

# Private Security Contractors at War

Ending the Culture of Impunity



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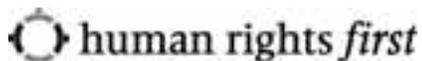
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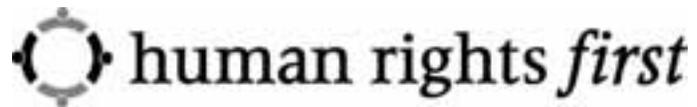
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## Preface

This report examines the dramatically expanded role of private security contractors in Iraq and Afghanistan. It describes the failure of the U.S. government to effectively control their actions, and in particular the inability or unwillingness of the Department of Justice (DoJ) to hold them criminally responsible for their illegal actions.

While some of these contractors have been fired or received other employment sanctions, practically none have been prosecuted for serious misconduct such as violent attacks against civilians that have resulted in death or serious injuries. Although the primary focus of this report is on private security contractors (PSCs) (see definition on p. 1 below), we also examine the role of private contractors in the interrogation process, specifically at Abu Ghraib.

This report does not address a number of other important issues, including the following:

- The propriety (as a matter of both law and sound public policy) of contracting out particular “core military” functions to PSCs.
- The impact of the PSC industry on military morale and discipline and on the retention of skilled military personnel in critical specialty areas.
- The development and implementation of appropriate civil-military lines of authority when PSCs and other private contractors are operating in zones of armed conflict.
- The adequacy and consistency (across various agencies) of current U.S. government regulatory, contracting and procurement regulation and management of PSCs.
- The *true* costs of utilizing private contractors, compared to the costs of utilizing the military to perform the same functions—including contract management, oversight, law

enforcement and other costs that *should* be incurred, but presently are not, if contractors are to be used appropriately.

- The extent to which aspects of the U.S. civil tort system currently impede the ability of victims of contractor misconduct abroad and families of contractors who are killed or injured on duty to seek fair compensation for their losses.

This report is based on information gained from meetings with: representatives from industry and trade associations; the military, other federal agencies and Congress; international organizations and the nonprofit community; academia; the legal community; and the media. It also is based on court records, government reports, declassified documents and other documentary sources, including over 600 declassified “Serious Incident Reports” on incidents involving the use of force by, or attacks on, PSCs in Iraq. This report also examines private contractor activities in Afghanistan, but to a lesser extent because there is much less information about contractor activities there than in Iraq. In general the operations of PSCs are far less transparent than those of the military services whose functions the PSCs increasingly are taking on. While the focus of this report is on PSC activities in Iraq, its lessons are more broadly applicable.

This report was written and edited by: Scott Horton, Human Rights First’s senior consultant on this project, an adjunct professor at Columbia Law School and a writer for Harper’s Magazine; Kevin Lanigan, director of the Law and Security Program at Human Rights First; and Michael McClintock, a consultant on human rights and security issues. This report would not have been possible without extensive *pro bono* research and analysis undertaken by the New York and London offices of the law firm Linklaters LLP. We are particularly indebted to the following Linklaters attorneys for their important

contributions: Michael J. Osnato, Jr., Titia Holtz, Robert Bell, Jeffery Commission, Richard Doble, Philomena McFadden, Ivan Morales, Daniel Piccinin, and Justin Williamson.

Work on this report was greatly advanced by a June 2007 conference on PSC accountability organized by the Program in Law and Public Affairs at the Woodrow Wilson School for Public and International Affairs at Princeton University, headed by Professor Kim Lane Scheppele. We are indebted to a number of participants in that program, especially Laura Dickinson, professor of law at the University of Connecticut and visiting professor and research scholar at Princeton University, and Deborah Pearlstein, associate research scholar in the Law and Public Affairs Program at the Woodrow Wilson School for Public and International Affairs at Princeton University (and former director of Human Rights First's Law and Security Program), both of whom provided critical insights and advice.

We also are grateful to: Doug Brooks, president, International Peace Operations Association; Phillip Carter, McKenna Long & Aldridge; James Cockayne, International Peace Academy; Jennifer Daskal, Human Rights Watch; Cordula Droege, International Committee of the Red Cross; and Major General Antonio (Tony) Taguba (U.S. Army-Ret.), Serco Inc. (North America), for their cooperation and suggestions. T. Christian Miller of the *Los Angeles Times*, Bill Sizemore of the *Norfolk Virginian-Pilot*, and Jay Price of the *Raleigh News & Observer* in recent years have covered the PSC "beat" as much as or more than any reporters in the country, and all three have been generous with their time and in their willingness to help us better understand these issues.

Notwithstanding assistance received from others, the conclusions drawn and views expressed in this report are those of Human Rights First alone. Additional research, drafting and project coordination was undertaken by Human Rights First consultants Reagan Kuhn and Elizabeth Shutkin and by intern Leslie Fields. Other Human Rights First staff who provided substantial assistance in writing and editing portions of the report include: Michael Posner, president; Devon Chaffee, associate attorney; Gabor Rona, international legal director; and Hina Shamsi, former deputy director, Law and Security Program.

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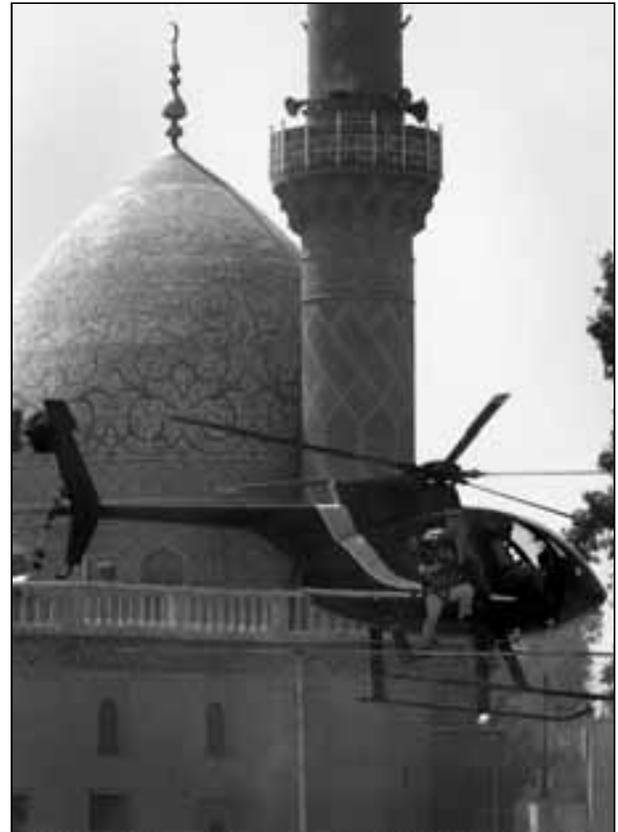
## Executive Summary

This report examines the dramatic and expanded use by the United States of private security contractors in Iraq, Afghanistan and elsewhere, and the abject failure of the U.S. government, and particularly the Department of Justice, to control their actions or hold them criminally responsible for acts of excessive violence and abuse. As the ranks of private security contractors have grown and the number of serious incidents has increased, the U.S. government has failed to establish a workable accountability mechanism. In Iraq in particular the interplay between private security contractors, international military forces, and local populations has exposed severe problems. But these issues are not unique to Iraq, and they will continue after Iraq.

The failure to establish a meaningful system of accountability for these contractors has undermined U.S. national security interests. To address this situation, Human Rights First proposes the vigorous enforcement of laws already in force today that provide a solid foundation for prosecuting violent crime involving contractors. We also propose that the federal government provide the necessary resources and properly prioritize law enforcement involving the contractor community. This will require vigorous and timely criminal investigations in the field and timely prosecution in the criminal courts. Military criminal investigations and courts-martial provide a solid model both in terms of determining necessary resources and the need for rapid investigation of these incidents. The Justice Department should work collaboratively with the military, benefiting from the latter's expertise and resources.

When the United States or *any* nation deploys armed forces in conflicts abroad—even *private* armed forces—it has a *legal* responsibility to ensure that those forces are:

- a. Carefully vetted to ensure that individuals with histories of serious criminal conduct (especially human rights abuses) are not put in a position to victimize others;



A security contractor helicopter circles the scene of a roadside bomb attack in Baghdad, Iraq, in July 2005. In the Iraq conflict, PSCs play a role which is increasingly difficult to distinguish from that of the uniformed military. (AP Photo/Khalid Mohammed)

- b. Rigorously trained in the laws of war and human rights particularly so that they understand their responsibilities toward detainees and civilians;
- c. Closely guided and supervised to help them cope with ambiguous or difficult circumstances and to ensure that their duties are upheld; and
- d. Held accountable under *functioning* legal regimes that punish those who commit serious crimes, particularly crimes involving violence and abuse.

In the second chapter of this report Human Rights First examines the patterns of private security contractor operations and the civilian casualties linked to them. The most recurrent violations involve the use of lethal force against civilians in what the private security contractors call “convoy protection.” Convoys often speed down the wrong side of the road, use gunfire to warn off civilians, and routinely fire on civilian vehicles in response to perceived threats. Although some incidents involving the questionable use of force by contractors against civilians and other alleged contractor abuse have been reported in the press or through official channels, few have been investigated and almost none have been prosecuted. The failure to investigate

and prosecute these violent attacks has created a culture of impunity that angers the local population, undermines the military mission, and promotes more abuse by contractors over time. The victims of their negligent or criminal conduct are not limited to Iraqi civilians—American military personnel and other individual contractors are also harmed, but even then there has been a general failure to investigate or act on the incidents. This failure produces a spiraling of inappropriate violent conduct, and damages the discipline and morale which are necessary for the effective accomplishment of a military mission. In this chapter we also describe our analysis of nine months of contractor “Serious Incident Reports” in Iraq during 2004-05.

In the third chapter, we examine the inadequate response of the U.S. government to these crimes, and particularly the Department of Justice. The Justice Department has demonstrated an attitude of apparent indifference towards these violent crimes that has fueled the atmosphere of impunity amongst contractors in Iraq. The U.S. government granted international contractors operating in Iraq presumptive immunity from Iraqi law in June 2004. This immunity continues to this day. This step always assumed that the United States and other nations sending contractors would hold contractors to account for any crimes they committed. But the U.S. government has failed to do so.

In the fourth chapter, we assess current U.S. laws governing private security contractors deployed abroad by the U.S. government. While imperfect and meriting reform, we conclude that there is a substantial basis in existing U.S. criminal law to allow full investigations and prosecutions in most cases of serious criminal misconduct by private security contractors in Iraq and Afghanistan. The main obstacle to ending the culture of impunity among private security contractors is not shortcomings in the law, but rather the lack of will to enforce the law.

In the final chapter, Human Rights First makes a number of practical recommendations for addressing and correcting this problem, changes that can be made immediately:

1. The Military Extraterritorial Jurisdiction Act (MEJA), the relevant law for the majority of cases of contractor abuse, should be amended *and resourced* to become the principal mechanism for the U.S. government to hold its private contractors abroad criminally responsible for violations of international humanitarian and human rights law.
2. The Justice Department should establish an office within the Criminal Investigation Division with the appropriate resources to make criminal law enforcement against U.S. government civilians and contractors fielded abroad a real priority.
3. The Department of Defense should develop regulations and amend the Manual for Courts-Martial to implement the 2007 expansion of the Uniform Code of Military Justice (UCMJ) jurisdiction to civilians serving with or accompanying the military in time or war or contingency operations.
4. U.S. government-funded private security contractors should be charged for condolence payments made to compensate for death, injury or damage caused by their actions, and conduct by the private security contractors amounting to serious violations of international humanitarian or human rights law should be grounds for termination of the contract and debarment of the contractor.
5. In order to better ensure that victims of contractor crimes can identify the perpetrators, U.S. government-funded private security contractors should be required to mark their vehicles in a manner that will allow the identification of the company by local nationals, and individual operators should be prohibited from wearing clothing that resembles military uniforms.
6. In Iraq and Afghanistan, all private security contractors working on U.S. government agency contracts (including subcontracts at any level) should be required to carry tracking devices in their vehicles that will allow their convoy movements to be securely tracked in real time and their itineraries to be reconstructed after the fact.

But even once these issues are addressed, there are other critical policy issues involving private security contractors that require close examination, including:

- Are there “core military functions” which should not be contracted out to private contractors due to imperative concerns of national security?
- Are current U.S. government regulatory, contracting and procurement regulations and management standards for private security contractors adequate in view of the experience in Iraq?
- What impact does the fielding of private security contractors have on military morale and discipline? How does it affect the ability of the uniformed services to retain skilled military personnel in critical specialty areas?
- Is it really cheaper for the U.S. to rely extensively on private contractors rather than using U.S. military personnel or civil servants?

## Introduction



Plainclothes contractors working for Blackwater take part in a firefight as Iraqi militia forces loyal to Muqtada Al Sadr advance on a facility defended by both contractors and coalition forces in April 2004 in the Iraqi city of Najaf. This incident revealed how contractors are increasingly drawn into traditional military roles. (AP Photo/Gervasio Sanchez)

*“These guys run loose in this country and do stupid stuff. There’s no authority over them, so you can’t come down on them hard when they escalate force.... They shoot people, and someone else has to deal with the aftermath.”*

Brig. Gen. Karl R. Horst, deputy commander of the 3rd Infantry Division, July 2005<sup>1</sup>

On September 16, 2007, private security contractors (PSCs) working for Blackwater Worldwide were running an armed convoy through Baghdad. Iraqi government officials charge that these Blackwater contractors, with no justification, killed 17 civilians and wounded 24 more in the Nisoor Square neighborhood of Baghdad.<sup>2</sup> The incident created a political firestorm in Iraq, the United States, and around the world. Although the facts are still under investigation, the incident brought intensive focus to the role of PSCs operating in Iraq.

