so you mean they're as good as the SEALs? And he said, no, better. Now, that was his perspective. So as the top enlistee in the Delta Force, you just kind of won him over. So he made me very impressed with what you do, and I appreciate your expertise and your service to our country.

But there is this definite conflict and bias that my staff director has.

I'd like to ask all three companies. Do you all share the same armor, the same vehicles, the same IED jammers? Give me a sense, do you sometimes compare notes? I mean, you're competitors, but I would like to think you all want the best, and if you got the best, you're not just going to keep it to yourselves, and you all have training. Tell me where you interface and where you don't, and if you don't interface, tell me that, too.

Mr. Taylor, have you had a rest from answering questions? Are you ready to go again?

Mr. TAYLOR. I'm fine, Mr. Chairman.

Mr. SHAYS. OK. At the operator level, at the level who are actually doing the heavy lifting, there is absolutely work between and among—even though we're competitors—among the companies. Because necessarily during our operations, we overlap, we could overlap, and in that case, we understand the value, particularly as former enlisted guys, of very direct communication to ensure that we're not getting in each other's way, that we're not getting in anybody else's way, and that we're able to fulfill whatever mission it is that we have. With regard to gear and everything else that is generally contractually mandated and is provided for in an RFP or request for proposal, that is identified in that request for proposal.

Mr. SHAYS. Thank you.

I'd like to just go down the line.

Mr. ROSENKRANZ. Well, we certainly are close to each other. We share a camp in Baghdad. And sometimes you can be too close, I guess, but I think there's a lot of interaction among the companies. Government disperses us in different parts of the countries where we serve, but I think, not only do we interact, but we rate each other's populations, you know, for new hires, and so I think there's a lot of interaction among the companies.

As far as equipment, in the State Department contract for the WPPS, there's a great commonality on the civilian police side. When we submit a proposal, we can suggest the type of equipment that we think's appropriate, and then the INL folks in the State Department decide, you know, whether they can afford it. That includes airplanes. That includes the types of vehicles and other

types of equipment. And I was asked by counsel at one point, you know, what we knew about this core equipment for detecting IEDs or rather for preventing the detonation of IEDs, we did do some experimental work with that, at least we supported the experiment in Iraq. I don't know what the outcome was on that. They just gave us some copies. This is the type of jammer that—it will stop both the transmitted—transmitted signal and jam it or it will do something to the signal that's already preset with the other kind of explosive device. So we get involved in that tangentially, really, but as far as equipment on the one program, I think it's a pretty common type of equipment on the police side. There's no experimentation. And we have changed over the last 2 years as to what kind of vehicles we use, what kind of equipment we use.

Mr. SHAYS. Thank you.

Mr. Balderas.

Mr. BALDERAS. Yes, it depends on the contract, Congressman. For example, all three companies here are on the worldwide contract for the Department of State, and most of that equipment is GFE, government furnished equipment. So there is a commonality because sometimes we do interchange. So all that is the same.

As far as working together, it is absolutely true. The guys on the ground do work together, and it's force common sense to do so. In fact, when we had our incident in September of last year, it was DynCorp Security that stopped and made it for our guys on the ground. So yes, the guys on the ground do work together and share and pass info. In fact, some of the guys actually have probably worked for all three companies at one time or another. So they all stay on the ground and stay in contact.

Mr. SHAYS. Thank you. Let me ask the three of you, and I'm not trying to be cute here, but when you are competing, you're competing based on service and cost. Is there the possibility that the low bidder uses inferior protective gear?

Mr. BALDERAS. Again, depending on the contract, some contracts, you are asked to provide your own, but for most of the DOD and DOS contracts, they're strictly requirements on the contract, what you have to meet the requirement. So again, the—

Mr. SHAYS. Let me ask you a question that had been answered before I asked it. The bottom line is, most of the equipment is provided.

Mr. ROSENKRANZ. Government furnished or in the contract, requires—

Mr. SHAYS. Let me ask you, you each have your own training procedures. Which one of you is responsible for training Iraqi police in Jordan?

Mr. ROSENKRANZ. That would be DynCorp.

Mr. SHAYS. DynCorp, right. So you are basically training the police, at least those police that are trained in the Jordan training—

Mr. ROSENKRANZ. We support the Jordan Training Center or we provide the logistic or we did up until—

Mr. SHAYS. You are not doing the teaching. You are just trying to do the protective—I mean, are you training these police officers?

Mr. ROSENKRANZ. Logistics on the school in Jordan or we did. We do our mentoring and advising onsite in the regions of the two

countries. We have 1,000 police advisors in the two countries who conduct the training. For instance, in Afghanistan, there are regional training centers. We conduct the training there, CTC in Afghanistan. We do the training, and in Iraq, we do training for the police—with the police. It's a direct training with the Iraqis and Afghans.

Mr. SHAYS. Before I ask you if there's anything anyone wants to put on the record, I would invite Mr. Kucinich to followup on a question with our colleague or vice chairman or——

Mr. KUCINICH. Just a couple questions.

Mr. SHAYS. Yes, just a couple, and let's do it.

Mr. KUCINICH. Mr. Chairman, I'm concerned about the suffering caused by war-induced psychological injury for the individual and for his immediate family, society, working for the private security companies here. As you no doubt know, the gold standard study on this question was mandated by Congress a decade ago or actually a decade after the end of the Vietnam War. It was called the National Vietnam Veterans Readjustment Study, and one of the important findings of the study was the likelihood of violent criminal behavior by veterans with Post-Traumatic Stress Disorder. The study investigators surveyed veterans for the number of violent acts they had committed in the last year. Nearly one-fifth of individuals in the study with PTSD self-reported committing 13 or more violent acts in that year. Violence on such a scale implies sometimes criminal activity, such as armed robbery, gang activity and assault, not confined to domestic violence, but the study also found a very high incidence of criminal behavior among veterans whose war experience was high stress, 14.4 percent. The implication of that is that the diagnosis of PTSD does not capture all the psychological injuries that can result in the commission of violent acts because we all know that the stress of theater, of war can cause psychological injuries, and we care deeply about the health of the employees and private military contractors, about the people of Iraq they work with and about the American society they return to.

I just want to ask a couple questions about the measures that the owners and management of private military contractors are taking in this area. First I'd like to know——

Mr. SHAYS. For the gentleman, I told Mr. Balderas he couldn't take an earlier flight so please make sure he's asked a question so I don't feel guilty.

Mr. KUCINICH. Well, Mr. Balderas, I would like to know—thank you, Mr. Chairman—about the environment in which your employees work. Which percentage your employees in Iraq do you believe are in danger from roadside bombs kidnapping or ambush?

