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Considerations for the Use of Private Security Contractors in Future U.S. Military Deployments

MOLLY DUNIGAN

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June 2010

Testimony submitted to the Commission on Wartime Contracting on June 18,
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Considerations for the Use of Private Security Contractors in Future U.S. Military Deployments²

Submitted to the Commission on Wartime Contracting

June 18, 2010

Thank you for the opportunity to provide written testimony for the Commission on Wartime Contracting Public Hearing on “Are Private Security Contractors Performing Inherently Governmental Functions?” The issues of whether and to what extent private security contractors (PSCs) should be used when planning for future U.S. military deployments are significant, particularly in light of extensive U.S. government reliance on PSCs in the recent conflicts in both Iraq and Afghanistan. Based upon research conducted over the past several years for a RAND project on the use of armed private security contractors in Operation Iraqi Freedom, it appears that if PSCs are going to continue to be used in large numbers alongside U.S. troops, improved oversight and the institution of PSC-military coordination mechanisms are necessary to ensure that these forces do not have a detrimental impact on U.S. military goals. I also believe that, if it wishes to reduce its reliance upon private security contractors, the U.S. government must ensure that U.S. government and military forces internally maintain adequate surge capacity and the necessary skills to effectively fight modern contingencies.

The RAND study, titled *Hired Guns: Views About Armed Contractors in Operation Iraqi Freedom*, draws upon surveys of U.S. military and State Department personnel who were deployed to Iraq in the 2003 to 2008 time period. A total of 249 U.S. military and 892 State Department personnel participated in these surveys, enabling us to glean a rare quantitative picture of these actors’ perceptions of their private security counterparts.³

¹ The opinions and conclusions expressed in this testimony are the author’s alone and should not be interpreted as representing those of RAND or any of the sponsors of its research. This product is part of the RAND Corporation testimony series. RAND testimonies record testimony presented by RAND associates to federal, state, or local legislative committees; government-appointed commissions and panels; and private review and oversight bodies. The RAND Corporation is a nonprofit research organization providing objective analysis and effective solutions that address the challenges facing the public and private sectors around the world. RAND’s publications do not necessarily reflect the opinions of its research clients and sponsors.

² This testimony is available for free download at <http://www.rand.org/pubs/testimonies/CT349/>.

³ Many of the survey responses in the RAND report were coded to show the distinction between those respondents who had experience with armed contractors and those who had little to no such experience. This coding was derived from a question on both surveys asking, “During OIF, how often did you interact with armed contractors hired either directly or indirectly by the U.S. government?” Respondents could answer “never,” “rarely,” “sometimes,” or “often.” If they answered “never” or “rarely,” they were categorized as “no experience,” while answers of “sometimes” or “often” were categorized as “experience.” Of the entire pool of respondents, roughly 152 military and 790 State Department respondents fell into the “experienced” pool. The remainder of the percentages given below reflect the answers of respondents in this experienced pool.

While not focusing specifically on the questions of whether and what types of private security contracting constitutes inherently governmental functions, this research does describe perceptions of government employees about the roles PSCs played in Iraq in the 2003 to 2008 time period. Of particular relevance are four questions explored in the RAND study: First, to what extent do military and diplomatic personnel perceive PSC behavior to have a negative impact on Iraqi civilians? Second, is there a lack of unit cohesion and systematic coordination between PSCs and the military? Exploring these two issues gives us insight into the types and level of oversight necessary for PSCs conducting operations alongside or in close contact with the military. Third, do PSCs provide skills and services that the armed forces lack? And fourth, do PSCs provide vital surge capacity and critical security services that have made the Iraq operation possible? The third and fourth questions examined together provide a glimpse of the supply and demand issues that can tend to make employment of PSCs an attractive option for the U.S. government, creating potential incentives to use these forces to perform inherently governmental functions.

I. Most Military and Diplomatic Personnel Do Not View Armed Contractors as “Running Wild” in Iraq, but a Considerable Number of Both Groups Do Report Troubling Incidents Involving Poor PSC Behavior Toward Iraqi Civilians

Reports are plentiful of private security contractors committing serious, sometimes fatal, abuses of power in Iraq. Consider, for instance, the highly publicized September 2007 Nisour Square incident, in which a team of contractors working for the company known at that time as Blackwater (now called Xe Services) providing personal security details for State Department officials stopped traffic in a busy Baghdad square and proceeded to shoot and kill 17 civilians, wounding numerous others.⁴ Conflicting reports exist regarding whether the Blackwater/Xe contractors came under hostile fire and were acting in self-defense. In another documented case from 2006, contractors working for Triple Canopy in Iraq shot and killed civilians for no apparent reason other than “for sport.”⁵ Unlike contractors involved in the more highly publicized Blackwater/ Xe case, these Triple Canopy personnel completely escaped prosecution.