The U.S. government’s reaction to the shootings at Nisoor Square has been characterized by confusion, defensiveness, a multiplicity of uncoordinated *ad hoc* investigations, and inter-agency finger-pointing. These failures underscored the Justice Department’s (DoJ’s) unwillingness or inability to systematically investigate and prosecute allegations of serious violent crimes.

And these failures even extend to cases where U.S. citizens have been victims, such as the alleged 2005 gang rape of Jamie Leigh Jones by co-workers at a forward operating base in Iraq. At the time Jones worked for Kellogg, Brown & Root (KBR), Inc. (then a Halliburton subsidiary). She has now filed a civil law suit against KBR, the U.S. government, and others. Justice Department officials in Iraq were briefed on the incident at the time, but DoJ declined even to open an investigation for more than two years, and they did so only when facing the prospect of embarrassing publicity relating to the case. There still has been no prosecution of her assailants. There has been a similar failure to investigate and prosecute private contractors involved in the abuses at Abu Ghraib

### Private Security Contractors: a Definition

There is no universal, agreed definition of the term “private security contractor.” Other terms used in the industry, the literature, and by other observers include “private military contractors” and, most pejoratively, “mercenaries.” Some companies in the PSC industry—and it most certainly *is* an industry—identify themselves as PSCs, but no serious analysis can turn on company self-identification. Human Rights First uses here an essentially functional definition of the term in light of the actual activities of such contractors fielded in Iraq and Afghanistan with a basic *security* mission—that is, a core mission to protect people (other than themselves) or things, to include guarding government (and contractors’) facilities, protecting government personnel (and other government contractors) and United Nations (U.N.) and other international organization staff as well, and providing security for convoys. While in other contexts PSCs may perform some or all of their functions unarmed, in Iraq and Afghanistan they almost invariably carry weapons.

prison during 2003. The images of Army Specialists Lynndie England and Charles Graner are imprinted in the public memory of that scandal—in large part because of their military court-martial prosecutions. By contrast, the role of private contractors at Abu Ghraib has received little public attention. Several contractors were there and participated in the interrogations at Abu Ghraib, including “Big Steve”—Steven Stefanowicz, a private contractor

interrogator employed by CACI International, Inc., on a Department of the Interior contract—and several other CACI and L3 Communications Titan Group (then its own entity, Titan) contractors. But the role of these contractors has never been fully investigated by the Justice Department. While 11 soldiers from Abu Ghraib were convicted on charges related to detainee abuse there,<sup>3</sup> not one CACI or Titan civilian contractor has ever even been *charged* with a crime. Formal Army investigative reports identified at least five private contractors as implicated in serious crimes at Abu Ghraib.<sup>4</sup> These Army investigators found evidence that some private contractors even gave direction and orders to soldiers who were prosecuted.<sup>5</sup> Cases examined by the Army's Criminal Investigation Division (CID) were referred to DoJ within months after these revelations.<sup>6</sup> Yet in the more than three years since then, the Justice Department—specifically, the U.S. Attorney's office for the Eastern District of Virginia—has failed to prosecute any of these private contractors. (See Appendix H.)

These incidents are the tip of the iceberg. Over the last several years there have been scores of reports of serious abuse by private contractors in Iraq and Afghanistan—both in the context of interrogations and in the use of excessive and often lethal force in various security operations. Many of these incidents have been well documented. Through February 2006 only 20 cases of alleged detainee abuse involving contractors are known to have been referred to DoJ. Nisoor Square and the Christmas Eve Baghdad shooting (see Appendix C) are the only known cases of security contractor abuse against local nationals that have been referred to DoJ. And only one civilian contractor, David Passaro, has ever been prosecuted by the U.S. government for violence towards local nationals. Passaro was a Central Intelligence Agency (CIA) contractor at a U.S. Army base in Afghanistan. In June 2003 Passaro beat a local Afghani named Abdul Wali in the course of a two-day “interrogation.”<sup>7</sup> Wali died in custody the next day. Passaro was tried in August 2006, convicted of multiple assault charges, and sentenced to more than eight years in prison.

Based on data reported by the Department of Defense (DoD) and Department of State (DoS), estimates show that there are now approximately 180,000 private contractors operating in Iraq today—more than the number of U.S. military forces there.<sup>8</sup> The U.S. government has neither asserted sufficient control over the situation nor even provided comprehensive information on how many private security contractors work there. Officials at both DoD and DoS cannot provide the number of private security and other contractors *funded by the U.S. government* currently in Iraq.<sup>9</sup>

But we do know that significant numbers of these contractors—tens of thousands of them—are armed and carrying out military-style security functions, working for several U.S. government agencies. Human Rights First estimates there are at least 35,000 PSCs in Iraq today.<sup>10</sup> Collectively, PSCs comprise the second-largest armed security force in the “coalition of the willing” in Iraq, second only to the U.S. military. They represent a larger force even than the *combined* forces of all of the coalition nations in Iraq other than the United States.

Most private security contractors in Iraq are Iraqi nationals, but thousands—perhaps tens of thousands—are U.S. and “third country” nationals. These contractors work for more than 180 companies,<sup>11</sup> including Aegis Defense Services, DynCorp International, the Centurion Group, Control Risks Group, Erinys, MPRI, Triple Canopy and Blackwater Worldwide, to cite a few of the major players. (See Appendix B for brief descriptions of PSC companies named in this report, and of others currently operating in Iraq.) While most individual contractors providing security services undoubtedly abide by the law and carry out their functions in a professional manner, there is a widespread and disturbing pattern of illegality and misconduct by private security contractors in these operations.

Consider these cases:

- **Zapata:** On May 28, 2005, U.S. Marines detained contractors from the American company Zapata Engineering,<sup>12</sup> accusing the contractors of “repeatedly firing weapons at civilians and Marines, erratic driving, and possession of illegal weapons,” and posing a “direct threat to Marine personnel.”<sup>13</sup> Although 16 American contractors<sup>14</sup> lost their jobs with Zapata and were banned from working in the Marine sector of Iraq,<sup>15</sup> none of them was ever prosecuted.<sup>16</sup>
- **Triple Canopy:** On July 8, 2006, Triple Canopy security contractors reportedly fired upon Iraqi civilian vehicles, damaging two vehicles and possibly causing casualties. Three members of the team described at least one of the incidents as unwarranted and admitted there was no threat, and the fourth team member—the alleged shooter—was accused by his teammates of saying he wanted “to kill somebody today” before starting the mission.<sup>17</sup> But these shootings came to public attention only through a wrongful termination suit later filed by two of the fired Triple Canopy guards; the U.S. government seems never to have conducted a criminal investigation into the incidents.<sup>18</sup> Triple Canopy fired the three American members of the team, two of which claim they were fired in retaliation for their reporting of the incident.<sup>19</sup>
- **Blackwater 2006:** On Christmas Eve 2006 Andrew Moonen, a Blackwater contractor, allegedly shot and killed Raheem Khalif Hulaichi in Baghdad's International Zone. Hulaichi was a member of Iraqi Vice President Adil Abdul-Mahdi's security detail. According to a CID report, after drinking heavily at a Christmas party,<sup>20</sup> Moonen passed through a gate near the Iraqi Prime Minister's compound and, when confronted by Hulaichi, fired repeatedly with his Glock 9mm pistol, hitting the guard three times, then fled the scene. Hulaichi died soon after.<sup>21</sup> With State Department facilitation, Blackwater hurried Moonen out of Iraq. Now more than a year later, the FBI and the Justice Department's U.S. Attorney's Office for the Western District of Washington reportedly are still investigating the case, although the office declined to confirm this to Human Rights First.<sup>22</sup> Shortly after the incident, Mr. Moonen found work with another contractor, Combat Support Associates (CSA), which provides logistics support to U.S. troops in Ku-

wait under a DoD contract. A CSA spokesman stated that nothing “untoward” was found in Moonen’s record during the standard background review conducted of all prospective employees.<sup>23</sup> To date no one has been charged or prosecuted in Hulaichi’s killing.

Human Rights First estimates that there are thousands of occasions in Iraq in which PSCs have discharged their weapons, hundreds of times toward civilians. But because of lax reporting requirements, inadequate supervision and the near-complete failure—primarily of DoJ—to investigate incidents, it is impossible to determine how many civilians were killed or wounded in these incidents. Clearly much more must be done to ensure this unacceptable situation does not continue.

The existing legal framework for holding private security contractors criminally accountable is based on a patchwork of federal statutes that provide a piecemeal approach to criminal jurisdiction. But together these laws do provide extensive—although imperfect—coverage. If used these laws would cover most of the serious violent crimes committed by contractors in Iraq and Afghanistan. By law, authority to prosecute these cases is shared by the Justice and Defense Departments. In practice, however, *neither* of these federal agencies is aggressively investigating nor prosecuting contractors. The U.S. government has not devoted adequate effort or resources to carry out the necessary criminal investigations or prosecutions.

The Justice Department bears primary responsibility for this inaction. Today most private security contractors operate in an environment where systems of criminal accountability are rarely used. This has created a culture of impunity.

Operating in an atmosphere of constant tension and threat and without clear standards, oversight, or discipline, and without the ultimate sanction of criminal liability, abuses by private security contractors are inevitable.<sup>24</sup>

The handling of allegations of excessive violence by these contractors stands in sharp contrast to the handling of similar cases involving the U.S. military. The military has clear authority to prosecute cases involving abuse by military personnel and in fact exercises this authority routinely. Though far from perfect, the military has established and devoted resources to build a comprehensive system of discipline and military justice by which soldiers, sailors, airmen, and Marines are subject to discipline or punished for their illegal actions. And while Human Rights First has been critical of DoD failures to hold senior officers accountable in cases involving abusive interrogation practices in Iraq and Afghanistan, we recognize that in general a regular and credible military criminal justice system in fact exists and is applied with some regularity to military personnel.

To date more than 60 U.S. military personnel have been court-martialed in the deaths of Iraqi citizens<sup>25</sup> and more are under investigation. In contrast *not one* private contractor implicated in similar crimes in Iraq has been prosecuted. Human Rights First believes that the Justice Department’s neglect has created a



Contractors (left and center) working for the U.S. Army as translators question suspected Iraqi insurgents lying handcuffed on the floor as soldiers search their home in Anbar Province in October 2004. Army reports have pointed to problems resulting from the involvement of contractors outside the military chain of command in interrogations, and Human Rights First is skeptical about the propriety of using contractors in such roles. (PATRICK BAZ/AFP/Getty Images)

“shoot-first, ask questions later—or *never*” attitude among some contractors. This endangers the local population amongst whom they operate. It also makes the job of the U.S. military harder by stoking animosities among the communities where military missions take place. This pattern of official disregard of contractor violence and abuse thus seriously undermines U.S. efforts to promote the rule of law in Iraq and Afghanistan and is in turn further endangering U.S. military personnel.

The U.S. government has engaged the services of these private contractors and has made itself increasingly dependent on them. As a result, private contractors today perform many functions that even a decade ago would have been undertaken by the uniformed military. But when the United States or any nation deploys armed forces in conflicts abroad—even *private* armed forces—it has the responsibility to ensure that those forces comply with the law. Specifically, governments using private security forces in armed conflicts have the obligation to ensure that these forces are adequately vetted, trained, supervised, and held accountable. Individuals with histories of abusive or serious criminal conduct should not be put in a position to victimize others. They must be trained in the law of war and human rights, including how those laws are enforced through applicable domestic law. Private contractors also must be subject to effective oversight and supervision to ensure that such laws are observed. And finally, when abuses do occur, contractors must be investigated and held accountable under the law.

Human Rights First finds that:

- PSCs and other private contractors working for U.S. government agencies have committed and are committing serious crimes, with virtually no criminal accountability;

- Existing U.S. federal criminal law could be used in most cases to prosecute private contractors who use excessive violence, including contractors involved in abusive interrogations;
- The U.S. government has made no serious, systematic effort to investigate contractor abuse at Abu Ghraib; and
- Although some U.S. government officials assert there are major “holes” in the statutory framework, these assertions merely rationalize Justice Department inaction and executive branch indifference. Current federal law provides a substantial basis to try most private contractors involved in cases of abuse. Proposed legislation pending in Congress would clarify some ambiguities and enhance this authority.

In this report Human Rights First makes a number of practical recommendations for addressing and correcting this problem, which fall into three broad areas:

1. Action by Congress to strengthen federal criminal accountability mechanisms, and require more vigorous Justice Department investigation and prosecution of these cases.
2. Implementation by the Defense Department of its Uniform Code of Military Justice (UCMJ) jurisdiction as a limited and secondary mechanism for holding contractors criminally accountable in special circumstances.
3. Development by the executive branch of uniform contract practices and procedures and effective mechanisms for enhanced operational coordination and control of contractors.