Mr. BALDERAS. As far as all the employees who work in Iraq, unfortunately, they're all under that same risk.

Mr. KUCINICH. What happens to, attempts to monitor your employees in Iraq before, during and after their return, for key signs of psychological injury, such as alcohol abuse, drug abuse, anxiety disorders, PTSD, violent acts? You know, do you have any monitoring at all?

Mr. BALDERAS. Yes, we do. We do a psychological profile as part of our assessment in recruiting and hiring practice. One of the things I did—

Mr. KUCINICH. Exit interviews?

Mr. BALDERAS. Yes, and one of the things we actually did when we got heavily involved in 2004 was, I went ahead and started a program that was based on a casualty assistance program in the military, and we went in and contracted with a doctor that also works for Fort Bragg and as part of the mental health program, and he is on call. He served us well when we had our incident with the four personnel we lost. He was able to call mental health specialists in each of those areas, counsel the family, and he personally met the plane at Dover. And he recently just came back from Iraq to go over and talk to people that are over there right now just to give them a sense. Because one of the things I learned in the military that's true now, that an individual that is under a lot of stress sometimes doesn't want to let you know because it carries a stigmatism, and they are in fear of their jobs. So we have a program where they can call him, and we wanted to make sure they knew that they could call them offline.

Mr. KUCINICH. So you do have provisions or your employees in Iraq get treatment for any psychological injuries?

Mr. BALDERAS. Yes, and that is also one of the programs of the companies. So it is—has some type of shielding for the employee.

Mr. KUCINICH. And is that true of Blackwater, Mr. Taylor?

Mr. TAYLOR. Yes, Mr. Kucinich.

Mr. KUCINICH. That's true of DynCorp?

Mr. ROSENKRANZ. Yes, it is. We take psychologists over there.

Mr. KUCINICH. And can you tell me, do you also pride yourself in situations where your employees file Workers Comp claims against the company because they feel that they were injured on the job and therefore deserve some kind of compensation?

Mr. Balderas.

Mr. BALDERAS. No. We have never had—part of the issue under the Defense Base Act, if someone is injured, they are covered under Workers Comp, but not as far as they not being dealt with fairly. The company does try to go above and beyond to treat everyone the same.

Mr. KUCINICH. So you don't have any Workers Comp issues; is that what you are saying?

Mr. BALDERAS. No.

Mr. KUCINICH. Major General.

Mr. ROSENKRANZ. No.

Mr. KUCINICH. Mr. Taylor, do you have any type of Workers Comp issues?

Mr. TAYLOR. I don't know of any.

Mr. KUCINICH. You don't know of any?

Mr. TAYLOR. I don't know of any.

Mr. KUCINICH. Will you check with your legal advisors and let them know?

Mr. TAYLOR. Of course I will. Mr. Kucinich, if I could point out, one of the things we also do is we have a full-time chaplain who is a full-time chaplain of the Marine Corps in our employment at Blackwater.

Mr. KUCINICH. Is he a trained psychologist?

Mr. TAYLOR. He has a career's worth of dealing with people who have served in combat and have come back.

Mr. KUCINICH. Clinical background?

Mr. TAYLOR. I would be glad to forward to you Father Pittarelli's background.

Mr. KUCINICH. Just one last question to Mr. Balderas, how many of your employees in Iraq, who have returned from Iraq, are dealing with alcohol abuse? Do you have any idea of quantifying it?

Mr. BALDERAS. No. I don't have that information. I know of no issues.

Mr. KUCINICH. Anxiety disorders?

Mr. BALDERAS. I could check with Dr. Martin and find out in that manner, but—

Mr. KUCINICH. PTSD? I mean, do you—

Mr. BALDERAS. As far as psychological issues, I'd have to talk to him offline.

Mr. KUCINICH. I thank you.

Mr. Chairman, I mean, obviously, this is something that is important as a health issue for the employees of private contractors as well as for the American society when people come back, to make sure that if you're doing—if you're identifying people who have difficulties, you're providing them with assistance and treatment, you do have followup. Each of you said that. That's important for this committee to hear that. Thank you.

I thank you, Mr. Chairman.

Mr. SHAYS. Thank the gentleman.

Chris, do you have a question that you want to—

Mr. VAN HOLLEN. Just one. Thank you, Mr. Chairman.

I just have a question based on your testimony, Mr. Chvotkin, where you stated in the written testimony—

Mr. SHAYS. Is this a coincidence you are finally going to your constituent?

Mr. VAN HOLLEN. No.

Mr. CHVOTKIN. He's trying to protect me from rush hour over on 270.

Mr. VAN HOLLEN. Another 20 minutes, it will loosen up a little bit. He got it right.

Way back in March 2003, at the very outset of hostilities in Iraq, your organization, PSC, Professional Services Council, recommended to senior acquisition leadership of the Department of Defense that DOD consider taking, as you say, one of three initiatives: One, setting standards for private security firms who wanted to operate in Iraq; or, two, better yet, establish a qualified list of firms from which the private sector would contract directly for services; or, even better still, that DOD directly contract for and supervise these private security firms and the contracting firms that they would reimburse.

Those recommendations were picked up, Mr. Chairman, as you may recall, in a 2005 GAO report. My understanding is that, however, as of today, they have not been adopted by the Defense Department. And my question to you is why do you think these recommendations are important? And why have they not been adopt-

ed, to the best of your knowledge, by the Defense Department or other contracting agencies?

Mr. SHAYS. And I would like to add, if the gentleman would allow me, I would like the others of you to say whether you think that these recommendations were important.

Mr. CHVOTKIN. Mr. Van Hollen, we saw the situation in Iraq as it was just emerging. We had a concern of a long-term set of issues for the use of contractors accompanying the force as well as the reconstruction and USAID activities which were just beginning. Many of our companies, while they are familiar with buying security services, we saw the fear the magnitude would be such that knowledge would far outstrip both capability as well as availability. And that is why we went down the suggestion that the government at large and the Defense Department, which was in charge of the security operations in all of Iraq at the time, take those steps to facilitate those coordination and communications among the companies, the security forces, and to assist those companies that had to provide security on their own to find the most capable, most qualified, the most effective kind of security support.

I think those recommendations remain valid. I have read through some of the commentary and the GAO report as to why the agencies didn't believe that they were appropriate. Some of them are fair, legal interpretations of the government's role and still remain valid today. I still hope that, as a result of this hearing, the Defense Department or the U.S. Government would adopt those recommendations.

Mr. VAN HOLLEN. So your view is those recommendations should still be adopted?