⁴ James Glanz and Alissa J. Rubin, “From Errand to Fatal Shot to Hail of Fire to 17 Deaths,” *New York Times*, October 2, 2007; Glanz and Rubin, “Blackwater Shootings ‘Murder,’ Iraq Says,” *New York Times*, October 8, 2007; Richard A. O’Connell and Michael R. Gordon, “U.S. Military and Iraqis Say They Are Shut Out of Inquiry,” *New York Times*, October 11, 2007.; David Johnston and John M. Broder, “FBI Says Guards Killed 14 Iraqis Without Cause,” *New York Times*, November 14, 2007; Lara Logan, “Interview with Erik Prince,” *60 Minutes* (October 13, 2007).

⁵ Steve Fainaru, “Four Hired Guns in an Armored Truck, Bullets Flying, and a Pickup and a Taxi Brought to a Halt. Who Did the Shooting and Why?” *Washington Post*, April 15, 2007: A01.

Although Nisour Square and the incident involving the Triple Canopy contractors were two unusually extreme cases of the alleged abuse of power by private security contractors, less extreme instances have also been reported. Accounts maintain that some armed contractors, when working on private security details, employ aggressive tactics to ward off potential attackers—for example, driving on the wrong side of the road and firing warning shots.⁶ Similar accounts describe contractors forcing Iraqis off the road while driving fast and recklessly. Armed contractors have also reportedly cleared areas by throwing full water bottles at local civilians while driving through.⁷ Blackwater/Xe has received the majority of such criticism. But employees of other security firms have reportedly acted in similar ways both in Iraq and other theaters.

In the experience of military personnel, incidents in which armed contractors behaved in an unnecessarily threatening, arrogant, or belligerent way in Iraq were not entirely uncommon. Although a majority of military respondents with contractor experience reported “never” having witnessed armed contractors behaving in an unnecessarily threatening, arrogant, or belligerent manner in Iraq, the number who reported having “sometimes” observed such behavior (20 percent) is a substantial figure, as is the number reporting having “often” observed such behavior (almost 5 percent). This is particularly so when considering that we expect armed contractors to behave well when employed in support of a U.S. military mission, even if they are not employed directly by the United States.

In like manner, 65 percent of military personnel with experience interacting with PSCs had “never” witnessed armed contractors instigating direct action or taking offensive measures unprovoked. Yet, once again, the fact that 14 percent had “sometimes” witnessed armed contractors taking offensive measures unprovoked, and almost 5 percent had “often” witnessed this happening, is not insignificant.

Meanwhile, almost 50 percent of diplomatic personnel with experience interacting with armed contractors did not think that armed contractors demonstrate an understanding and sensitivity to Iraqis and their culture. When it came to the issue of contractors’ respect for local and international laws, opinions among diplomatic personnel who had interacted with contractors were split between those thinking that armed contractors do respect local and international laws and those thinking that they do not (38 percent and 39 percent, respectively). The fact that a slightly higher percentage of State Department survey respondents felt that armed contractors are *not* respectful of local and international laws is a cause for deep concern, particularly in light

⁶ Peter W. Singer, “Can’t Win with ‘Em, Can’t Go to War Without ‘Em: Private Military Contractors and Counterinsurgency” (Washington, D.C.: The Brookings Institution, 2007).

⁷ Renee Montagne and Dina Temple-Raston, “Iraqis See U.S. Contractors, Troops the Same,” *National Public Radio*, December 17, 2007.

of the counterinsurgency mission of the United States in Iraq. In such a counterinsurgency situation, U.S forces do not want to be perceived as being disrespectful of Iraqi and international laws; yet contractor actions bring such perceptions into the realm of possibility.

A majority of State Department personnel with one Operation Iraqi Freedom (OIF) deployment also never had firsthand knowledge of armed contractors mistreating Iraqi civilians. However, in light of the fact that we would never expect PSCs to mistreat Iraqi civilians, the number of State Department respondents who sometimes had firsthand knowledge of such incidents is, again, a cause for concern. Of those respondents with only one assignment to Iraq, 12 percent “sometimes” knew firsthand about armed contractors mistreating civilians. Of those with two or more assignments to Iraq, 18 percent “sometimes” had such knowledge.