Congress also should:

- Expand the list of serious felonies for which private contractors may be prosecuted under the Military Extraterritorial Jurisdiction Act (MEJA);
- Mandate comprehensive public executive branch reports to Congress on the employment and activities of PSCs, and on Justice and Defense Department efforts to hold PSCs accountable for crimes committed abroad, in order to enable Congress to perform effective oversight in this sphere; and
- Direct a thorough, comprehensive study of the roles of private contractors employed by the U.S. government in conflict settings, with a view specifically to identify whether there are areas of “core government” functions that should not be performed by private contractors. Based on our preliminary review, Human Rights First urges a presumption against private contractors’ direct involvement in conducting interrogations.

In June 2004, just weeks after revelations from Abu Ghraib had so embarrassed the Bush Administration, then-attorney general John Ashcroft announced the Passaro indictment—concerning a killing that occurred a full year earlier—in terms that suggested that thenceforth no private contractor implicated in serious law of war or human rights violations would ever again escape the long arm of the Justice Department:

In the reports of abuse of detainees by United States personnel in Iraq and Afghanistan over the past two months, the world has witnessed a betrayal of America’s most basic values by a small group of individuals. Their actions call us to the defense of our values—our belief in decency and respect for human life—through the enforcement of the law.

President Bush has made clear that the United States will not tolerate criminal acts of brutality such as those alleged in this indictment. The types of illegal abuse detailed run counter to our values and our policies and are not representative of our men and women in the military and associated personnel serving honorably and admirably for the cause of freedom.

Those who are responsible for such criminal acts will be investigated, prosecuted and, if found guilty, punished.<sup>26</sup>

But in the three-and-a-half years since Passaro’s indictment, no other private contractors working in Iraq or Afghanistan have been indicted or prosecuted by the Justice Department for criminal violence or abuse toward local nationals.

The consequences of continued delay in closing this accountability gap are immense: Given the contractor population in Iraq, a simmering problem may boil into a crisis that could shape the eventual outcome of America’s efforts in Iraq and reputation throughout the world. Perhaps it already has.

## The Nature of the Problem

*“Not resolving these situations in a quick and decisive manner is counter productive in regards to accomplishing our foreign policy objectives, ensuring our safety, negating unnecessary additional threats, maintaining the continued good will of the Iraqi people as well as avoiding unnecessary problems/issues with our host country counterparts.”*

Michael E. Bishop, Al-Hillah Regional Security Officer, July 2005<sup>27</sup>

In the aftermath of the Nisoor Square shooting, Iraqi authorities<sup>28</sup> as well as some eyewitnesses<sup>29</sup> and U.S. military officials<sup>30</sup> accused Blackwater guards of firing at innocent civilians without provocation. Blackwater officials say the guards “acted lawfully and appropriately in response to a hostile attack.”<sup>31</sup> Blackwater CEO Erik Prince told CBS News’ *60 Minutes*, “three of our full armored State Department trucks had bullet pockmarks in them. And one of them was even disabled from the enemy small arms fire.”<sup>32</sup> A U.S. official told the *Washington Post*, however, that at least one Blackwater guard involved in the incident drew a weapon on his fellow contractors and shouted at them to “stop shooting,” suggesting at least one guard believed the shooting was unwarranted.<sup>33</sup>

The Nisoor Square incident was a well-publicized, extraordinary example of the ordinary in Iraq—a case where heavily armed private security convoys use lethal force against real or perceived threats on Iraqi streets and highways. In scores of cases reviewed by Human Rights First, security convoys have fired at civilian vehicles that were thought to be approaching too closely, moving into position to block their passage or break up the convoy, or simply failing to get out of their way with sufficient haste. This routine use of lethal force, often employed as a deterrent or precautionary measure, has claimed an unknown number of lives since the beginning of the Iraq conflict.

The significant loss of life at Nisoor Square, however, did what all the everyday incidents of shot-up cars and trucks have failed to do



Over 1,000 contractors have been killed in Iraq. One of them was Blackwater contractor Stephen Scott Helvenston, a former U.S. Navy SEAL. Here Helvenston’s family looks on as a Navy honor guard folds a U.S. flag at his burial in April 2004. Helvenston was one of four people killed on March 31, 2004, while working as a Blackwater civilian contractor in Fallujah, Iraq, March 31. This incident drew attention to the expanded use of contractors in conflict—and to the dangers they face. (CHARLES W LUZIER/Reuters/Corbis)

over four years: it brought into the public spotlight the illegal use of lethal force by U.S. security contractors. The incident and its repercussions may represent a turning point.

Tens of thousands of private security contractors operate today in Iraq and Afghanistan in highly dangerous environments. As the number of U.S. military deaths in Iraq approaches 4,000,<sup>34</sup> around 1,000 private contractors also have lost their lives in that conflict since 2003.<sup>35</sup> An estimated 12,000 contractors also have been wounded or injured.<sup>36</sup> The *New York Times* reported early in 2007 that private contractor deaths in Iraq in just the first three months of 2007 totaled at least 146 (compared to 244 U.S. military deaths in the same period),<sup>37</sup> and that 2007 looked like it would be the “bloodiest year yet for the civilians who work alongside the American military in the war zone ....”<sup>38</sup> These casualty figures cover all private contractors in Iraq, but private security contractors undoubtedly represent a substantial share of those who have been killed or injured.<sup>39</sup>

These problems first came to the fore in March 2004, when four Americans working for Blackwater took a dangerous route through the city of Fallujah and were killed, their bodies mutilated by an Iraqi mob. (See Appendix G.) The horror of the killings and the mob’s desecration of the bodies of the four contractors brought home to the American public the harsh reality of the conflict in Iraq and the dangers these contractors face. It also opened a window into the growing presence of private security contractors working in support of U.S. military operations.

This violent attack in Fallujah increased concerns for the security of American personnel in Iraq, both uniformed soldiers and civilian contractors. It also generated support for more forceful military action against those responsible for the outrages committed against the four American contractors. However, the public was still not fully aware that private contractors themselves are given responsibilities and put into positions where they themselves may commit serious criminal violations.

It was not until some time after CBS News first broadcast the photographs from Abu Ghraib in April 2004 that the criminal accountability of contractors began to be the subject of public and political attention. The debate that followed represented the first official acknowledgement that such abuses could represent a serious political problem for the United States, but it also provided an early insight to a legal problem: Although Abu Ghraib implicated military personnel and contractors alike, several of the lower-ranking Army personnel involved in the scandal were criminally prosecuted (through military courts-martial) and sentenced to prison terms,<sup>40</sup> while none of the civilian contractors involved in Abu Ghraib—who on the basis of Army investigations appear to be similarly culpable<sup>41</sup>—has ever been prosecuted.

Most private security contractors can be expected to do their jobs conscientiously and courageously. But they operate in an environment in which the U.S. government has failed to develop the capacity, resources, or legal framework to discipline or punish those contractors who commit serious crimes. The dangers faced by these private security contractors, and the daily stresses caused by those dangers, make it all the more important to keep these forces under control and to have effective means of enforcing discipline.

Unfortunately this has not happened. As a result, in the last several years there has been a steady pattern of abuse by private security contractors and an official failure to address such abuses. Since Abu Ghraib in 2004 reports of private security contractor use of force in Iraq and elsewhere have attracted increased public attention and generated greater concerns in Congress. However, this attention and interest still has not been sufficient to move the executive branch to initiate criminal prosecutions—even in the aftermath of Nisoor Square.

## A Pattern of the Questionable Use of Force

Concerns over the lack of accountability for security contractors in Iraq arise against a backdrop of what has been portrayed by observers as aggressive tactics used by many contractors as a normal part of convoy protection. Convoys often speed down the wrong side of the road, use gunfire as warnings, and fire on civilian vehicles in response to perceived threats. Contractors often say that they were acting “defensively.” Their aggressive approach and resort to violent force deeply alienates the local population and ultimately undermines the U.S. military mission. The U.S. government has fallen short of acting upon its legal responsibilities

to challenge violations of international human rights and humanitarian law, which itself quite likely exacerbates and promotes more abuse by contractors.

### Spotlight on Blackwater

In the aftermath of the Nisoor Square incident, intense media attention focused on Blackwater. (See “Blackwater” textbox on p. 7.) Sources in the U.S. military characterized Blackwater agents in this way: “They are immature shooters and have very quick trigger fingers. Their tendency is shoot first and ask questions later,” said an Army lieutenant colonel serving in Iraq. Referring to the September 16 shootings, the officer added, “None of us believe they were engaged, but we are all carrying their black eyes.”<sup>42</sup>

A congressional staff memorandum produced for the House Committee on Oversight and Government Reform hearings on Blackwater in October 2007 alleged that Blackwater contractors frequently discharge their weapons as a precautionary measure. The memorandum summarized a number of incidents in which Blackwater personnel resorted to questionable use of force during convoy operations.<sup>43</sup> Examples include:

- On October 24, 2005, Blackwater personnel on a protection mission from Mosul... encountered a vehicle that appeared to be making a turn that would cause it to cut into the motorcade’s path. When the driver did not heed warnings to stop, a Blackwater gunner released ‘a burst of fire’ onto the vehicle that apparently disabled it. *During the shooting, a civilian bystander outside of the car was hit in the head by a bullet that passed through the car and fell to the ground in the median of the road.* Blackwater continued on without stopping. Blackwater reported the “shooting and probab[le] killing,” and an ambulance was sent to the scene. The available documents do not describe any assistance offered by Blackwater to the victim or his family.<sup>44</sup>
- On November 28, 2005, a Blackwater motorcade traveling to and from the Ministry of Oil for meetings *collided with 18 different vehicles during the round trip journey (6 vehicles on the way to the ministry and 12 vehicles on the return trip).* The written statements taken from the team members after the incident were determined by Blackwater to be “invalid, inaccurate, and at best, dishonest reporting.”<sup>45</sup>
- On June 25, 2005, *a Blackwater team on a mission in Al-Hillah killed an Iraqi man, who received a fatal shot to the chest.* The victim’s brothers reported to the State Department that their brother, a father of six, was “killed as an innocent person standing on the side of the street.” According to an internal State Department document, the *Blackwater personnel who fired the shots initially failed to report the shooting and sought to cover it up.*<sup>46</sup>

Declassified documents provide additional insights into particular incidents involving Blackwater. A July 2005 declassified email from the U.S. Department of State’s (DoS) Regional Security Officer (RSO) for Al-Hillah added further detail to the report on the killing

## ***Blackwater***

Blackwater Worldwide is one of the best-known private security companies working in Iraq. The company was founded in 1997 by former Navy SEAL and auto heir Erik Prince, who continues as company CEO. At first Blackwater focused on providing training for military and law enforcement officials. Now, Blackwater's services include security operations, aviation support, K-9 (police dog) services, the manufacturing of armored personnel vehicles, and training for protective, maritime, law enforcement, and foreign military operations.<sup>47</sup> Prince recently explained, "Blackwater is a team of dedicated security professionals who provide training to America's military and law enforcement communities and risk their lives to protect Americans in harm's way overseas."<sup>48</sup> According to the firm's website, Blackwater's 7,000-acre training center in Moyock, North Carolina, is the largest private training center in the country.<sup>49</sup>

Other top Blackwater officials include Cofer Black, former head of counterterrorism at the CIA, who serves as Blackwater's vice chair. Joseph Schmitz left his position as DoD inspector general in September 2005 to become chief operating officer and general counsel of the Prince Group, Blackwater's holding company; months before he left DoD, Schmitz recused himself from all matters dealing with Blackwater.<sup>50</sup>

Blackwater has contracts with the Pentagon, U.S. intelligence agencies, and the State Department.<sup>51</sup> According to Prince, Blackwater has approximately 1,000 security contractors working in Iraq.<sup>52</sup> In addition, the company maintains a database of 40,000 potential contractors.<sup>53</sup> A recent congressional report noted that Blackwater received more than \$832 million from 2004 to 2006 in State Department contracts,<sup>54</sup> and more than \$1 billion in federal contracts from 2001 to 2006.<sup>55</sup> Blackwater President Gary Jackson said at the inauguration of a new manufacturing plant for military targets in October 2004 that the company's profits had increased 600 percent over the prior eighteen months -- reaching back to a point in time almost precisely marking the beginning of the Iraq war.<sup>56</sup>

In addition to its work in Iraq, Blackwater has been contracted to fight the opium trade in Afghanistan, provide a commando force in Azerbaijan,<sup>57</sup> and protect Federal Emergency Management Agency (FEMA) officials on the post-Hurricane Katrina Gulf Coast.<sup>58</sup> Blackwater officials see additional business prospects in humanitarian operations, arguing that the company could be used to help alleviate the current crisis in Darfur.<sup>59</sup>

Most of the recent attention on private security contractors has focused on Blackwater operators, accused of having a "cowboy attitude" in Iraq. A congressional report revealed that Blackwater contractors in Iraq fired their weapons more than all other DoS contractors combined, and was more likely to fire first during incidents.<sup>60</sup> Nevertheless, State Department officials have praised Blackwater for its support of U.S. operations.<sup>61</sup>

Still, some are concerned that Blackwater may be shifting its focus from defensive to offensive operations.<sup>62</sup> In 2006, the company began working to create remotely piloted airship vehicles (RPAV), or blimps, for communications and surveillance purposes.<sup>63</sup> In March 2006, Blackwater also drew criticism when Cofer Black told an audience in Jordan that the company was looking to provide brigade-sized security teams for peacekeeping missions in the future.<sup>64</sup> Blackwater has also stirred controversy when it recruited former Chilean military personnel who trained under the regime of military dictator Augusto Pinochet.<sup>65</sup>

noted above of a civilian there by members of a Blackwater security detail, and how the RSO learned of the incident:

June 25, 2005: USDoS Blackwater PSD [Personal Security Detail] team fires shots in Al-Hillah, and does not report the incident. RSO receives a report an adult Iraqi male was shot and killed by a passing convoy of "GMC" vehicles. *Blackwater PSD personnel fired shots in this area, and did not report this incident as required through their chain of command to the RSO. These shots most likely caused the death of the adult Iraqi male, who was standing on the sidewalk in the area where the shots were fired. The brothers of the deceased have already come to USREO [U.S. Regional Embassy Office] AL-Hillah and met with the RSO...*<sup>66</sup>

Although Blackwater has attracted most of the attention around the issue of contractor accountability, information available from many other sources—journalists on the ground, witnesses, military officials, contractors themselves, and official reports—shows that these issues extend far beyond one company and one incident, but rather reveal a pervasive problem of lack of accountability for the contractor community at large.