Mr. CHVOTKIN. My recommendation is those recommendations are still valid today.

Mr. SHAYS. I would like you to just quickly respond to whether you think these recommendations make sense.

Mr. BROOKS. I think largely they are OK. I think we have to remember we need to keep the flexibility in any sort of conflict, postconflict environment; you need to have some flexibility that allows you to adapt to the situation. As we say, you don't need James Bond to guard a gate, you need somebody who is capable and professional. So the standards have to be very carefully set so that it allows scaling depending on the level of threat and the need.

Mr. BALDERAS. Yes, I support those recommendations.

Mr. ROSENKRANZ. I think Department of State has set a good standard. In the two programs that we're a major player in, they set high standards, and they get good results. And it's sort of ironic. I mean, a lot of what our companies are doing as a result of the fact that Defense cannot do it, they are overcommitted, or they are underresourced. I think everyone agrees to that. So it is somewhat ironic that they are not engaged, because the buck stops over there, and they could take the lead from State on how to do it and should do it.

Mr. TAYLOR. Yes, we would generally support those recommendations.

Mr. SHAYS. Mr. Kucinich just has one.

Mr. KUCINICH. I thank the Chair for his indulgence.

I have heard that one general or it may have been Mr. Brooks said that 60 percent of the people in Iraq who are employed by private security are Iraqis. Did you say that?

Mr. BROOKS. Roughly.

Mr. KUCINICH. Roughly.

The costs that are on this sheet of \$600 a day, that is not what the employees get, is it? It's just what you charge for the employees, for individual employees?

Mr. BROOKS. Is that this chart?

Mr. KUCINICH. That's this chart.

Mr. BROOKS. That would be, though, dependent on the quality of employee that you hire.

Mr. KUCINICH. That's with all the costs that are involved.

Mr. BROOKS. You would have to ask these guys what they charge.

Mr. KUCINICH. Here's my question. For people who are doing similar work, do you pay Iraqis the same that you pay non-Iraqis? Does the industry? Do Iraqis get the same pay for the same work?

Mr. TAYLOR. They don't do the same work, Mr. Kucinich.

Mr. KUCINICH. In no case?

Mr. TAYLOR. From Blackwater's perspective, they are not doing high-threat protection.

Mr. KUCINICH. So Iraqis are the lowest-paid then?

Mr. TAYLOR. I have no idea, Mr. Kucinich.

Mr. KUCINICH. Could you get the information from your legal counsel and provide it to us?

Mr. TAYLOR. Absolutely.

Mr. SHAYS. Just be clear about your testimony here. You are basically saying they are not doing that kind of work. You are not asking them to do that kind of work; therefore, they are not going to get paid those kind of dollars.

Mr. KUCINICH. But for similar work.

Mr. TAYLOR. We would have to define similar. High-threat protection of a U.S. Ambassador is not performed by local Iraqis. That requires a different skill set.

Mr. BROOKS. If I could weigh in on that. I think what you are getting to is, yes, an American who goes to work in Iraq, whether driving a truck or mechanic, can expect to earn, say, double what they would in the United States. If they are from Nepal or if they are from the Philippines or something, then even driving a truck or something, it is 10 times what their salary would have been back at home. Is it as much as an American? Probably not. But it is still a lot more than they would get at home. So the employees of third country nationals and the Iraqis that I talk to when I was in Iraq were quite happy with their salaries.

Mr. KUCINICH. Mr. Chairman, I think it would be interesting for this committee to have the gentlemen who are here and the industry provide us with a chart which shows how much an American there gets paid, how much a Nepalese gets paid, how much an Iraqi gets paid for similar work. I mean, I think it would be very interesting for us to have that information.

Mr. SHAYS. Let me just say, if the gentleman would like it, I would be happy to request it. From my own perspective, I would be outraged if someone who left their own country at a certain sal-

ary structure was ultimately getting what someone would get who came from a country where their reimbursement would have been much higher. So I am not on the same wavelength, but I would be happy if that could be provided to the committee what the different pay scale. I will just ask the two folks that do the association work to provide that for us. Just give us a sense of what folks would get. I mean, Mr. Brooks, it is your response really, but I think what you are saying is that in some cases they might get 10 times more than they would get in their own country. And then you could take that information and conclude with it as you like.

Mr. KUCINICH. I appreciate the gentleman's indulgence to let me ask that question, and I think that no matter what country we are in, there is always questions of equity that need to be looked at.

Mr. ROSENKRANZ. But usually you hire the men required to do the job, and if it is the type of job where you can hire somebody and get them at a lower salary, that's the type of person—

Mr. KUCINICH. I understand. I am looking at this chart, just before we started this hearing. If the government is being charged \$600 a day for an employee, and that employee happens to be Iraqi, he's getting, say, \$10 a day, we'd be interested.

Mr. ROSENKRANZ. It doesn't work that way. I mean, if you have a person who has to do a sharp-team or do a PSD that requires a clearance, you have no choice on who you are going to hire. And if it is somebody that is going to provide local security, and it can be an Iraqi, then you hire an Iraqi. You would never bring somebody over.

Mr. BROOKS. If I could back that up. I think one of the really interesting things for me, when you look at this industry, it is truly a global industry. And companies that work in the Balkans that are now working in Iraq have actually brought some of their employees who have been working their way up the corporate ladder to work in Iraq. And in Darfur you have companies that worked in Sierra Leone that have brought Sierra Leone and are now part of management structure. That is quite normal. And for the companies who are competitive, it's cheaper to use a Sierra Leonean and give them a very good wage by Sierra Leonean standards than it is to hire an American to do the same thing. So it is a global industry, and they try to be as cost-effective as possible.

Mr. SHAYS. Let me say, I have found—this is your life's work right now, so for you this is old hat stuff. But for me, this was a very informative hearing. You have been an excellent panel. Mr. Balderas, if you had left to take your plane, it wouldn't have been as good a panel.

Mr. BALDERAS. Thank you, Mr. Chairman.

Mr. SHAYS. So if your wife wanted to leave earlier, I thank her for understanding that you were a valued part of this. All of you were.

This was a very interesting hearing, both panels, and I thank you very much. Is there any closing comments that you would like to make that won't get Mr. Kucinich or Mr. Van Hollen to ask a followup question?

Mr. TAYLOR. No, thank you, Mr. Chairman.

Mr. SHAYS. But anything we need to put on the record?

Mr. ROSENKRANZ. These folks, these women and men—and, by the way, we have a number of women in our police program. They are doing a magnificent job. Everything who gets protected by them, the people who watch our police program in action are so impressed. These are just marvelous people.

Mr. SHAYS. Thank you.