With regard to the question of whether they perceived armed contractors to enjoy free reign to misbehave with little accountability, however, nearly two-thirds of State Department respondents with experience interacting with armed contractors felt that such a contention was false.

Meanwhile, of those State Department personnel posted to Iraq who had experience with armed contractors, almost half had never been called on to manage any consequences of provoked or unprovoked action against local citizens. About half of that number had to perform this role “sometimes,” and slightly less than that “rarely” had to do it. However, we must consider that having to manage the consequences of armed contractor actions against locals is entirely outside of the purview of what we should expect our deployed diplomatic personnel to spend their time doing. This is because the entire purpose of private military and security contractors is to augment the force, not to detract from it or challenge it. In light of this, it is striking that 9 percent of State Department respondents with experience with armed contractors reported often having to manage the consequences of armed contractor actions.

All in all, it does not appear that a majority of either the military or State Department personnel perceive private security contractors to be “running wild” in Iraq. But there are significant and disconcerting indicators in the survey data that the military and diplomatic communities feel there might be a basis – at least in the attitudes that armed contractors bring to the country – for Iraqis to take a dim view of them, consequently running the risk of damaging the standing of coalition forces in general among the local populace. When considered in the context of this public hearing, this research speaks to the fact that greater oversight of private security contractors may be needed if they are continually used in large numbers to perform the functions they performed in Iraq during the 2003 to 2008 time period.

II. Systematic Coordination Between Private Security Contractors and the Military is Lacking

Several previous government reports have noted problems in private security contractors' abilities to coordinate successfully with U.S. military and coalition forces in Iraq. A 2005 Government Accountability Office (GAO) report noted that private security providers continued to report incidents between themselves and the military when approaching military convoys and checkpoints, and that military units deploying to Iraq were not fully aware of the parties operating on the complex battle space in Iraq and what responsibility they have to those parties.⁸ A follow-up report by the GAO in 2006 noted, "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."⁹

At their extreme, problems of coordination between private security contractors and military troops in Iraq have resulted in friendly-fire, or so-called "blue-on-white," incidents. Statistics compiled by the Reconstruction Operations Center in Iraq indicate that the vast majority of reported blue-on-white incidents in Iraq are actually perpetrated by coalition forces against private security contractors, with most occurring when contractors are approaching checkpoints or passing military convoys. Such incidents strongly suggest a weakness in communications between contractors and the military in Iraq. Less extreme results of coordination problems have also been reported to be hindering the military's ability to accomplish its mission, such as the need for PSCs to call upon military quick-reaction forces for assistance when they had previously failed to coordinate with the relevant military units to secure the areas through which they were traveling.

Up to this point, the frequency with which such instances of failed coordination between teams of private security contractors and military units in Iraq actually occur has been unclear. The RAND survey data indicate that coordination problems between contractors and the military are not absent, with sizable minorities of both military and State Department personnel recognizing the presence of such coordination problems to at least some extent.

⁸ Government Accountability Office, *Rebuilding Iraq: Actions Needed to Improve Use of Private Security Providers*, Publication No. GAO-05-737 (Washington, D.C.: July 2005).

⁹ Government Accountability Office, *Rebuilding Iraq: Actions Still Needed to Improve Use of Private Security Providers*, Publication No. GAO-06-865T (Washington, DC: June 13, 2006).

Yet, in light of the numerous previous reports of failed coordination between armed contractors and the military, it is surprising that most of the military personnel surveyed had fairly positive views of armed contractors on this issue. Most military respondents had not seen firsthand any failures by private security contractors to coordinate with military commanders – 45 percent of those with experience interacting with armed contractors felt this way. However, 20 percent reported having “sometimes” had firsthand knowledge of such failures. This is not a negligible figure considering our high expectations regarding contractor behavior, and speaks to the need for better oversight and the institution of structured coordination mechanisms if private security contractors are going to continue to operate alongside the military in the field of combat.

Nearly 50 percent of those with experience with armed contractors also had never seen armed contractors getting in the way of active-duty military personnel trying to perform their jobs. Again, however, the fact that 16 percent reported having “sometimes” observed such hindrances of military personnel, and 6 percent “often” had observed such hindrances, is troubling in light of the fact that these contractors are deployed to augment the force, not to detract from military efforts.