## **Before and Beyond Nisoor Square: Not Just Blackwater**

News media interviews have provided victims' accounts of incidents involving the questionable use of force by security contractor personnel. For example, Iraqi civilian Ali Ismael described having pulled his car onto a Baghdad highway on July 14, 2005, not far behind a four-vehicle security contractor convoy, when the backdoor of the rear vehicle opened, a man in sunglasses leaned out, aimed his rifle and fired. Ismael told an interviewer, "I thought he was just trying to scare us, like they usually do, to keep us back. But then he fired." Ismael received a serious head wound, but survived.<sup>67</sup>

In a number of cases, contractors and former contractors have themselves spoken out about what they said was the indiscriminate use of force. In February 2004, four former Custer Battles security contractors told NBC News they resigned because fellow contractors "terrorized civilians, shooting indiscriminately as they ran for cover, smashing into and shooting up cars."<sup>68</sup> They claimed that one local contractor with the team had fired



Scenes from the Aegis “trophy video” show contractors shooting at civilian cars in Iraq in questionable circumstances. Tactics contractors use during convoy protection have been criticized broadly by the Iraqi population and government as well as by the U.S. military, the media, and some members of the contractor industry itself.

indiscriminately just to clear a traffic jam: “[He] sighted down his AK-47 and started firing .... It went through the window. As far as I could see, it hit a passenger. And they didn't even know we were there.” The same source claimed that in the same convoy the rear gunner in his vehicle had fired on two teenagers walking by the road—“unarmed, walking kids”—hitting one.<sup>69</sup>

Other, less specific charges have also been widely publicized. More recently, a former Crescent Security Group contractor told a reporter that “after being attacked with a roadside bomb in a town north of Baghdad, Crescent employees fired their automatic weapons preemptively whenever they passed through the town.” He said he “did not believe any of the incidents were reported to the military.”<sup>70</sup>

A former Aegis contractor has also released video documentation of alleged contractor abuses. In late 2005, a compilation of video recordings appeared on the Internet showing contractors of the Aegis private security company firing on civilian vehicles, to the music of Elvis Presley's “Runaway Train.” Each of the incidents shown in the so-called “Trophy Video” featured gunfire directed at vehicles approaching from behind, at varying distances. Each incident was sufficiently questionable to have required reporting and basic investigation at the time. The video was pulled from an unofficial company employee website soon after it appeared, but it continues to be available on other Internet sites, including YouTube. (See Appendix F for more information.)

Information from a wrongful termination lawsuit filed by two former Triple Canopy employees has also shed light on several incidents involving questionable use of force. On a single day in July 2006 the same Triple Canopy team was involved in three incidents involving the discharge of firearms. In two of these

incidents, the team leader is alleged by members of his team to have fired indiscriminately on civilian vehicles, possibly leading to serious injuries or death. (See Appendix E.) This case also revealed a similar incident that allegedly occurred a month earlier in which a Triple Canopy security team was reportedly leading a convoy at high speed when they jumped a curb, broke an axle, and had to abandon their vehicle. The team leader then reportedly fired upon a civilian truck that came around a curve toward them, wounding the driver, on the grounds that the truck represented a threat. The team leader allegedly ordered the team to report the incident as an attack by insurgents. No official investigations are known to have been made into any of these incidents.

U.S. government civilian and military officials have also witnessed and spoken out about a pattern of questionable use of force employed by certain contractors, revealing tensions between the military and contract personnel in the field. A former Coalition Provisional Authority (CPA) advisor with experience traveling under both military and contractor escorts described contractor escorts as single-mindedly committed to their particular assignments, and either oblivious to or uninterested in the downside of abusive action: in contrast to military escorts, contractors focus only on the contract. “What they told me was, ‘Our mission is to protect the principal at all costs. If that means pissing off the Iraqis, too bad.’”<sup>71</sup>

In July 2005, U.S. Army Brigadier General Karl Horst, deputy commander of the 3rd Infantry Division, with responsibility for security in and around Baghdad, spoke to the press about abusive security contractors: “These guys run loose in this country and do stupid stuff. There's no authority over them, so you can't come down on them hard when they escalate force.... They shoot people, and someone else has to deal with the aftermath. It happens all over the place.”<sup>72</sup>

Brig. Gen. Horst reportedly made his own informal tally of these incidents, between May and July 2005, tracking “at least a dozen shootings of civilians by contractors in which six Iraqis were killed and three wounded,” with civilian casualties generating increased hostility toward American troops. The most serious incident tracked during this time occurred in May 2005, in the New Baghdad neighbourhood, in which a contractor fired on an approaching car which then veered into a crowd.<sup>73</sup>

In one incident reported in the media, 16 American contractors from the Zapata Engineering Company were detained by U.S. Marines in May 2005 and held for several days, accused of having fired on both civilians and Marines when rushing through town in a convoy. Although charges were not brought, Marine Major General Stephen Johnson, the western Iraq coalition commander, banned the contractors from military installations in the region and in letters to each of them wrote: “Your convoy was speeding through the city and firing shots indiscriminately, some of which impacted positions manned by U.S. Marines.... Your actions endangered the lives of innocent Iraqis and U.S. service members in the area.”<sup>74</sup> (See Appendix D.)

## Aegis

Aegis Defense Services, Ltd. is a British “security and risk-management company” providing intelligence, security and technical services worldwide.<sup>75</sup> Aegis Founder and CEO Tim Spicer, a former lieutenant colonel in the Scots Guards Regiment, drew criticism in Ireland after he publicly defended and called for the release of soldiers under his command who were convicted of killing an unarmed teenager in 1992.<sup>76</sup> By 1997 Spicer was head of Sandline International, a private security company hired by the government of Papua New Guinea to help train and equip forces to put down a rebellion there; Spicer was later detained in Papua New Guinea on a weapons charge that was subsequently dropped.<sup>77</sup> In 1998 Sandline was involved in a scandal in Sierra Leone, in which the company allegedly violated a United Nations arms embargo.<sup>78</sup> In 1999 Spicer left Sandline, founding Aegis in 2002.<sup>79</sup> Sandline ceased operations in 2004; Aegis reportedly has attracted many former Sandline operatives.

In 2004 Aegis won a three-year, \$293-million contract to provide a range of security and intelligence services to the U.S. Department of Defense in Iraq.<sup>80</sup> Under the contract, Aegis provides security services for the Project and Contracting Office (PCO), responsible for managing reconstruction operations in Iraq, and for the U.S. Army Corps of Engineers.<sup>81</sup> Aegis also manages the Reconstruction Operation Centers (ROCs), which serve as the center for coalition military-contractor coordination, providing intelligence information, military assistance, and communication channels.<sup>82</sup> In addition, Aegis has also had contracts with the United Nations in Iraq, working with the U.N. Electoral Assistance Division (UNEAD) and the Independent Electoral Commission Iraq (IECI) to provide security services to electoral sites and infrastructure and logistics support for Iraqi elections.<sup>83</sup>

In 2004, when Aegis was first awarded its Iraq DoD contract, Senators Hillary Clinton (D-NY), Edward Kennedy (D-MA), Christopher Dodd (D-CT), Charles Schumer (D-NY) and John Kerry (D-MA) wrote a letter to Defense Secretary Donald Rumsfeld, questioning the Pentagon’s choice of Aegis, given Spicer’s “history of supporting excessive use of force against a civilian population.”<sup>84</sup> In response, the U.S. Army Contracting Agency noted that Spicer had not been convicted for these incidents, and that Aegis and Spicer had shown integrity and business ethics.<sup>85</sup>

In 2005 the Special Inspector General for Iraq Reconstruction found that Aegis had not complied with contract requirements in failing to properly vet Iraqi employees or to demonstrate that its operators were qualified to use the weapons they were issued.<sup>86</sup> The report concludes, “there is no assurance that Aegis is providing the best possible safety and security for government and reconstruction contractor personnel and facilities as required by the contract.”<sup>87</sup> The Department of Defense subsequently eliminated the vetting requirement from Aegis’ contract.<sup>88</sup> A “trophy video” is available on the Internet that shows Aegis employees involved in questionable tactics and use of force. (See Appendix F.)

In September 2007, Aegis beat out six other private security companies to renew and greatly expand its contract with the Pentagon. The two-year contract is worth up to \$475 million and is the largest of DoD private security company contracts.<sup>89</sup>

In a July 2005 interview, Brigadier General Horst, recalling the incident, declared that the Zapata contractors “were doing what we call ‘clearing by fire’... They were shooting everything they see. They blow through here and they shot at our guys and they just kept going. No one was shooting back.”<sup>90</sup>

Other military commanders have expressed long-standing concerns regarding both the difficulties posed to the regular military by contractor abuses and the mission impact of their methods: “I personally was concerned about any of the civilians running around on the battlefield during my time there,” said retired Army Col. Teddy Spain, who commanded a military police brigade in Baghdad. “My main concern was their lack of accountability when things went wrong.”<sup>91</sup>

## The Inadequacy of Contractor Self-Reporting

In Iraq, the Department of Defense (DoD) has set up a system within its Reconstruction Operations Centers (ROCs) for Pentagon contractors to report “serious incidents.”<sup>92</sup> (See “Serious Incident Reports” textbox on p. 10 below for an analysis and summary of the Serious Incident Reports (SIRs) reviewed in

preparation of this report. See Appendix I for a summary of these reports with definitions of terms and of incident categories. See Appendix J for copies of SIRs cited in this report.) Among its many other limitations, this system does not even include a specific category for contractors firing on local civilians.

While reporting weapons discharges are technically requirements set out in private security company contracts with Department of Defense and the State Department,<sup>93</sup> reporting specifically to the ROC is optional.<sup>94</sup> Major non-DoD contractors in Iraq such as Blackwater and DynCorp (both have contracts with the Department of State) do not participate in this reporting system for instance.<sup>95</sup>

Under this system, Serious Incident Reports (SIRs) are compiled by coalition Reconstruction Operations Centers (ROCs), run under a DoD contract by Aegis Defense Systems, one of DoD’s private security firms (see “Aegis” textbox above), through the coalition’s Projects and Contracting Office (PCO), which facilitates contractor-military coordination.

## Serious Incident Reports

Human Rights First's review of 610 SIRs filed between July 2004 and April 2005<sup>96</sup> reveals that the vast majority of incidents contractors reported to the Reconstruction Operations Centers (ROCs)—as other outside reviewers of SIRs have observed<sup>97</sup>—report threats perceived by contractors and not their own conduct towards others. Roughly 61 percent of the incidents were reported as attacks on contractors by unidentified or unnamed forces, 7 percent were reported as military attacks on contractors (presumably because the military mistook contractors for possible insurgents), 12 percent were reported as contractors engaging with vehicles perceived to be a threat (usually because, according to the SIRs, they were not keeping a safe distance or speed, or did not respond to contractors' warnings), 4 percent were reported as "other" attacks,<sup>98</sup> and 16 percent were reported as "miscellaneous" incidents involving car accidents, accidents on construction sites, or reports of concerns over unsafe locations.<sup>99</sup> While some SIRs mention whether or not there were any injuries as a result of the incidents reported, most do not. Among all of these SIRs just one even *suggests* unwarranted weapons discharge by a security contractor.

The SIRs that Human Rights First has reviewed provide a nine-month sample. Only some private security contractors in Iraq—DoD contractors primarily—participate in the SIRs reporting system. Incident descriptions in the SIRs are usually cursory, and redactions by the Army prior to their production were significant. Most importantly, military officials in Iraq and industry insiders alike believe that significant incidents are likely both underreported and misreported by private security contractors. Nevertheless, these incident reports do provide a useful window into contractor activities. (See pp. 10-14 and Appendix I: Analysis of Serious Incident Reports.)

Information in the SIRs was redacted based on four distinct Freedom of Information Act (FOIA) exemptions: 1) the material contains sensitive internal agency information and releasing it would "risk circumvention of agency regulation or statutes"; 2) disclosing names of individual contractors involved in the incidents would be "pre-decisional and deliberative" and would reduce contractors' willingness to share and discuss information in the future; 3) revealing names of individual contractors would constitute a violation of privacy, and including the names would not contribute to the public's understanding of the reports; and 4) SIRs are used in connection with law enforcement efforts in Iraq—that is, to keep track of *insurgent* crimes, not to monitor contractor behavior—and that releasing this kind of information could endanger lives.