Mr. Balderas.

Mr. BALDERAS. Mr. Chairman, just Triple Canopy would just like to thank you for having the opportunity to talk here today. And also, on behalf of all the veterans there at Triple Canopy, we would just like the opportunity to continue to serve our country. Thank you very much.

Mr. SHAYS. Thank you very much.

Mr. Brooks.

Mr. BROOKS. Very quick. We do have public companies, I just want to say, right off the bat that are publicly known. So their incomes and their contracts are quite open. Armor Group, MPRI are two member companies that are public companies. Good oversight makes for good companies, and if you look in our presentation, we are happy for good oversight. We look to support oversight from the government side.

A code of conduct is useful for making good companies. I mean, we have a code of conduct. I think all companies should. I think they all have similar codes of conduct, but it is useful to have that public so everybody knows what the rule is.

And finally, I would just like to say it has been an honor to be on the panel with these folks here. I mean, they are amazing.

Mr. SHAYS. And, constituent of Mr. Van Hollen, would you like to get the last word?

Mr. CHVOTKIN. These are complicated issues, Mr. Chairman. They require good thought. I appreciate the attention that the subcommittee has paid, and would look forward to a continued dialog with you on it.

Mr. SHAYS. Well, again, a very interesting hearing. Thank you so much for your cooperation. Any question that you said you would followup on, it is important that there be that followup and communicate with our committee. And if there's not the ability to get exactly what we wanted, we will need just a reason why, and we will walk through it.

But thank you, gentlemen, for your service to our country. We appreciate it a lot. With that, this hearing is adjourned.

[Whereupon, at 7:23 p.m., the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]

Subject: *Rebuilding Iraq: Questions and Answers for the Record Following the Subcommittee's Hearing on the Use of Private Security Providers in Iraq.*

On June 13, 2006, GAO testified before your subcommittee at a hearing on the use of private security contractors in Iraq. This letter responds to questions for the record the subcommittee posed. The questions and my responses follow.

1. How many security contracts (issued by the U.S. Government) are in existence?

At the time we issued our report in July 2005 we identified six security contracts that had been awarded by the Department of Defense (DOD), the Department of State, and the Agency for International Development (USAID). However, because DOD does not have visibility over the contracts awarded by its numerous contracting agencies it is difficult to determine the number of contracts that have been awarded by DOD for security.

2. What are the total costs of these contracts and their subcontracts?

In July 2005 we reported that as of December 2004 the Department of State, DOD, and USAID had obligated nearly \$456 million on six security contracts. We have not updated the information for these contracts.

3. What is the total number of contractors dead? Wounded?

According to the Special Inspector General for Iraq Reconstruction's (SIGIR) April 30, 2006 report to Congress there have been 516 death claims for contractors of all nationalities filed with the Department of Labor under the Defense Base Act. GAO has not independently verified this number and has no information on the number of contractors wounded.

4. Please provide a report on laws broken by contractors. Please provide a report on disciplinary actions taken against contractors who have broken these laws.

The scope of our July 2005 report on private security contractors did not include an evaluation to determine if contractors in Iraq had broken any laws. In our July 2005 report on private security contractors in Iraq we noted that according to DOD, there had been no disciplinary actions brought against private security providers for acts of criminal misconduct. We have not updated that information.

5. Please provide a list of contracts in excess of \$100 million.

As we noted, DOD does not have visibility over the contracts that have been awarded to support deployed forces in Iraq. At this time there is no single source in DOD to obtain information about contracts that have been awarded to support deployed forces in Iraq. A wide array of DOD entities can award contracts to support operations in Iraq however;

information about these awards is not compiled and passed to a higher headquarters in either the services or DOD. For example, we recently requested information from the Air Force Material Command regarding contracts that the command had awarded which supported forces deployed to Iraq. The command told us they could not readily provide such information and would need to contact each of their contracting activities to obtain the contract information we requested. We made a similar request of the Army Material Command and received a similar answer. GAO has also found that like DOD, neither the Department of State nor USAID have a single source which can provide information on contracts that have been awarded for Iraq nor information must be obtained from the various contracting sources. Although both USAID and the State Department were eventually able to provide some information on contracts being used in Iraq, the information was subject to frequent revisions by the agencies.

6. How many contractors and subcontractors does the U.S. Government employ in Iraq?

It is not possible to provide an accurate answer to this question because DOD currently does not have by-name accountability of its contractors and subcontractors working in Iraq and as a result does not know the total number of contractors in Iraq. In October 2005, the Department issued Department of Defense Instruction 3020.41 entitled *Contractor Personnel Authorized to Accompany the U.S. Armed Forces*, which directs the Undersecretary of Defense for Personnel and Readiness and the Undersecretary of Defense for Acquisition, Technology and Logistics to work together to implement a web-based database to maintain by-name accountability of all contractors deployed in support of U.S. forces. While some of the services, most notably the Army, have efforts underway to provide the required by-name accountability, no DOD-wide system has been developed or implemented. In April 2006, Multi-national Forces – Iraq undertook a census of contractors living on U.S. installations in Iraq. This information was needed as part of the ongoing planning to reduce the number of installations in Iraq. At the time we visited Iraq in May 2006 the census was not yet completed. In addition, USAID officials have told us that they have limited visibility over their contractors in Iraq and therefore only have a rough order of magnitude estimate of the number of contractors in Iraq. USAID officials told us they generally have information on the number of employees working for their prime contractors but do not have information on the number of employees working for subcontractors. According to a representative from the Department of State, the State Department does not maintain an agency wide database of contractors working in Iraq however each contracting activity likely knows the number of prime contractor employees but does not know the number of subcontractor employees.

Hearing Date: June 13, 2006
Committee: Government Reform
Subcommittee: National Security
Member: CM Waxman
Witness: Shay D. Assad
Question #1

Question #1: How much of the \$15 billion in LOGCAP funding went to pay for private security contractors? (Waxman, 53)

Answer: The Logistics Civilian Augmentation Program (LOGCAP) is managed and executed by the U.S. Army Field Support Command (AFSC), which is a major subordinate command of the U.S. Army Materiel Command. Kellogg, Brown and Root (KBR), a subsidiary of Halliburton, is the prime contractor for the competitively awarded LOGCAP III contract. KBR has advised the Army that it has never directly hired private security contractors in support of the execution of a statement of work under any LOGCAP III task order. KBR has also advised the Army they are unaware of any payments to subcontractors which include charges for private security costs.

