

Senate Democratic Policy Committee Hearing

“Abuses in Private Security and Reconstruction Contracting in Iraq: Ensuring Accountability, Protecting Whistleblowers”

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Good morning ladies and gentlemen of the Committee. Thank you for having me here. I have approached the honor of being here this morning the same way I approached making my documentary film “Shadow Company” by giving a balanced perspective to the subject. It has always been important to me to encourage people to ask the right questions – rather than attempt to give them simplistic answers.

The rules of war have changed.

The tragic incident on Sept 16th highlights the extent to which they have changed over the last six years. The Blackwater security contractors - in effect - armed civilians - provided security to Department of State officials in a warzone – a task one would usually expect to be performed by the US Army.

The Pentagon estimates that there are now at least 126,000 contractors working in Iraq – of who over 20,000 are security professionals – working for private security or private military companies.

What are these Private Military companies (PMCs) doing? What should they be doing? And how should they be monitored?

This is **not** a new phenomenon.

This issue goes beyond Blackwater and outside the borders of Iraq; mercenary forces or proxy armies have been used since the 13th century BC – including many uses facilitated by US Congress.

Today – our lack of understanding of the details involved in the use of contractors in Iraq highlights the need for education and awareness on why we hire PMCs, how they represent the United States, and how they can be monitored and held accountable.

It is commonly stated that PMCs in Iraq operate in an entirely lawless environment. Coalition Provisional Authority Order 17 prohibits any prosecution of security contractors in local Iraqi courts – but there are laws that **do** apply – even within Iraq. Many of you have heard of the Military Extraterritorial Jurisdiction Act (MEJA) and the Uniform Code of Military Justice (UCMJ) – sadly neither of these adequately completes the loop of investigation, prosecution, and

punishment for private contractors. Even if new laws were passed that did apply to security contractors there are important distinctions between the existence of a law and the political will to prosecute under that law.

If neither Washington nor the commanders on the ground know even the real number of contractors working in Iraq how can we hope to effectively prosecute transgression of ill defined laws?

It is indicative of the degree to which little is known about this industry that the witnesses you see before you today are a journalist, a mother of a tragically killed contractor and a documentarian. The degree to which outsourcing has taken place and the speed with which it has done so has left many policy makers in the dark about where to turn for reliable information about this industry.

Modern conflict, such as Iraq, is often based on perception as much as fact.

During the making of this film I was surprised to learn that the Iraqis do not differentiate between armed security contractors and US soldiers. In other words, security contractors are America's public diplomats— and yet these same contractors are not held to same oversight or standards of accountability as our soldiers.

We may try to distance ourselves by the actions of the contractors, thinking they provide convenient temporary manpower whose deaths won't be marked by a flag draped coffin coming through Dover, but that only plays in the United States. Overseas, where the public opinion really matters in the struggle for minds and will in the insurgency, the contractors **are** the US and are directly involved in the mission.

The immediate response of the Iraqi government to the incident this past Sunday was indicative of the sort of response we need to avoid – they proposed revoking the license for Blackwater to operate in Iraq – and the media ran with this story – despite the fact that Blackwater neither possesses nor needs a **valid license** to operate in Iraq under the terms of its contract with the State Department.

The end result has been a curtailing of our mission in Iraq, a temporary crippling of the successful provincial reconstructions teams (PRTs), and a distraction for our senior diplomats, all because we did not have a risk management policy in place for contractors because of the casual attitude toward their use and role in our national security and mission in Iraq.

Even if Blackwater is removed from Iraq – as some in the Iraqi government are calling for, this does not address the real issue. The overwhelming majority of Private Security Contractors working for Blackwater are exactly that – Contractors. If Blackwater is banned from Iraq they will simply leave and work for another company.

I know that it is easy to begin every conversation about PMCs by asking whether or not the U.S should be in Iraq in the first place. But - if we are to move forward in this discussion and truly address the need for accountability, oversight and monitoring we must allow ourselves to

acknowledge the long past and focus on the likely future of managing the existence of Private Military Companies.

Focusing on Blackwater distracts from the real issue of why contractors were hired in the first place, the degree to which they are integrated into the mission, the influence they have on that mission, the quality of the job performed and the interaction with local Iraqis in the campaign for hearts and minds.

This is about more than Iraq or Afghanistan, It is about how we have shaped our armed forces, how we conduct our foreign policy, support our national security, and even support our public diplomacy. The private military companies, as September 16th demonstrated, shape our image and create perceptions in not just the minds of the Iraqis, but in people around the world. It is therefore imperative to educate ourselves on every detail of the current use of PMCs in order to make clear and informed decisions.

We must take a hard look at how contractors should fit into our national security, take the steps necessary to make them conform to those needs, and the issues of accountability and monitoring will fall into place.

Thank you again for granting me the opportunity to present information to the committee. To the extent that I am able - I am happy to add additional information in the Q&A that follows as requested.