Introduced after the March 2004 incident in which four Blackwater contractors were killed in Fallujah (see Appendix G), the ROCs were established primarily to enhance security for private security contractors and to better coordinate contractor and military activities. In the interest of encouraging submission of incident reports, this information is made available regularly to coalition military authorities for limited "deconfliction" and coordination purposes and otherwise is intended to be kept within the ROC system.<sup>100</sup> There is nothing to suggest that the system was designed to be particularly useful for monitoring, reviewing, or investigating contractor use of force. In fact, Human Rights First's review of a sample of declassified SIRs—often containing cursory incident descriptions and no follow-up on potential civilian casualties—shows the SIR system to be ill-suited for accountability purposes.<sup>101</sup> Nevertheless, situations described in the reports provide useful insights into the environment in which contractors operate and the nature of their responses to that environment—as recounted by contractors themselves. Most significantly, the SIRs reflect tactical patterns that pose serious risks to the civilian population.

Human Rights First has reviewed a sample of declassified incident reports filed primarily by Defense Department PSCs in Iraq between July 2004 and April 2005 and released by the Department of the Army. (See "Serious Incident Reports" textbox above and Appendices I and J for more information.) Among these are 64 incidents in which contractors engaged with unnamed or unknown sources, reflecting the discharge of contractor weapons ostensibly in response to some insurgent

threat. The contradictory accounts of the Blackwater Nisoor Square incident as well as other incidents such as the Triple Canopy shootings (see Appendix E and "Civilian Deaths and Triple Canopy" textbox on p. 14), however, serve to illustrate the doubts that must arise when contractors uniformly characterize all incidents of firing as self-defense.

### Highlighted Incidents

The vast majority of the SIRs reviewed reported attacks on contractors and those they protect. These included incidents reported involving roadside bombs, gunfire directed at convoys, and other direct attacks on contractors, both by presumed insurgents and by others, including "friendly fire" incidents.

The emphasis of the reports released, in keeping with the system's role in monitoring the security situation in which contractors operate, is on actual threats to contractor security. In one incident reviewed by Human Rights First, for example, local hostility toward contractors apparently provoked a spontaneous attack when contractors were stopped at a checkpoint and "a crowd of local nationals gathered and started to attack the vehicle with rocks and petrol bombs."<sup>102</sup> (See Appendix J for copies of all the original redacted SIRs that are cited in this report.)

In another incident:

XXX was driving the last vehicle the convoy in the far left portion of the lane of traffic when a huge explosion hit the vehicle from the far right side of the road and pushed the vehicle around 180 degrees. The vehicle had all tires blown and the engine was penetrated in several

places. The armor plating in the doors was penetrated in an estimated 3 places. XXXX was riding in the front passenger seat and was killed instantly. XXX received a slight shrapnel wound to the right knee area and XXX and XXXX, both passengers in the back seat, received multiple shrapnel wounds. XXXX and XXXXX received first aid and were medevaced by MNF-1 [Multi-National Forces-1] forces to [redacted] where they were reported to be in stable condition. XXXX determined the vehicle to be a total loss and, due to the circumstances at the time, determined to abandon the vehicle.<sup>103</sup> (November 8, 2004.)

The incident reports reviewed give a picture of the day-to-day violence threatening security contractors and those they protect, with detailed accounts of roadside explosions, small arms attacks, kidnappings, and other deadly threats. But many reports reviewed by Human Rights First reveal the consistent use of tactics in this environment that potentially threaten injury or death to civilians.

While cautioning that the reports they received cover only “a small portion of the serious incidents recorded,” the *Los Angeles Times*’ analysis of some 200 SIRs concluded that of those, 11 percent “involved contractors firing toward civilian vehicles believed to be a threat.”<sup>104</sup> The *News and Observer* found 61 incidents out of the 400 SIRs it reviewed (15 percent) to involve contractors firing into civilian “vehicles they believed were threatening them.”<sup>105</sup>

In typical cases from the declassified SIRs reviewed for this report, contractors fired upon civilian vehicles reportedly after giving some form of warning, on the grounds that approaching vehicles represented real and urgent threats:

- “[T]he Team was slowed by traffic. Civilian traffic formed behind ... at a safe distance when a vehicle broke from the main body of traffic and proceeded toward the PSD at deliberate speed. The driver ignored all verbal and hand signals. When the vehicle slowed to well within the vbied [Vehicle Born Improvised Explosive Device] danger range, the rear gunner fired a short defensive burst into the hood of the oncoming vehicle. The Fiat came to an immediate stop.... There were no indications of injuries to the driver...”<sup>106</sup> (March 8, 2005.)
- Four-vehicle [PSD] convoy was forced “to slow down ... due to military convoy approximately 300 meters in front.... [A] silver BMW, that made way for military and our convoy broke from static location next to the road and rushed up behind the PSD detail, rear gunner in PSD vehicle signal and showed vehicle to stay back but he (one male occupant) proceed to approach back of convoy ... and as vehicle was about 10 meters and totally clear from rest of vehicles approaching, disabling shots were fired into the front of vehicle.”<sup>107</sup> (March 12, 2005.)
- “A sedan approached the PSD team at a high rate of speed. The driver of the sedan had eye contact with the rear gunner and deliberately closed with the team in defiance of the vehicle safety sign and the gunner’s hand signals. The rear gunner fired a defensive disabling burst



September 16, 2007: An Iraqi civilian looks at the burned-out hulk of a car on Nisoor Square. Blackwater guards had opened fire, leaving 16 civilians and a policeman dead. Aggressive tactics have been portrayed by observers as a normal part of convoy protection, and this incident seems an extraordinary case of the ordinary in Iraq—heavily armed private security convoys using lethal force in response to real or perceived threats. (ALI YUSSEF/AFP/Getty Images)

into the hood of the oncoming vehicle.... No damage or injuries to GRC [Gulf Region Central—an Army Corp of Engineers office].”<sup>108</sup> (March 17, 2005.)

- The convoy was held up behind stationary traffic when it was threatened by a beige Peugeot approaching from behind. “All efforts were made to get the driver to stop. Signs were given, but the driver ignored all SOP [Standard Operating Procedure] drills. The rear gunner was forced to disable the speeding Peugeot at about 20 meters from convoy, by shooting well aimed shots to the engine.... As far [as is] known nobody was killed or injured.”<sup>109</sup> (April 1, 2005.)
- “What: PSD 3 was approached by a sedan moving at a high rate of speed. The white sedan closed to an unsafe distance until the rear vehicle of the PSD fired a defensive disabling burst. The white sedan continued to move forward into the PSD convoy and the side door gunner was obliged to fire a defensive burst as well.... *Impact: None. No friendly casualties and no battle damage to the PSD. The white sedan driver may have been injured.*”<sup>110</sup> (April 5, 2005.)
- A 4-vehicle armored convoy was approached from the rear by a dark colored sedan with at least two passengers. Signaled by a “high powered flashlight” to fall back, “this sedan failed to do so and kept pacing at same distance of about 100m,” until the rear gunner “leaned into his machine gun’s sights.” Some fifteen minutes later a sedan “that appeared to be the same one” again approached the rear of the convoy and again disregarded signals to keep back. “At about 100m from the rear vehicle the rear gunner fired warning shots into the ground. The sedan

failed to fall back, so more rounds were fired and guided the vehicle to the side of the road. *Approximately 10 rounds were fired and the sedan's windshield may have been damaged from ricocheting rounds.*"<sup>111</sup> (April 8, 2005.)

In a number of reports, contractor teams report multiple incidents in the course of a single day's operations:

- A convoy caught up in heavy traffic came to a halt, giving traffic behind an "approximately 100-120 meter standoff distance...." Notwithstanding, one vehicle "approached the rear vehicle at high speed, despite the well gunner indicating for him to stop, the well gunner fired a warning shot in the air." The convoy then proceeded on "and ... was forced to stop a second time, due to heavy traffic," when it was approached again.<sup>112</sup> "At this time a blue vehicle approaching [redacted] street ... was seen. The well gunner from the lead vehicle started to wave the vehicle off.... The driver ... failed to comply ... and was at high speed heading straight for the Principal vehicle. The well gunner then fired a warning shot in the air at this vehicle ... which finally stopped.... No injuries or damage was caused."<sup>113</sup> (March 8, 2005.)
- "[A] dark green BMW came from behind speeding towards a PSD convoy. After the rear vehicle had waved several times with their flashcard, the BMW continued at speed approaching the convoy, therefore the rear Gunner initially fired 2 rds into the radiator in the BMW and he pulled back. A Taxi after watching the incident accelerated towards the convoy and also didn't react to the flashcard, so the rear Gunner fired 2 rds in the taxi radiator. The Taxi did not react and further 2 rds were fired into its radiator. The Taxi pulled off the road due to engine failure. PSD Team did not sustain any damage or injuries."<sup>114</sup> (February 6, 2005.)
- "Team 2 had two shooting contacts today while traveling to and from [redacted]. The PSD Team was traveling ... when a black BMW approached from the rear in an aggressive manner. The driver ignored all visual warnings and raced up to the rear of the convoy. The vehicle was immobilized by a short burst of defensive fire.... The driver of the BMW got out of the vehicle and did not appear hurt. On the return trip, the PSD was passing very near the location of the earlier event when a white van rushed the convoy. The van driver ignored the visual signals and approached the rear of the convoy in an aggressive manner. The PSD fired a short burst of defensive disabling fire and the driver of the white vehicle was seen standing apparently unhurt beside the white van."<sup>115</sup> (February 21, 2005.)

While declassified incident reports tend to confirm statements by observers that convoys, for security reasons, rarely stop to assess injury or death of civilians or damage to civilian property, or to provide assistance, some reports show exceptions to this general rule. A March 20, 2005 report, for example, describes an incident in which *a convoy that was stopped at a checkpoint directed "disabling fire" at a vehicle approaching from behind,*

*wounding the two occupants.* In this case, a contractor medic is said to have provided first aid and the wounded were escorted to a hospital.<sup>116</sup>

This was, however, a rare exception in the reports reviewed. Invariably the contractors do not stop—on grounds that to do so would endanger themselves and delay their missions—and there is no confirmation of civilian casualties. In many cases stopping a convoy undoubtedly would be dangerous. This cannot always be the case, however—in some cases SIRs report U.S. military personnel in the area stopping and rendering assistance to local civilians injured by security contractors. In a February 20, 2005 incident, for example, U.S. military personnel provided assistance after contractors fired on a vehicle, while the contractor convoy proceeded. The convoy had entered heavy traffic, when a single vehicle with one male occupant "broke into the safe zone at high acceleration." After warnings, "the Rear Gunner engaged the vehicle with a single burst, the vehicle continued on requiring a side gunner to engage and finally disable the vehicle. The single occupant was injured, "and treated by U.S. military personnel, injuries to driver are unknown but do not appear to be life threatening."<sup>117</sup>

In just two of the reports reviewed, those making the reports themselves raise questions about the questionable use of force in the incidents:

- A two-vehicle convoy traveling at speed forced a local national's car with a woman and child on board off the road and into a tree "unnecessarily, as it gave very little warning." *The contractor who witnessed the incident and filed the report described it as "an example of unprofessional operating standard by a Security/Ops team in the area."*<sup>118</sup> (November 12, 2004.)
- A series of warnings were given to an approaching vehicle, followed by aimed shots to the right of the vehicle and then into its engine. "As a last resort and in the belief that this vehicle posed a real and immediate threat to the principals being carried, *the rear gunner fired a 3-5 round burst through the windshield directly at the driver.* The vehicle was seen rolling to a halt on the side of the road... *The SET [Security Escort Team] continued en-route to [redacted].*" This report also mentions that "the condition of the driver shot at is under investigation." A note is included under "Actions Required" that the "Team Rear Gunner has been removed in line with normal (Contractor's name withheld) procedure given the nature of the incident and whilst an investigation is underway." With both the name of the company and the individual contractor redacted, it is impossible to know what happened in the case.<sup>119</sup> (March 2, 2005.)

With the exception of the second case described above, however, the SIRs reviewed do not refer to a single investigation of any kind into reported incidents.

## Contractor-Military Coordination and “Friendly Fire” Incidents

In other incidents reported, contractors have been caught up in “friendly fire” incidents with other contractor security details and, more commonly, with U.S. military forces. Approximately seven percent of the reports reviewed involved incidents in which contractors were fired upon by U.S. military forces, often due to confusion over the identity of contractor convoy.