Hearing Date: June 13, 2006
Committee: Government Reform
Subcommittee: National Security
Member: CM Waxman
Witness: Shay D. Assad
Question #2

Question #2: Are there five tiers of contractors in Halliburton contracts? (Waxman, 55)

Answer: The Logistics Civilian Augmentation Program (LOGCAP) is managed and executed by the U.S. Army Field Support Command (AFSC), which is a major subordinate command of the U.S. Army Materiel Command. Kellogg, Brown and Root (KBR), a subsidiary of Halliburton, is the prime contractor for the competitively awarded LOGCAP III contract. The Defense Contract Audit Agency (DCAA) is currently auditing subcontract costs from FY2002-FY2004 as a part of their annual incurred cost audits. At this point, DCAA has not identified any 3-, 4-, or 5- tier subcontract arrangements. Should DCAA subsequently identify any 5-tier arrangements, we will notify your committee.

Hearing Date: June 13, 2006
Committee: Government Reform
Subcommittee: National Security
Member: CM Waxman
Witness: Shay D. Assad
Question #3

Question #3: How much does Halliburton cost taxpayers for a single \$600/day employee? (Waxman, 55)

Answer: Kellogg, Brown and Root (KBR), a subsidiary of Halliburton, is the prime contractor for the competitively awarded Logistics Civilian Augmentation Program (LOGCAP) contract. LOGCAP is managed and executed by the U.S. Army Field Support Command (AFSC), which is a major subordinate command of the U.S. Army Materiel Command.

The cost for employee labor under the LOGCAP contract is based on a number of factors, including the contingency environment, requirements, the services provided, the duration of services, and other labor/non-labor cost factors. Compensation for KBR employees working on the LOGCAP contract are negotiated between the employer (KBR) and the employee. The Defense Contract Audit Agency (DCAA) provides contract audits on the LOGCAP contract and evaluates the reasonableness of compensation and pay as part of their contract audit oversight. The LOGCAP contract costs may include various allowable direct costs and indirect costs, such as overhead cost and general and administrative expenses. According to KBR, information on the specific costs associated with a KBR direct hire employee earning \$600 per day is considered to be proprietary and can not be disclosed in public record. However, in general, it would be less than \$1000 per day.

Hearing Date: June 13, 2006
Committee: Government Reform
Subcommittee: National Security
Member: CM Kucinich
Witness: Shay D. Assad
Question #4

Question #4: When were the first contractors DoD contracted for put into Iraq?
(Kucinich, 69)

Answer: The earliest private security contract on record was signed on 29 May 2003 between the Office of Reconstruction and Humanitarian Assistance (ORHA) and Global Risk Strategies (Contract SK W01A-03-C-0001). This contract provided close protection for the Director of ORHA, security and protection to ORHA staff and facilities, and coordination and management of force protection services.

Hearing Date: June 13, 2006
Committee: Government Reform
Subcommittee: National Security
Member: CM Kucinich
Witness: Shay D. Assad
Question #5

Question #5: Would the DoD be prepared to see prosecution preferred against any private contractors who was demonstrated to have unlawfully killed a civilian?
(Kucinich, 74)

Answer: Yes, and the DoD has established a close working relationship with the Department of Justice regarding crimes committed outside the United States.

Hearing Date: June 13, 2006
Committee: Government Reform
Subcommittee: National Security
Member: CM Kucinich
Witness: Shay D. Assad
Question #6

Question #6: How many shooting incidents do you investigate with respect to private contractors killing civilians? (Kucinich, 76)

Answer: All known incidents are investigated. MNF-I Frag Order (FRAGO) 05-231, Reporting and Investigating Incidents Involving Contractors Firing Weapons (August 2005), requires reporting, inquiry into, and possible investigation for all incidents of Private Security Contractors (PSCs) using lethal force. Under this FRAGO, all firing incidents are reported and reviewed, not just those involving the death of a civilian or any other personnel. The FRAGO requires contractors and MNF-I units who have observed or are otherwise aware of contractors firing weapons to report the incident to the Reconstruction Operations Center (ROC) within 48 hours of the occurrence. The military or embassy element responsible for that particular PSC (the supported element) is required to conduct an inquiry into the event. If the unit commander believes that the firing incident may involve misconduct on the part of the PSC or a violation of the rules for the use of force (RUF), the incident will be reported to the Criminal Investigation Division (CID). The provisions of this FRAGO are directed to be incorporated into all existing and future security contracts, at all tier levels.

Hearing Date: June 13, 2006
Committee: Government Reform
Subcommittee: National Security
Member: CM Schakowsky
Witness: Shay D. Assad
Question #7

Question #7: How many security contracts from DoD are in existence?
(Schakowsky, 91)

Answer: To the best of our knowledge and belief, there are 14 private security contracts.

Hearing Date: June 13, 2006
Committee: Government Reform
Subcommittee: National Security
Member: CM Schakowsky
Witness: Shay D. Assad
Question #8

Question #8: What is the total cost of these contracts and their subcontracts?
(Schakowsky, 91)

Answer: The total cost of these 14 contracts is \$516.8M.

Hearing Date: June 13, 2006
Committee: Government Reform
Subcommittee: National Security
Member: CM Schakowsky
Witness: Shay D. Assad
Question #9

Question #9: What is the total number of contractors dead? Wounded? (Schakowsky, 91)

Answer: The Individual Uniformed Services maintains official DoD casualty information vice the combatant commander. USCENCOM does receive courtesy copies of casualty reports from the Services; however, these reports do not differentiate between categories of civilians (e.g. DoD civilians and contractors). When a civilian casualty report includes mention of a civilian company, USCENCOM assumes and records that casualty as a contractor. It is possible that actual contractor casualties differ from USCENCOM's information due to the inability to discern contractor specific data from Service provided reports. USCENCOM's figures for contractor casualties within the USCENCOM Area of Responsibility (AOR) from October 2001 to July 2006 are: Killed in Action (KIA) 121, Wounded in Action (WIA) 301.