From the opposite perspective, most military personnel felt that U.S. troops were generally doing their part to promote coordination, but a surprising number reported having witnessed military hindrances of PSC operations. More than half of military respondents had never observed military personnel impeding the operations of private security contractors. Given the disincentives for military respondents to report fellow soldiers’ shortcomings, this high figure is not surprising. What is surprising is that, in light of such disincentives, slightly more than 13 percent reported having sometimes observed military personnel hindering PSC operations. This considerable figure speaks to the fact that coordination problems between armed contractors and the military stem not only from contractor failures to coordinate, but from military failures to do so as well.

The views of surveyed State Department personnel reinforced those of the military on this issue, generally supporting the notion that the efforts of armed contractors and military personnel to work together smoothly went both ways. Nearly 60 percent of diplomatic personnel who had interacted with private security contractors believed that the contractors tried to coordinate well with the military. Again, however, a considerable figure – 16 percent – believed that it was typically false that armed contractors make an effort to work smoothly with U.S. military personnel. Meanwhile, eighty percent of those State Department respondents who had experience interacting with armed contractors thought that armed contractors work well with diplomatic personnel, a larger number than thought they work well with the military.

The RAND report therefore found that although prevailing opinions within the military support the position that coordination between armed contractors and military units in Iraq is not lacking, the coordination that does occur may not be systematic. If private security contractors continue to perform military-like functions on the battlefield, or even play non-military roles that cause them to come into frequent contact with U.S. or coalition troops in future contingencies, these coordination issues will need to be resolved to ensure that PSCs do not have a detrimental impact on military effectiveness. The finding that State Department personnel feel more strongly that PSCs work smoothly with diplomatic personnel than with military personnel, however, indicates that even if PSCs continue to play a role in personal security details for diplomatic personnel, the need for new mechanisms to streamline coordination between PSCs and the diplomatic personnel will not likely be as strong as the need for new mechanisms to streamline coordination between PSCs and the military.

III. Military and Diplomatic Personnel Tend to View Armed Contractors as Providing Valuable Skills

From one standpoint, the employment of private security contractors can provide the United States with access to capabilities that would otherwise be unavailable or “would [either] take an inordinate amount of time to develop internally, or . . . be prohibitively expensive to develop.”¹⁰ Proponents of this “valuable skills” argument claim that although the vast majority of private security contractors provide services that the military itself is designed to perform, a small segment of this group of contractors might be able to offer additional skills. Aside from basic guard services, private security contractors also provide highly specialized personal security details and bring a background to the job that most soldiers do not have. David Isenberg points out that many of these armed civilians are not merely ex-military, but former members of elite units – Rangers, Green Berets, Delta Force, SEALs, Special Air Service, or Special Boat Service.

The RAND survey data demonstrate that military personnel tend to think that armed contractors do provide valuable skill sets to the U.S. government. When surveyed military personnel who felt that armed contractors “sometimes,” “often,” or “always” add valuable skills are considered together, a majority deemed the contribution of contractors in this area to be positive. Ninety-two percent of military respondents with experience interacting with armed contractors gave an answer in one of these three categories. Only a negligible few felt that armed contractors never provided valuable skills.

¹⁰ James Wynn, Statement Before the United States House, Committee on Armed Services (Washington, D.C.: June 25, 2004): 4.

The overall view on this issue was also highly positive among the State Department personnel surveyed for the RAND study. Ninety-two percent felt that these armed personnel sometimes, often, or always provide the government with valuable skill sets, with nearly half considering the contribution to occur often. In sum, the skill sets and services that private security contractors provide to the armed forces are highly valued by both military and State Department personnel, with the diplomatic group holding those skills in even higher regard than the military does.

IV. Military and Diplomatic Personnel Also Tend to View Armed Contractors as Providing Necessary Surge Capacity and Critical Security Services

In a related fashion, one important contribution of PSCs is argued to be their perceived ability to provide surge capacity to the U.S. armed forces.¹¹ Although this argument usually refers to contractors who provide logistical support, it has recently also been extended to private security contractors.