In some of the declassified incident reports, contractors reported being targeted for preventive gunfire by other contractor security details when confused with civilians. In some cases this involved “high-profile” details, characterized by the use of large, heavily armed, and often armored sport utility vehicles (SUVs), clashing with less conspicuous “low-profile” operations using vehicles intended to blend in with ordinary traffic. These cases, recounted by other contractors, reveal the differences in procedures among individual contractors, their companies, and their teams, and necessarily suggest the use of force in questionable circumstances—the contractors under fire were aware of routine convoy procedures and sensitive to potential dangers, particularly while in low profile mode. Two similar incidents of this kind were reported on March 25, 2005:

- “From behind [our] team and at great speed appeared the [other security] convoy. *[Our team] moved over to let them through and showed [our] air marker panel but the [other security] vehicles still forced [our detail] off the road. They also forced many other vehicles off the road all the way along route [redacted].*” A comment by the team leader concludes the incident report: “This is a continuing problem on Route [redacted]. *PSDs need to be reminded that they are not the only PSDs on the road. They also need to train their men correctly as their actions only create more enemies amongst the locals.*”<sup>120</sup>
- “Low-profile PSD team had left ... when the rear call sign reported another PSD team moving up fast [our] vehicles moved as far left as possible, without leaving intended route and slowed their speed. This was to allow the other PSD team through. As soon as the rear vehicle of the [other security] team passed vehicle 2 of [our] team, the rear gunner fired a low velocity shot in direction of [our] vehicle 2. [Our] operator grabbed the flash card with the U.S. flag and displayed it.... The rear gunner of the [other security] team then [threw] a cylindrical object from the vehicle, possible a grenade, which was not heard to explode.... The incident took a few seconds from start to finish.... From what could be seen all personnel belonged to the [other security detail] were wearing beige uniform and were all of western origin. *At no stage did any [of our vehicles] present a threat to this other PSD. There were no sudden moves. Call signs also witnessed local civilian vehicles being pushed to one side in a very aggressive manner by the whole convoy.*”<sup>121</sup>

In other reported incidents, contractors’ convoy procedures regarding civilian vehicles in the vicinity of military forces led to confusion amongst military and contractor personnel:

On ... 23 Dec 04 ... [the Private Security] Team were proceeding along Route.... an American convoy of three Humvees was going in the opposite direction.... The American convoy proceeding towards the CPA had caused to fire on a civilian vehicle that was approaching its rear and was not heeding to the warnings given by the top rear gunner. The rear gunner then opened fire on the civilian vehicle. The American [military] convoy ... heard the shots and believed to be under threat from the [Private Security Detail] and fired at the third vehicle in the [Private Security] team convoy. The vehicle was hit on the front passenger wheel which disabled the vehicle.

What did we do about it: The ... team proceeded to BIAP where it waited for the American convoy to appear.... The Team Leader of the PSD team which had just received fire spoke to the rear gunner and asked for an explanation. The gunner replied, “I thought you were firing at us.”<sup>122</sup> (December 23, 2005.)

A June 2006 Government Accountability Office (GAO) report found that incidents in which U.S. military forces fired on security contractors had become so common earlier that year that contractors had stopped filing incident reports of this kind with the ROC.<sup>123</sup>

### “Only a Handful” of Reported Weapons Discharges?

How representative are these reports? How reliable are they? As noted, this self-reporting system is built for coordination and contractor protection, and not for the purpose of monitoring or investigating the use of force. For both the individual security contractor and the private security companies, there is an obvious potential conflict of interest regarding decisions on what incidents to report and, more particularly, on how to report them. Incident reports reviewed seem to have been crafted with a view to minimal disruption of contractor operations. The individual risks his job, and the private security companies themselves may be concerned that a high number of compromising incidents may be viewed by the military contracting authority as evidence of improper training, supervision or conduct, leading to potential cancellation of current contracts or a decreased chance to secure future contracts.

But questions regarding the completeness and the accuracy of the data self-reported by the security contractors need not rely on logic or supposition. The military professionals most closely tied to the ROC system and most familiar with its operations appear convinced that data on firearms discharges by private security contractors are underreported. These sources have confirmed that only a few DoD contractors are responsible for most of the reporting into the ROC system, and that major non-DoD security contractors do not participate at all. Current ROC director Major Kent Lightner has said that “only a handful” of the roughly 30 major DoD contractors have reported “weapons discharges” through the ROC system. He also cautioned that this

## Civilian Deaths and Triple Canopy

On July 8, 2006, there were three incidents in which Triple Canopy employees reportedly fired upon Iraqi civilian vehicles. The latter two of them were in circumstances that the company itself recognized involved the questionable use of force. Two local civilian vehicles were damaged, and three team members have suggested that there may have been casualties. While two individual incident reports mentioned the appearance of an ambulance shortly after and in the vicinity of the first incident, Triple Canopy's report did not mention the ambulance, possible civilian casualties, or certain details that could bring about suspicion of wrongdoing. There was never an external investigation of these incidents, which came to public attention only because two of the employees involved, Shane Schmidt and Charles Sheppard, filed a wrongful termination suit against Triple Canopy.

Reports filed by the individual contractors involved in these incidents contain conflicting factual accounts, although all mentioned the two questionable incidents.<sup>124</sup> Triple Canopy Country Manager Kelvin Kai compiled an incident report after reviewing the four contractors' stories. Although he excluded references to some of the details in the contractors' statements,<sup>125</sup> Kai's own report still concludes that "two of the three incidents (Incident #2 and #3) leave doubt that the Use of Force was required." He goes on to say, "it is Triple Canopy's intent to terminate these men from contract and return them back to their home of record immediately. Given the inconsistencies in the statements and the seriousness of the allegations, I respectfully submit this information to MNFI-C [Multi-National Forces Iraq-Command] for review and further guidance."<sup>126</sup> He gave the report to both KBR (Triple Canopy's client) and military officials.<sup>127</sup>

Lieutenant Colonel Michael J. Hartig, however, recalls that Triple Canopy officials gave a vague description of events: "They mentioned they had a couple guys do some things that were questionable on the road, and that was pretty much it."<sup>128</sup> Hartig referred company officials to the Joint Contracting Command for Iraq and Afghanistan, which is responsible for administering contracts, not criminal investigations.<sup>129</sup> Subsequent inquiries into the shootings revealed that both State Department and military officials had no details about the alleged incidents.<sup>130</sup>

The two contractors claiming wrongful dismissal say no one from the Department of Justice nor any other government agency contacted them in connection with any investigation.<sup>131</sup> The only known investigation was Triple Canopy's own,<sup>132</sup> after which it fired the two, as well as Jason Washbourne, the contractor accused of the shootings, for failing to report the incidents immediately.<sup>133</sup> The fourth team member, Isreli Naucukidi, of Fijian nationality, was not dismissed but reportedly quit of his own volition.<sup>134</sup> The former Marine and former Army Ranger who are now seeking legal remedies maintain that they were fired because they reported the incidents at all.<sup>135</sup>

The reporting of these incidents, at all levels, points to questions of transparency, accountability and a lack of follow-up. The individual contractors' stories are to some extent contradictory; Triple Canopy's reporting of the incidents veers significantly from the reports its operators submitted, and government officials showed little interest in investigating the incident or handing it off to law enforcement authorities. In the end, a potential homicide case produced no investigation nor prosecution and came to public attention at all only because of a wrongful termination suit filed by two fired contractors.<sup>136</sup> (See Appendix E for more details.)

does not necessarily mean that these companies have had the most—or the most troubling—incidents.<sup>137</sup>

Similarly, former ROC head Colonel Timothy Clapp is on record as stating that only a few firms regularly report "discharge of firearms" incidents, notably the British firms Aegis Defense Services and ArmorGroup International.<sup>138</sup> Those that do, moreover, are exceptional not because of their use of force, but because they report incidents that others do not. "In their contracts, it says [DoD contractors] are supposed to report, but whether they do or not is up to them."<sup>139</sup> Colonel Clapp, in a previous interview, said simply that "You have to take it with a grain of salt. Some of the companies clearly underreport."<sup>140</sup> Doug Brooks, head of the International Peace Operations Association group, an industry trade association, has said he believes attacks are underreported by perhaps 50 percent.<sup>141</sup>

Some companies have expressed concern over the fact that the ROCs are managed by a competitor. As Andy Melville, the head of operations in Iraq for Erinyes, a British security firm, told *Frontline* in 2005: "What we do is classified. We don't wish other security companies to know what our clients are, where we're operating and how we're operating, and a very valid concern that

we have is that it could give them a competitive and a commercial advantage over us."<sup>142</sup>

Descriptions given in the incident reports reviewed by Human Rights First strongly suggest that over time contractors have adopted a style of incident reporting for incidents involving local national civilians with a view to deflecting scrutiny of their conduct: with rare exceptions most SIRs provide only brief incident descriptions under "what happened" headings, expansively describe warnings given, and minimize reference to actual or potential civilian injuries or deaths.<sup>143</sup> (See "Civilian Deaths and Triple Canopy" textbox above, and Appendix E.)

## Executive Branch Indifference

*“In cases where there was clear criminal intent, a criminal case could hypothetically be pursued in U.S. federal court, but this has yet to happen out here.”*

Peter J. Mitchell, Acting Spokesman, U.S. Embassy, Baghdad, August 2005<sup>144</sup>

Since the Abu Ghraib scandal became public, reports of private security contractor use of force in Iraq and elsewhere have increasingly attracted public and congressional attention to the issue of criminal accountability for human rights crimes. However, this attention and interest has not been great enough to move the executive branch to initiate criminal prosecutions.

Before Nisoor Square, neither representatives of the White House nor any of the relevant governmental departments had made any major policy statements concerning contractor abuses. Throughout this time violent incidents involving private security contractors continued to occur with no signs of improvement. When incidents of contractor abuse have attracted the news media’s attention, the U.S. government has consistently reacted in ways that underscore the *ad hoc* nature of the current accountability structure and the Justice Department’s failure to exert leadership in this area. Senior U.S. officials have failed to develop a clear and coherent policy with respect to the accountability of private contractors for crimes in Iraq and Afghanistan. Holding contractors responsible for criminal abuses has not been a high priority of the U.S. government. At times the government has appeared to view this issue with shocking indifference. Recently, public and political pressure following the shootings in Nisoor Square in Baghdad in September forced the issue onto policy makers’ agenda. Still, even the response to that incident underscores the fact that senior officials,



One of hundreds of photos documenting widespread abuse of detainees by U.S. military personnel and contractors at Abu Ghraib in Iraq during 2003. Although the uniformed individual standing in the center of the photograph cannot be identified, contractors as well as military personnel at Abu Ghraib commonly wore “sanitized” military uniforms with no name tapes or other identifying information. Army investigators later identified several private contractors they believed to be implicated in the abuse. Unlike military personnel so implicated, however, who were later court-martialed, no civilian contractor has been prosecuted for the abuses at Abu Ghraib.

including the attorney general, have yet to address the core problem of impunity.

### Detainee Abuse: Abu Ghraib and the Official Response

On June 27, 2004, just two months after the abuses at Abu Ghraib were revealed and a day before the Coalition Provisional Authority (CPA) was dissolved, CPA head L. Paul Bremer signed CPA Order Number 17 (revised), which provided presumptive immunity from Iraqi law for all international private contractors working in Iraq. The order contained an internal mechanism for extending its own life, so that it would remain in force under the new Iraqi government,<sup>145</sup> while declaring that its provisions were “without prejudice to the exercise of jurisdiction” by the states sending contractors or their home governments.<sup>146</sup> But the U.S. government, which is both a sender of private contractors and the state of nationality of thousands of private contractors in Iraq, has taken no effective action to exercise jurisdiction over criminal human rights abuses by its private security or other contractors in Iraq. Senior U.S. government leaders’ assurances that private contractors are and would be subject to prosecution for serious misconduct have proved baseless.



Attorney General John Ashcroft, flanked by U.S. Attorney Frank Whitney, left, and Assistant Attorney General Christopher Wray, right, at a June 17, 2004 press conference, announced the indictment of CIA contractor David Passaro for assaulting a prisoner in Afghanistan during interrogations—assaults which led to the prisoner's death. In alluding to the Abu Ghraib scandal that had broken just a few weeks earlier, Ashcroft promised that "[t]hose who are responsible for such criminal acts will be investigated, prosecuted and, if found guilty, punished." At the publication of this report, however, Passaro still is the *only* contractor ever prosecuted by the Justice Department for violence or abuse toward local nationals in either Afghanistan or Iraq, notwithstanding numerous incidents meriting investigation and prosecution under current law. (AP Photo/Kevin Wolf)

In May 2004—just a few weeks after the Abu Ghraib scandal erupted—then-attorney general John Ashcroft stated in a Department of Justice (DoJ) press conference that criminal misconduct by private contractors at Abu Ghraib was subject to prosecution under existing U.S. law. Ashcroft stated that contractors could be prosecuted for killing or other abuse of detainees in Iraq under several statutes, including civil rights and anti-torture laws, as well as the Military Extraterritorial Jurisdiction Act (MEJA), providing for prosecution of civilian contractors who commit crimes while working overseas for the military.<sup>147</sup>

DoJ officials said little more on this issue until February 2006, when Paul McNulty, the U.S. Attorney for the Eastern District of Virginia—the DoJ office which had been assigned cases of contractors allegedly involved in detainee abuse from Iraq and Afghanistan—was queried in confirmation hearings on his nomination to be deputy attorney general. Asked specifically about the status of those investigations, McNulty noted that 19 cases had been assigned to his office 18 months earlier, and that his first step was to assemble a team of “career, longstanding, hard-charging prosecutors,” but that no prosecutions had yet been initiated.<sup>148</sup> This lack of progress was attributed to both logistical problems and to issues of jurisdiction, although when asked about the latter McNulty stated that the jurisdictional issues had not been decisive:

[T]here are a number of obstacles that we face in trying to come to the point of bringing criminal charges against individuals who have in any way

been associated with an allegation of some form of abuse. The obstacles include jurisdiction. We have to deal with—we’re dealing with civilians now, not military personnel. Military personnel are prosecuted under the Code of Military Justice. Civilians, who do conduct overseas, have to be prosecuted under the International Jurisdiction Statute that was established a few years ago, and that presents certain challenges in terms of bringing charges. We have issues of access to witnesses, victims. In some of our cases our victims can’t be found. We have had real problems in getting access to the potential witnesses in the case.<sup>149</sup>

The upshot was that “like any complex case, time does pass as you try to work through the problems.”<sup>150</sup>

In fact, neither logistical obstacles nor jurisdictional questions should have been sufficient to block the prosecution of the Abu Ghraib contractors and other security contractors responsible for human rights crimes in Iraq. Human Rights First has concluded that jurisdiction was in fact not ultimately the issue, and that an effective prosecution could undoubtedly have been pursued under a range of legal instruments—given the appropriate commitment of political will and prosecutorial resources. (See the following chapter for a discussion of possible legal channels.) Similarly, Human Rights First takes issue with the argument that problems of access to victims and witnesses posed insuperable obstacles, taking into account the progress made in military prosecutions and the reports from the witnesses themselves who claim never to have been contacted by Department of Justice investigators. Moreover, many potential witnesses, particularly including the victims, traveled to Washington and offered to make themselves available to the Department of Justice. These offers were not taken up. In sum it is difficult to explain the Department of Justice’s conduct other than by an official attitude of indifference towards serious crimes involving contractors.