Hearing Date: June 13, 2006
Committee: Government Reform
Subcommittee: National Security
Member: CM Schakowsky
Witness: Shay D. Assad
Question #10

Question #10: Please provide a report on laws broken by contractors. (Schakowsky, 91)

Answer: There are no ongoing or completed Federal prosecutions of DoD contractors under the Military Extraterritorial Jurisdiction Act (MEJA) (18 U.S.C. § 3261, et seq.) of 2000. Several cases have been referred by DoD to DoJ for review under MEJA procedures, but none have resulted in prosecutions or convictions. However, the legal authority and procedures are in place for such prosecutions and DoD is supports such actions, as appropriate. All contractors are potentially subject to Iraqi criminal law, but are immune from its application for actions performed pursuant to the terms and conditions of their contract unless the United States waives those protections. Subsequent to the hearing, we have been made aware of a prosecution using jurisdiction of 18 U.S.C 7(9), not MEJA under 18 U.S.C. 3261 et seq. The facts of the case are:

Former CIA contractor David A. Passaro was convicted in North Carolina Federal District Court on August 17, 2006 for assaulting a detainee (Abdul Wali) he interrogated at a remote U.S. military base in Afghanistan in 2003. Passaro was convicted of felony assault and 3 counts of misdemeanor assault for using interrogation tactics that included beating Mr. Wali with a metal flashlight. Although Mr. Wali died shortly after the interrogations, Passaro was NOT charged with killing him as the evidence was insufficient for linking his death to the beatings. As of a September 25 newspaper story, Passaro faces a possible 11-year prison sentence and a \$250,000 fine. No sentencing date has been set.

Hearing Date: June 13, 2006
Committee: Government Reform
Subcommittee: National Security
Member: CM Schakowsky
Witness: Shay D. Assad
Question #11

Question #11: Please provide a report on disciplinary action taken against contractors who have broken these laws. (Schakowsky, 91)

Answer: Please refer to our response at Question #10.

Hearing Date: June 13, 2006
Committee: Government Reform
Subcommittee: National Security
Member: CM Schakowsky
Witness: Shay D. Assad
Question #12

Question #12: Please provide a list of contracts in excess of \$100 million,
(Schakowsky, 91)

Answer: Of the 14 private security contracts, only 2 are in excess of \$100M -- Aegis Defense Service at \$273,178, 278 and ERNIYS at \$125M.

Hearing Date: June 13, 2006
Committee: Government Reform
Subcommittee: National Security
Member: CM Schakowsky
Witness: Shay D. Assad
Question #13

Question #13: How many contractors and subcontractors does DoD employ in Iraq?
(Schakowsky, 91)

Answer: Contractors are hiring and discharging employees on a daily basis. We are not able to ascertain at any point in time the exact numbers of those employed in Iraq. However, in accordance with Department of Defense (DoD) Instruction 3020.41, the Office of the Undersecretary of Defense for Acquisition, Technology and Logistics (OSD-ATL) has been tasked with developing a joint database to account for all external and systems support contractors who have deployed with the force. U.S. Central Command is assisting OSD-ATL in this task, which is currently in process. Upon development of the database and implementation of policy governing the use of the database, DoD will be able to track those contractors on a quarterly basis.

Hearing Date: June 13, 2006
Committee: Government Reform
Subcommittee: National Security
Member: CM Marchant
Witness: Shay D. Assad
Question #14

Question #14: Is there a transition plan put together to see how Iraqi forces, private security firms, USAID, etc. will interact with each other once US troop presence has been largely supplanted by Iraqi forces? (Marchant, 101)

Answer: Presently, there is no approved transition plan that specifically addresses the interaction of PSCs and Iraqi Security Forces after the redeployment of US forces from theater. Multi National Forces - Iraq (MNF-I) anticipates that the status of Private Security Contractors (PSCs) will be incorporated in security transition plans as those plans develop.

Hearing Date: June 13, 2006
Committee: Government Reform
Subcommittee: National Security
Member: CM Marchant
Witness: Shay D. Assad
Question #15

Question #15: In the recent military investigation of a shooting by a private security force contractor (Washington Post, 6/11), what criminal laws were considered applicable? (Marchant, 104)

Answer: The U.S. Army Criminal Investigation Command (CID) conducted a review of the investigation into the case to which I assume your question refers . CID conducts and controls all Army investigations of serious crimes in which the Army is, or may be a party of interest. CID agents reviewed the incident and determined there was no potential criminality that fell within CID's investigative purview. CID's conclusions were supported by separate reviews by the Multi National Command – Iraq (MNC-I) and the Multi National Forces – Iraq (MNF-I).

Questions for the Record Submitted to
James R. Kunder
by Congresswoman Schakowsky
Committee on Government Reform
Subcommittee on National Security, Emerging Threats
and International Relations

“Private Security Firms: Standards,
Cooperation and Coordination in the Battlefield”
June 13, 2006

- Question 1: How many security contracts from USAID are in existence?
- Answer: USAID/Iraq does not have any security contracts in existence. Security is provided by Embassy Iraq.
- Question 2: What is the total cost of these contracts and their subcontracts?
- Answer: Please see response above.
- Question 3: What is the total number of contractors dead? Wounded?
- Answer: As of May 31, 2006, the total number of USAID-funded contractors who have been killed: 83 (24 Expats, 59 Iraqis)
- As of May 31, 2006, the total number of USAID-funded contractors who have been wounded: 77 (21 Expats, 56 Iraqis)
- Question 4: Please provide a report on laws broken by contractors.
- Answer: In 2004, an employee from Kroll Security (security contract with USAID) destroyed an armored Mercedes Benz vehicle valued at \$300,000 while driving intoxicated.
- Question 5: Please provide a report on disciplinary action taken against contractors who have broken these laws.
- Answer: The employee referenced in question #4 above was fired and the security company reimbursed the United States Government for the cost of the vehicle.
- Question 6: Please provide a list of contracts in excess of \$100 million.
- Answer: Active Contracts with contract amounts greater than \$100 million:
1. Bechtel II \$1,429,911,678

2. Bearing Point II	\$184,637,237
3. Development Alt. Inc.	\$106,794,816
4. Louis Berger	\$154,073,300
5. CSP – IRD	\$265,000,000

Contracts in Close-Out with contract amounts greater than \$100 million:

1. Bechtel I	\$1,029,833,259
2. RTI – Local Governance I	\$241,910,757

Question 7: How many contractors and subcontractors does USAID employ in Iraq?

Answer: USAID/Iraq has approximately 30 current contractors. USAID/Iraq does not compile information on the number of subcontractors.

What is the annual gross revenue of Blackwater's non-classified work for the U.S. government in Iraq? (Kucinich, 150-51)

Answer: In the year 2005, \$240 million.

Can Blackwater be sued for worker's deaths or injuries, or does all liability lie with the government? (Kucinich, 153)

Answer: Whenever Blackwater performs public work contracts overseas in support of the U. S. Government, the company pays for insurance coverage under the Defense Base Act, 42 U.S.C. § 1651 et seq. ("DBA"), as mandated by federal law and which Congress has legislated "shall be exclusive and in place of all other liability[.]" 42 U.S.C. § 1651(c).

How much does the U.S. government pay Blackwater to provide security for Ambassador Khalilzad in Baghdad? (Kucinich, 154).

Answer: Blackwater respectfully defers to the Department of State to provide this information.