Opinions that support this viewpoint can be found both inside and out of government. The GAO has formally stated that private security contractors are necessary to the Iraq mission, reporting that they fulfill important security functions throughout the country in support of the Department of Defense's military mission and the State Department's diplomatic mission.¹² Nonetheless, skeptics counter that what armed contractors can add to surge capacity is of little value, since their reliability is doubtful:

The closer contractors are to the battlefield, the more they run the risk of getting in "harm's way." A calculation . . . comparing what the costs of getting into harm are with the costs of withdrawing, may actually make it more attractive not to provide a service.¹³

Armed contractors who directly engage with the enemy are, indeed, often in harm's way and could present costs high enough to warrant careful thought about whether to use them. But that being said, there are no accounts of armed contractors showing a lack of reliability in terms of reluctance to enter insecure areas or to do their jobs when under threat. On the contrary, private

¹¹ Deborah D. Avant, *The Market for Force: The Consequences of Privatizing Security* (New York: Cambridge University Press, 2005); Eric Fredland, "Outsourcing Military Force: A Transactions Cost Perspective on the Role of Military Companies" *Defence and Peace Economics* 15 (2004): 205–219; Steven Zamparelli, "Contractors on the Battlefield: What Have We Signed up For?" *Air Force Journal of Logistics* 23 (1999): 11–19.

¹² United States Government Accountability Office, *Rebuilding Iraq: DOD and State Department Have Improved Oversight and Coordination of Private Security Contractors in Iraq, But Further Actions Are Needed to Sustain Improvements*, Publication No. GAO-08-966 (Washington, DC: July 2008).

¹³ Anna Leander, *Eroding State Authority? Private Military Companies and the Legitimate Use of Force* (Rome: Centro Militaire di Studi Strategici, 2006): 79.

security contractors held their ground when the facilities of the Coalition Provisional Authority came under attack in Al Kut in April 2003 and in Najaf in April 2004.¹⁴

As in the case of the “valuable skills” issue, military and State Department personnel also tend to believe strongly that armed contractors do provide needed surge capacity. Within the military, 62 percent of those with experience with armed contractors held this view, whereas that sense was even stronger among the diplomatic community, with 75 percent of experienced respondents feeling this way.

The value that armed contractors are perceived to add in this area goes beyond surge capacity for combat operations. The majority of both those military and diplomatic personnel with experience with armed contractors also think that they provide security critical to the success of reconstruction projects. Indeed, 69 percent of those military respondents with experience interacting with armed contractors felt this to be true, while only 17 percent felt it to be false, and 77 percent of State Department respondents with experience interacting with armed contractors considered PSCs to make a critical contribution to reconstruction, and only about 12 percent felt that they do not make such a contribution. All in all, these survey data indicate that private security contractors are welcomed by both the State Department and the military as providing surge capacity and critical security. When considered alongside the aforementioned finding regarding military and State Department perceptions of the value of skills provided by private security contractors, these data indicate that there is a fairly high demand for PSCs even among those who might criticize their ability to work smoothly with the military. This, in turn, speaks to the potential pressure to utilize PSCs to perform inherently governmental functions, as they supply skills and capacity that are in high demand in today’s world.

V. Conclusions

Clearly, there are conflicting forces working to both drive and challenge the use of private security contractors in modern contingencies. On the one hand, private security contractors’ skills and ability to increase the capacity of U.S. forces drive a high demand for their services, making it more likely that they will be called upon in the future. On the other hand, the relative lack of systematic, structured coordination mechanisms to guide PSC interactions with U.S. and coalition forces causes both PSCs and the military to hinder each other’s operations at times, therefore increasing the risks of using a mixture of U.S. forces and private security contractors. These risks are exacerbated when contractor behavior has a negative impact on local civilians in a given area

¹⁴ Dana Priest, “Private Guards Repel Attack on U.S. Headquarters,” *Washington Post*, April 6, 2004; Robert Young Pelton, *Licensed to Kill: Hired Guns in the War on Terror* (New York: Three Rivers Press, 2007).

of operation, particularly in counterinsurgency operations in which the U.S. military strives to win the “hearts and minds” of locals.

Three main conclusions relevant to this hearing can be drawn from the above analysis. First, if the U.S. government does not wish to employ PSCs, it must ensure that U.S. government forces have adequate skills and can provide adequate surge capacity to fulfill the needs associated with modern contingencies. Doing so will enable the United States to reduce its dependence on private security contractors to fill critical needs in conflict zones. Second, if PSCs are going to be employed in large numbers on the ground to perform the functions that they were called upon to perform in Iraq from 2003 to 2008, particularly in future counterinsurgency operations, government oversight over their behavior must be strengthened in order to ensure that they do not mistreat local civilians. Third, if PSCs are going to be utilized by the U.S. government in large numbers in such a manner that they will frequently come into close contact with U.S. and coalition troops, improved coordination measures must be instituted on both sides to increase the level of communication, understanding, and coordination between military and PSC personnel.