## Security Contractors and Questionable Use of Force

With a lack of leadership at the top, it is unsurprising that reports of contractor abuse have been poorly handled on the ground. In most cases involving the use of force against Iraqi civilians, the fact pattern is consistent: if any report is filed at all, either with the Reconstruction Operation Centers (ROCs) or within another reporting system, no official investigation is conducted to vet the company’s own findings.

In some cases the companies conduct a quick investigation, fire the employees involved, and almost immediately ship them back to the United States or other country of origin. Blackwater CEO Erik Prince referred to this practice as giving the choice between “window or aisle.”<sup>151</sup>

In the face of continuing U.S. government inaction, some contractors removed from service under circumstances of alleged abuse have been redeployed by their companies or transferred to other companies for continued service on U.S. government contracts elsewhere. In October 2007, for example, it was confirmed that the security contractor suspected in the December 2006 killing of a member of the Iraqi vice president’s security

## The Army's Response to Military Escalation-of-Force Incidents in Iraq

New initiatives begun in 2005-06 by Multi-National Corps-Iraq (MNC-I) sought to both monitor the incidence of Iraqi civilian casualties at the hands of coalition forces and to introduce changes in procedures used for military checkpoints and in other situations in which troops are in dynamic contact with civilians. The monitoring centered upon what are known as "escalation-of-force" (EOF) incidents.<sup>152</sup> According to Lieutenant General Peter Chiarelli, then serving as MNC-I commander, EOF incidents "typically involve a U.S. soldier giving a verbal warning or hand signal to a driver approaching a checkpoint or convoy. The situation escalates if the driver fails to stop, with the soldier firing a warning shot and then shooting to kill."<sup>153</sup>

Until July 2005, the U.S. did not formally track civilian casualties in military EOF incidents,<sup>154</sup> and apparently still does not with incidents involving private security contractors. Systematic collection of data in military EOF incidents was first begun on orders of Lieutenant General John R. Vines, who preceded General Chiarelli as MNC-I commander, with a nightly sector-by-sector tally and a careful review of findings.<sup>155</sup> Review of this data revealed:

- Civilians often simply did not see checkpoints or understand orders to stop.
- There was a pattern of surges in EOF incidents throughout Iraq in the aftermath of major incidents involving explosive devices.<sup>156</sup>

This latter point appears to reflect both the rapid communication of bad news among U.S. troops and their increased edginess after such incidents. Analysis of the findings led to changes in military tactics, techniques and procedures (TTPs) to better ensure that civilians were not confused by military orders to stop at checkpoints and that soldiers did not fire without cause.<sup>157</sup>

Chiarelli, after replacing Vines in January 2006, made reducing EOF incidents a priority, and spoke critically of a tendency to use force too quickly.<sup>158</sup> Chiarelli went so far as to order that all EOF incidents "that result in an Iraqi being seriously wounded or killed or cause more than \$10,000 in property damage" be investigated.<sup>159</sup>

Others down the chain of command followed suit. In a June 2006 briefing, Major General James Thurman, commander of Multi-National Division-Baghdad, declared that in his sector EOF incidents had gone down by over 50 percent.<sup>160</sup>

There has been no similar focus in Iraq on curbing private security contractor escalation-of-force incidents.

detail, who was flown out of Iraq less than 48 hours after the crime, found continued employment with another private security contractor operating in Kuwait under a Department of Defense (DoD) contract.<sup>161</sup> (See Appendix C.)

If a member of the U.S. military deployed to Iraq or Afghanistan is accused of a serious crime, the military has a substantial criminal justice establishment deployed and present in-country to investigate and even conduct courts-martial of cases considered worthy for prosecution. With contractors, however, there is no *systematic* hand-off to investigators and then to prosecutors, with the exception of incidents of the highest political profile, which invariably result in late, uncoordinated and ad hoc responses by relevant agencies. Even in these cases, however, investigations by U.S. military or civilian authorities have practically never resulted in prosecutions. This is a severe and ongoing problem. The United States, as a sending state, has both the obligation and the capacity to hold its private contractors accountable for crimes overseas.

The U.S. government's unresponsiveness to incidents described in this report in which security contractors have caused civilian casualties through the careless, promiscuous, or otherwise unlawful use of force demonstrates a consistent failure to act. In addition to the backstop provided by the ultimate sanction of criminal prosecution under the military justice system, the Army, in contrast, has taken several initiatives in response to concerns about escalation-of-force incidents involving its own personnel.

(See "The Army's Response to Military Escalation-of-Force Incidents in Iraq" textbox above.) These measures stand in stark contrast to the U.S. government's general indifference and inaction with regard to monitoring, reporting and curbing escalation-of-force incidents by PSCs. Almost contemporaneously with these Army initiatives, as well as the Ashcroft reassurances discussed above, the *Los Angeles Times* in 2005 inquired into procedures actually in place "to deal with PSD [Personal Security Detail] members suspected in a shooting, and whether any U.S. agencies investigate such incidents."<sup>162</sup> The *Times'* inquiry centered upon an incident on May 12, 2005, in which a Blackwater security detail "fired rounds at a civilian vehicle ... in the Masbah neighborhood," killing one person and injuring two others.<sup>163</sup> A since-declassified internal email from Peter J. Mitchell, acting spokesman, U.S. Embassy, Baghdad, recommended denying the *Times'* request for a background interview essentially on grounds that the U.S. Embassy had nothing constructive it could say:

The reporter wants to have a backgrounder with someone who can explain what legal mechanisms are in place to hold private security contractors accountable in the event of wrongful death or criminal acts, but we should deny the backgrounder. Because as for the legal jurisdiction under which a PSD operates, this is where things get hazy. There is no Uniform Code of Military Justice for PSDs. Private security contractors fall under CPA General Rule 17, which grants private security contractors immunity from prosecution in Iraqi courts. *In wrongful deaths where deadly force was authorized, if the PSD is found negligent, the only recourse is dismissal. In cases where there was clear criminal intent, a criminal case could hypothetically be pursued in U.S. federal court, but this has yet to*

*happen out here.* Because of all the aforementioned, we shouldn't go down this road.<sup>164</sup>

Another declassified email from Iraq from later in 2005 reveals a related gap in the government's response to contractor abuse—the failure to have developed any program or policy for compensating the victims of private security contractors. On July 5, 2005, the Department of State (DoS) Regional Security Officer (RSO) in Al-Hillah wrote:

Various individuals have approached the Embassy seeking compensation for property damage, injuries and loss of life. Given the continued lack of a compensation program, I do not have much to offer them other than telling them I have passed their claims on to Embassy Baghdad.

Obviously it is not pleasant meeting these individuals with nothing more to offer than apologies, condolences, and vague promises that I can do what I can to assist them in regards to what is more often than not a significant financial or personal loss for them.

*If we are unable or unwilling to address this issue, sooner or later those requesting compensation for their losses will lose their patience with us and seek recourse through other means* (i.e., civil suits; referring request to other entities, reporting to the media). In the worst case scenario, some might seek revenge. We also face the possibility those suffering losses in incidents involving our PSD will approach the Iraqi Government and seek their assistance with resolving these pending matters. *Not resolving these situations in a quick and decisive manner is counter productive in regards to accomplishing our foreign policy objectives, ensuring our safety, negating unnecessary additional threats, maintaining the continued good will of the Iraqi people as well as avoiding unnecessary problems/issues with our host country counterparts.*<sup>165</sup>

No substantive action had been taken at the time of the Blackwater shootings in Nisoor Square, over two years later. The reaction to that incident forced U.S. officials—particularly in the Department of State—finally to *begin* to answer old questions of contractor lawlessness with some new policies.

## Bloodshed at Nisoor Square: A Turning Point?

The September 16 Nisoor Square incident took the issue of contractor impunity to apparently new levels. It threatened a break with Iraqi government officials over private contractor use and exacerbated tensions between the U.S. military and the State Department. On the plus side it did prompt renewed efforts to enact legislation to enhance congressional oversight and enhance the process of criminal prosecutions as a means of reining in security contractor abuse. The administration has now pledged increased oversight of contractors working for the Defense and State Departments—but there is still no apparent progress in developing an effective system of criminal accountability. In particular, the Justice Department has yet to exhibit a commitment to enforce the laws.

### The Defense Department's Response

After Nisoor Square DoD moved relatively rapidly to improve control over its own security contractors, also becoming more outspoken over the larger issue of security. On September 25,

2007, Deputy Defense Secretary Gordon England sent a memorandum to all military department chiefs addressing contractor accountability from the commanders' perspective.<sup>166</sup> The memorandum referred to recent events involving non-DoD contractors—meaning the Blackwater Nisoor Square incident—as having identified a need “to better ensure that relevant DoD policies and processes are being followed” with respect to the management of “DoD contractors accompanying U.S. armed forces in contingency operations outside the United States.”<sup>167</sup> While reaffirming that existing instructions remained in force, the memorandum made explicit that military *commanders*—and not only contracting officers—bear significant responsibility for abuses by DoD contractors in their areas of command:

Geographic Combatant Commanders are responsible for establishing lines of command responsibility within their Area of Responsibility (AOR) for oversight and management of DoD contractors and for discipline of DoD contractor personnel when appropriate ... [and to ensure] contracts being executed within an AOR require DoD contractors to comply with the respective geographic Combatant Commander's guidance for the AOR including, for example, Rules on the Use of Force (RUF).<sup>168</sup>

The September 25 England memorandum may have raised the issue of ethical and strategic costs of contractor abuse within DoD to combatant commander-level for the first time. The memorandum also stated in an unambiguous form the administrative and legal measures available to commanders to rein in contractor abuse, potentially making investigation of contractor abuse a higher priority of military justice:

DoD contractor personnel (regardless of nationality) accompanying U.S. armed forces in contingency operations are currently subject to UCMJ [Uniform Code of Military Justice] jurisdiction. *Commanders have UCMJ authority to disarm, apprehend, and detain DoD contractors* suspected of having committed a felony offense in violation of the [Rules on the Use of Force], or outside the scope of their authorized mission, *and to conduct the basic UCMJ pretrial process and trial procedures currently applicable to the courts-martial of military service members.* Commanders also have available to them contract and administrative remedies, and other remedies, including discipline and possible criminal prosecution.<sup>169</sup>

The memorandum also addressed one of the longstanding concerns of human rights monitors: the tendency of private security companies to whisk contractors out of Iraq immediately upon their being implicated in serious abuse. Henceforth, senior commanders are to issue instructions

to their command and to their contractors to *prevent* contractor personnel who are suspected of having committed a felony act or of having committed an act in violation of the [Rules on the Use of Force] from being allowed to leave the country until approved by the senior commander in the country or until an investigation is completed and a decision is rendered by the flag [general] officer court-martial convening authority.

Private security company officers who remove their personnel in a way that obstructs ongoing investigations, the letter warns, will themselves be criminally liable: “Officials of contracting firms who arrange for, facilitate, or allow such personnel to leave the country before being cleared will be subject to disciplinary action under either UCMJ or [Military Extraterritorial Jurisdiction Act].”<sup>170</sup>

In an October 18 press conference, Defense Secretary Robert Gates announced a forthcoming meeting with Secretary of State

Condoleezza Rice to address the issue of security contractors, while speaking out sharply on the need to establish closer control over both DoD and Department of State contractors. According to Gates, security contractor operations were too often “at cross-purposes to our larger mission in Iraq,” turning ordinary Iraqis against the coalition forces.<sup>171</sup>

### The State Department’s Response

The rapid response of the Department of Defense to Nisoor Square contrasts sharply with the State Department’s initial defense of Blackwater—and itself—in the first weeks after the incident. Only in October did the Department of State finally begin to acknowledge past policy failure and the need for remedial action and change.