What other U.S. government non-classified contracts does Blackwater have in Iraq? (Kucinich, 154)

Answer: Currently, none.

How many non-classified U.S. contracts does Blackwater have in Iraq? (Kucinich, 154)

Answer: Currently, one.

How much does the U.S. government pay Blackwater for their non-classified services? (Kucinich, 155)

Answer: See answer to #1.

Please affirm or refute the claim that there was a markup of \$215 in additional costs over the \$815 charge per contractor (as shown in an article in the *News Observer*), and provide documents in support of this claim. (Van Hollen, 160-61)

Answer: Blackwater refutes the claim. The article stated: "Blackwater's charges to Regency for Zovko's work were \$815 a day, a markup of \$215." The difference between the independent contractor's charge to Blackwater and Blackwater's charges to Regency incorporated Blackwater expenses such as recruiting, vetting, training, administrative, and management costs, as well as profit.

Does \$815 constitute the full daily cost per contractor? (Shays, 162)

Answer: A: \$815 is what is known as the "fully burdened" rate charged by Blackwater. However, there are costs Blackwater incurs for which it is not paid.

Has Blackwater confronted any workman's compensation issues? (Kucinich, 185)

Answer: Like many companies of more than de minimus size, Blackwater of course has had its share of workers compensation claims filed against it, e.g., approximately 100 (not including DBA claims) in the last six years. As stated previously, whenever Blackwater performs public work contracts overseas in support of the U. S. Government, the company pays for insurance coverage under the Defense Base Act, 42 U.S.C. § 1651 et seq. ("DBA"), as mandated by federal law and which Congress has legislated "shall be exclusive and in place of all other liability[.]" 42 U.S.C. § 1651(c).

Please send background information on Marine Chaplain Father Pucciarelli. (Kucinich, 185)

Chaplain George W. Pucciarelli received his commission as an Ensign in the United States Chaplain Corps on 10 March 1972. He is currently the Chaplain for Blackwater USA, a private professional security, training, and logistics company. His TEMACS and summer augmentations brought him to MCB, Camp Lejeune, NC; NTC Orlando Florida; Parris Island Marine Corps Recruit Depot; MCB, Camp Pendleton, CA; a two month overseas deployment (Bonded Item – Norway), NAF Azores, Portugal, Portsmouth Submarine Base, Kittery, Maine; Naval Hospital, Jacksonville, NC and the USS Basilone DD824. In January, 1981 Father Pucciarelli deployed to the Mediterranean with the 24th Marine Amphibious Unit and supported five other ships. In May 1981, he was assigned as the Regimental Chaplain to the 8th Marine Regiment. In October 1983, while deployed to Beirut, Lebanon with the 24th Marine Amphibious Unit, Father Pucciarelli distinguished himself after the tragic bombing of the Marine barracks where 241 Marines and Sailors lost their lives and 100 were wounded.

In November 1983, Chaplain Pucciarelli returned and was reassigned as Regimental Chaplain of the 10th Marines. In June 1984, reported to the USS Inchon LPH-12 and served as the ship's only chaplain. Again, Father Pucciarelli distinguished himself when he supported and extended solace to the crew during the tragic loss of eight Sailors in a fiery auto crash in Guantanamo Bay, Cuba. October 1989, Chaplain Pucciarelli reported to MCCDC- MCB, Quantico, VA where he supported both Marine Air Ground Training and Education Center and oversaw the Command Catholic Program at the Chapel. His collateral duty was as the Officer-in- Charge of the refurbishment of Diamond Hall into a new Chaplain's facility.

In January 1991, Chaplain Pucciarelli again reported to Camp Lejeune for further assignment to Desert Shield/Desert Storm. He served as the senior and only Catholic Priest in the field to the 2nd Marine Division. In August 1992, Father Pucciarelli reported to FMFLANT, Norfolk, VA where he assumed duties as the Force Chaplain. In July 1995, he reported to the Office of the Chaplain of the Marine Corps to serve as the Assistant Chaplain of the Marine Corps.

In June 1996, Father Pucciarelli became the Chaplain of the Marine Corps.

In July 1999, reported for duty as chaplain to the Naval Security Group at Fort Meade, MD with additional duties to serve the National Security Agency.

Chaplain Pucciarelli retired from active duty in July, 2002.

The Honorable Christopher Shays
Chairman, Subcommittee on National Security, Emerging Threats, and International Relations
Room B-372
Rayburn Building
Washington, DC 20515

Subject: DynCorp International Testimony: ***Private Security Firms: Standards, Cooperation and Coordination***

Dear Congressman Shays:

I am writing to supplement the information I presented on behalf of DynCorp International on June 12, 2006 to respond to inquiries posed by Subcommittee members during my testimony.

One area of inquiry was for information regarding mental health support provided by DynCorp International to employees in theater and after employment terminates.

I have listed below the elements of our existing program and various initiatives that are under way to support our employees in Iraq and Afghanistan, including the following:

- Before candidates are offered positions, they are thoroughly screened, first by a paper-and-pencil assessment and then by a face-to-face interview with a doctoral-level psychologist. This assessment evaluates an applicant's overall suitability for mission.
- We employ psychologists in-country to respond to the individual needs of employees, ranging from attending to psychological issues after an incident to counseling on personal matters.
- We have established a committee at our Company headquarters to address problems faced by our former employees returning to the US. One of our managers is responsible for contacting our employees who were injured and families of our employees who were fatally injured while working in battlefield conditions. Our manager stays in contact with these people and reports to the committee on the particular cases being handled and the progress made.
- We periodically survey employees who return from Iraq and Afghanistan and assess their satisfaction with our organization and solicit their feedback to improve our programs.
- We are in the process of initiating a psychological debriefing process at central locations in the Middle East to counsel employees before they depart the region. At the same time, we administer a customized test to assess Post Traumatic Stress Disorder (PTSD), depression and anxiety.
- Our Employee Assistance Program (EAP) is being revised to work with employees in the US returning from Iraq and Afghanistan. Former employees will have the opportunity to meet with a counselor individually to discuss psychological issues.

- We are in the process of creating an alumni association for our former employees who served under battlefield conditions. Part of this effort is the development of a website that will provide information about our EAP program and reunions. The website will also enable our former employees to take the customized PTSD test.

We were also asked to report on the incidence of DBA claims for stress or mental health problems filed by our employees who worked in Iraq and Afghanistan over the past several years. Our review did not reveal any such claims.

The final open item arising during my testimony concerned a requested for information on DynCorp International's revenues in Iraq. Revenue information relating to DynCorp International's Iraq operations for the Company's fiscal years 2004 through 2006 is provided below. Unfortunately, we were unable to isolate revenues relating solely to security work.

FY'04	\$73.8M
FY'05	\$470.3M
FY'06	\$502.2M

Kindly contact the undersigned if the Subcommittee requires any additional information or has questions regarding the content of this letter.

Very truly yours,

Robert B. Rosenkranz
President, International Technical Services
DynCorp International LLC

2250 Corporate Park Drive
Suite 300
Herndon, VA 20171

703 673 5000 TEL
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triplecanopy.com



July 11, 2006

Mr. Robert Briggs
U.S. House of Representatives
Government Reform Committee
Subcommittee on National Security
B-372 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Briggs:

Triple Canopy appreciated the opportunity to testify before Chairman Shays' June 13 Subcommittee hearing about private security firms. I admire Chairman Shays' in-depth understanding of the government-contracting process and recognition of the unique challenges private security firm employees face on the battlefield.

Triple Canopy's responses to the Subcommittee's questions-for the-record are included below.

What is the annual gross revenue for Triple Canopy's work in Iraq?

Triple Canopy's 2005 revenue for work in Iraq was \$104 million.

Are any of your employees dealing with alcohol issues, anxiety disorders or post-traumatic stress disorders?

In order to respect employee privacy and comply with state and federal privacy laws relating to health and medical data, Triple Canopy does not identify individual employees dealing with alcohol issues, anxiety disorders or post-traumatic stress disorders. However, the company does offer extensive resources to those individuals to assist them.

All Triple Canopy employees experiencing psychological or mental health issues have access to our work-life balance program. Triple Canopy's work-life balance program is available to employees and their families 24 hours a day via telephone or on the Web. The program provides information and free counseling services on a variety of topics including: emotional well-being, addiction and recovery, financial challenges, legal issues, parenting, child care, education, older adults, work concerns, health and every day living. Specific information is available for employees and their families about deployment to foreign countries, coping with violence and trauma and returning home from deployment.

Assess, Avert, Achieve.

Mr. Robert Briggs
July 11, 2006
Page 2

Triple Canopy also has a professionally trained and licensed counselor, Dr. Michael Martin, on retainer for emergencies. Dr. Martin has a PhD in family trauma counseling and is available in cases of death and serious injury. He is an expert on Triple Canopy's medical, mental and Defense Base Act benefits. When necessary, he will provide counseling services to families as well as coordinate access to federal, state and local agencies that can provide on going support and services. In times of death, Dr. Martin will provide grief counseling and bereavement support to the families of the deceased.

All Triple Canopy personnel receive the same quality health care in Iraq. Third-country-nationals and expats go to the same clinic and are treated by the same health care providers. In certain circumstances, TCNs and expats may receive health care from the U.S. military. While in Iraq, all Triple Canopy personnel are covered by Defense Base Act insurance.

Iggy Balderas and I would welcome the opportunity to meet with Chairman Shays, Dr. Nicholas Palarino or you to answer any follow-up questions. Please contact me at alan.ptak@triplecanopy.com or (703) 673-5517 if you need any additional information or to arrange a time to meet.

Sincerely,



Alan Ptak
Senior Vice President of Strategic Development





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July 14, 2006

Robert Briggs
Government Reform Committee
Subcommittee on National Security
B-372 Rayburn House Office Building
Washington, DC 20515

RE: Hearing on "Private Security firms: Standards, cooperation and coordination on the Battlefield," June 13, 2006.

Mr. Briggs,

The Subcommittee requested a chart which demonstrates "approximate pay rates received by Iraqi, Nepalese, and American contractors respectively for similar work." The chart is attached here.

The Peace and Stability Industry is comprised of private companies specializing in providing services in conflict and post-conflict environments. It is a truly global industry, and direct comparisons between security contractors from the United States and other nationalities are inherently difficult. Specific positions may require different skill sets or capabilities, including security clearances, specialized training, English language proficiencies, etc. For example, static security involves protecting a building or installation and requires discipline and professionalism but not necessarily perfect English, driving skills or specialized bodyguard training.

It should be noted that while the salaries of Third Country Nationals (TCNs) can be far less than those of U.S. citizens working in Iraq, when incomes are compared to national averages it can be seen that TCNs working in Iraq earn many times their national average income. The attached chart lists the per capita annual income in the country of origin, the general income range while in Iraq, and the resulting income multiplier showing that TCN's income multiplier is significantly higher than that of U.S. citizens.

Please do let us know if we can provide additional information or clarification.

Regards,

A handwritten signature in black ink, appearing to read "Doug Brooks", is written over a light blue horizontal line.

Doug Brooks
President

Sample Iraq Pay Rates 2006				
Country of Origin	Per capita annual income in country of origin (2004)	Employment type in Iraq	Annualized Income Range in Iraq	Iraq Income Multiplier
United States	\$41,400	Private Security KBR Truck Driver	\$124,600 to \$178,000 \$72,000 to \$100,000	3 to 4.3 1.74 to 2.42
Iraq	NA	Private Security	\$1,800 to \$3,600	NA
		Police	\$2,400	
		Army	\$2,220	
		Support positions - Truck drivers, cooks, mechanics, clerks, etc.	\$1,200 to \$3,600	
Chile	\$4,910	Private Security	\$36,000 to \$48,000	7.3 to 9.8
Fiji	\$2,690	Private Security	\$31,800 to \$48,000	11.7 to 26.6
		Private Security	\$1,000 to \$72,000	3.8 to 276.9
Nepal	\$260	Support positions - Truck drivers, cooks, mechanics, etc.	\$3,120 to \$14,400	12 to 55.4
(International Peace Operations Association - July 2006 - www.IPOAonline.org)				



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July 11, 2006

Mr. Robert Briggs
Government Reform Committee
Subcommittee on National Security
B-372 Rayburn House Office Building
Washington, DC 220515

Dear Mr. Briggs:

Thank you for the invitation to testify at the Subcommittee's June 13, 2006 Hearing entitled "Private Security Firms: Standards, Cooperation and Coordination on the Battlefield." Your June 27, 2006 letter provided an additional question for the record: "Please provide a chart which shows the approximate pay rates received by Iraqi, Nepalese, and American contractors respectively for similar work. (Kucinich, 193-94)." I have reviewed our files and we have no information that would document the relative pay rates for the listed nationals for similar work.

Thank you again for the opportunity to testify. If you have any questions or need any additional information, please do not hesitate to let me know. I can be reached at 703-875-8059 or a Chvotkin@pscouncil.org.

Sincerely,

Alan Chvotkin
Senior Vice President & Counsel