Secretary of State Rice appointed a panel of experts to undertake a comprehensive review of State Department security practices in Iraq, and to provide recommendations on “how to protect U.S. mission personnel while furthering U.S. foreign policy objectives.”<sup>172</sup> This was an important step. The review focused upon the three personal security detail (PSD) contractors operating under the DoS Worldwide Personal Protective Service (WPPS) contract: Blackwater, DynCorp International, and Triple Canopy.<sup>173</sup>

The special panel spent two weeks in Iraq, and on October 23, 2007, the Department of State released a series of recommendations adopted for immediate implementation. The emphasis of the recommendations was to improve oversight, civil-military coordination, and contractor accountability. Among other conclusions, the report noted (in an understated echo of reportedly acrimonious debates between the military and State Department) that:

The process for coordination and sharing of information between the Embassy and the Multi-National Force-Iraq is not sufficiently robust to ensure mutually beneficial situational awareness and knowledge of the particulars of incidents that could potentially affect U.S.-Iraqi relations.<sup>174</sup>

Similarly, in acknowledging failings in the embassy’s system of monitoring and responding to contractor incidents, it noted obliquely that this applied also to “friendly fire” encounters—a particular sore point for the military: “The Embassy process for addressing incidents, including those involving the U.S. Military is insufficiently comprehensive.”<sup>175</sup>

The panel made a series of practical recommendations to improve oversight and direction of DoS private security contractors by the department’s RSO in Iraq. These include the introduction of a small, distinctive identification plaque with “a readable number (like a license plate)” on the right rear door of each security vehicle employed, GPS[global positioning system] locator beacons for vehicles, audio and video recording equipment for security vehicles, and the recording of all contractor radio transmissions by the RSO’s Tactical Operations Center. In addition, DoS assistant RSOs were directed to accompany DoS private contractor movements—a measure requiring a significant increase in the numbers of DoS special agents posted to Iraq. After-action reports were to be facilitated by the creation of an RSO “Go Team” that



A man who was among approximately two dozen wounded (along with 17 killed) in a shooting attack by Blackwater security guards on September 16, 2007, in Baghdad, is helped by his relatives in an Iraqi hospital a few days after the incident. Iraq and the United States agreed to establish a joint commission to investigate the incident. It took two weeks before an FBI team arrived to even begin to investigate the event. (REUTERS/Ceerwan Aziz)

would travel to the scene of any reported weapons discharge to gather the facts and begin development of a “relational database to be used to review incidents and determine potential patterns.”<sup>176</sup>

In a statement on the implementation of the report’s recommendations, the panel identified measures to improve coordination between the RSO and the military as initial agenda items for a proposed working group on security contractors to link the RSO and MNF-I (Multi-National Forces-Iraq).<sup>177</sup> A Memorandum of Agreement was signed on December 5, 2007 to this effect. (See discussion under “A New Agreement” on p. 20.)

In addition to proposing revised guidelines on the use of force, the principal recommendation for dealing with contractor abuse is to provide for a system to review incident reports. In the complex review structure, an embassy Joint Incident Review Board is to include DoS officials and a representative of the military and is to review available reports regarding incidents causing “injury or death or other serious consequences” and to make a recommendation to the ambassador on “whether or not the use of force

appears justified.” Only if this board concludes that the use of force was not justified should the State Department be “informed” to “notify” DoJ.<sup>178</sup> There is no requirement for DoJ to take any action, and no indication that DoJ has been consulted on this process.

And yet the panel’s findings provide an important clarification of the Department of State’s views on the applicable criminal law in cases of non-DoD contractor abuse—that there *is* no applicable law. Notwithstanding past assurances to the contrary from DoJ, the report concluded that DoS security contractors act in effect outside any criminal law legal framework: “*the Panel is unaware of any basis for holding non-Department of Defense contractors accountable.*”<sup>179</sup> In testimony on October 25 before the House Committee on Oversight and Government Reform, Secretary of State Rice confirmed this position, declaring that “there is a hole” in U.S. law that has prevented prosecutions of contractors.<sup>180</sup> This was consistent with the U.S. embassy spokesman’s email (see p.17) stating that the only available sanction in cases of wrongful death was dismissal, even if a criminal case “could *hypothetically* be pursued in U.S. federal court ....”<sup>181</sup>

But this is wrong. While the patchwork of U.S. criminal law applicable to U.S. contractors abroad is imperfect and no doubt can be improved (see the following chapter for discussion), it already provides a substantial basis for prosecuting *most* U.S. contractors in *most* circumstances that would be presented by serious human rights abuses of local nationals. And if DoS genuinely (though mistakenly) believes the jurisdictional “hole” is so great, what then explains the department’s failure to pursue a remedy to what it now maintains was a problem of jurisdiction all along by alerting DoJ and Congress to its views? In fact, a cloak of normality was thrown over a situation of lawlessness by U.S. government contract employees. In doing so, representatives of the United States in Iraq in places like Al-Hillah performed the onerous task of assuring families and the media that “criminal investigations” were underway in the full knowledge that criminal prosecutions would not go forward.

The report of the independent panel, and the adoption of its findings, nevertheless represents a turning point: for the first time DoS has acknowledged the reality of contractor impunity and the gravity of its consequences for U.S. policy in Iraq and internationally. Appropriately—but belatedly—DoS is to “urgently engage with the Department of Justice and the Office of Management and Budget, and then with the Congress, to establish a clear legal basis for holding contractors accountable under U.S. law.”<sup>182</sup> It is not at all clear, however, that at the end of 2007 DoS is in fact “urgently engag[ing]” with Congress on these issues.

## A New Agreement

The Departments of State and Defense have recently struck a compromise based on a prior preliminary understanding between Secretary of Defense Gates and Secretary of State Rice.<sup>183</sup> On December 5, 2007, Deputy Secretary of State John Negroponte and Deputy Secretary of Defense Gordon England signed a

Memorandum of Agreement (MOA) that gives DoD a somewhat increased role in coordination of many non-DoD U.S. government PSCs in Iraq, but appears to have significant gaps. It falls far short of U.S. military “control” over or even effective coordination of non-DoD PSCs, does very little to address the issue of impunity, and only highlights the extent to which the mission of PSCs have become dangerously intertwined and confused with core military missions.<sup>184</sup>

The agreement states that its intent is for “the DoS and DoD to ensure that personnel working under *contracts with other federal agencies* or as *subcontractors on DoS or DoD contracts* are to be covered by the policies and procedures developed under this MOA.”<sup>185</sup> The memorandum’s drafters thus recognized the importance of including PSCs engaged by *all* federal agencies—and not just DoD and DoS—as well as the importance of including those that are *subcontractors* on U.S. government contracts and not only direct contractors to U.S. government agencies. However, as drafted, PSCs that are subcontractors to U.S. government agencies *other than* DoD and DoS appear not to be included in the agreement’s coverage.<sup>186</sup>

The agreement requires U.S. government PSC convoys in Iraq to coordinate their movements with either coalition military or U.S. Embassy operations center in Baghdad. If this coordination is done with the embassy, then the embassy operations center is to pass to the military certain “movement details” for the resolution of conflicts. If the military believes a non-DoD PSC convoy should be cancelled or its route changed it may make a recommendation, but the U.S. ambassador retains control over all such movements.<sup>187</sup>

The agreement also sets minimum PSC training standards, establishes a single set of standards and procedures regarding the use of force, and sets guidelines for the sharing of results of investigations and other information. Significantly, the agreement requires the use of “*only well-aimed shots* [fired] with due regard for the safety of innocent bystander[s]” when “deadly force” is authorized.<sup>188</sup> These measures, if followed and enforced, should decrease the number of incidents of abuse or misconduct. But undoubtedly they will not eliminate all such incidents, and the agreement falls far short of mandating accountability.

The greatest defect in this agreement is that it does not involve the Justice Department in a central role in this process. The agreement makes no mention of U.S. criminal investigatory authorities such as the Department of Justice or Federal Bureau of Investigation (FBI)—or the Army’s Criminal Investigation Division (CID). In the section of the agreement entitled, “Serious Incident Response & Investigation,” the agreement states that MNF-I and the U.S. Embassy will “[t]o the maximum extent possible ... closely coordinate” with each other, and that both will in turn “coordinate in the notification of the [Government of Iraq] *as soon as possible* after a serious incident occurs.”<sup>189</sup> But the agreement fails to provide for sharing information or cooperating with the Department of Justice (or the FBI)—the responsible agency for any criminal investigation or prosecution of private security contractors in the

civilian U.S. courts. While the Department of State and the Department of Defense do not control whether the Department of Justice holds PSCs criminally accountable, the new memorandum of agreement troublingly—and inaccurately—suggests that new legislation is required just to “establish a clear legal basis for holding USG [United States Government] PSCs in Iraq accountable under U.S. law.”<sup>190</sup>

As discussed in the following section of this report, U.S. criminal law provides ample, adequate, and clear legal bases for holding all private security contractors fielded by the U.S. government in Iraq, and most if not all of those fielded in Afghanistan, responsible for serious crimes amounting to law of war or human rights violations. The memorandum of agreement wrongly suggests that contractors engaged in human rights abuses are not criminally liable under the current legal regime. This is not only an erroneous construction of the law, it is a most unhelpful message to send to private security contractors in the field today. If the mandatory training called for by the agreement on “relevant USG ... laws” replicates the agreement’s message—that until more legislation is passed private security contractors need not fear prosecution under current U.S. law—this could greatly undermine any positive effect the agreement is hoped to have.

Finally, the agreement also highlights the need for early, focused attention on the issue of whether there are indeed “core military functions” that should not be tasked to PSCs. Although stated U.S. government policy is that PSCs shall not engage in “combat” or in “offensive” military operations, the December 5 DoD-DoS agreement, and its rules for the use of force by PSCs, makes clear that this in fact is largely a pretense, perpetuating the fiction that PSCs are not being used to fight our wars when in fact they are. While the U.S. government’s arguments for its increasing reliance on PSCs commonly focuses on the need to protect State Department and other *civilian* personnel and missions in conflict zones such as Iraq, both the substance and structure of the agreement’s rules for the use of force by PSCs closely track military rules of engagement, with PSCs empowered under the agreement to use deadly force to protect military facilities, military property, and military personnel from even non-imminent “threats.” But these all are lawful military targets under the law of war; by tasking PSCs to protect these assets in environments such as Iraq, the U.S. government virtually ensures that PSCs will engage in combat—although without the protections under the law of war to which uniformed military personnel are entitled. Thus the government that has engaged in so much effort in the last several years to define new categories of “unlawful combatants” appears to be employing PSCs in similar ways. This use of PSCs erodes critical differences between civilians and combatants under the law of war.



Testifying before the House Government Reform and Oversight Committee on October 25, 2007, U.S. Secretary of State Condoleezza Rice gave conflicting testimony about the reason no private security contractors working for the State Department had been prosecuted for violence toward local nationals, stating at one point in her testimony that the problem is a “hole” in the law, and at another point that the problem is “not the absence of law ... it’s a question of evidence.”

(© Matthew Cavanaugh/epa/Corbis)

The new agreement is thus a starting point in improving coordination and preventative measures. And while congressional efforts to enact new legislation is promising, ending the impunity of private security and other contractors at war will require the Department of Justice and senior executive branch leadership to commit the resources and political will necessary to work—*now*, within the existing legal framework, as well as with any additional tools and resources Congress might provide in the future.

## Congressional Response

During 2007 North Carolina Congressman David Price (D-NC) sponsored legislation to enhance the regulation and accountability of PSCs. In October 2007 the House of Representatives overwhelmingly approved the bill, H.R. 2740, on a 389 to 30 vote. In the Senate, Illinois Senator Barack Obama (D-IL) has proposed a nearly identical bill, S. 2147, which has yet to be acted upon. Both bills clarify and expand the scope of the MEJA, which provides federal court criminal jurisdiction over civilians employed by or accompanying the armed forces overseas. (See discussion in the following chapter.)

If enacted, the Price and Obama proposals would strengthen the jurisdictional basis for Justice Department action through the expansion of MEJA. They also would require the Justice Department both to allocate the personnel and resources needed to address criminal allegations involving contractors and to provide Congress with more information on its action so that it can better exercise its oversight function.



## The Legal Framework: Gaps of Political Will and Resources more than Jurisdiction



A general view of the chamber in Lausanne, Switzerland, in December 1949 during the signing of the Geneva Conventions setting forth the rules of war that continue to govern to this day. Principal among the concerns of the Conventions is the treatment of civilian populations. (Bettmann/CORBIS)

*“My main concern was their lack of accountability when things went wrong.”*

Col. Teddy Spain, USA (Ret.).<sup>191</sup>

The evolution of the law of war—including the Hague and Geneva Conventions, and of human rights law—has been strongly influenced by United States policy, practice and leadership. Enforcement of these laws is generally the responsibility of individual states, including through enactment of domestic legislation to enforce international obligations.<sup>192</sup> While domestic enforcement has been inconsistent, enforcement by international tribunals has been growing in the wake of crimes against humanity in the former Yugoslavia and the Rwandan genocide.

Historically the U.S. government has a strong record of holding to account those guilty of serious misconduct in wartime—both enemy and U.S. forces. This is not discretionary, but rather an obligation: when the U.S. government (or any government) fields and directs armed forces to implement national policy abroad, it is responsible for the conduct of those forces—even if they are private security contractor (PSC) forces rather than traditional military forces.<sup>193</sup> (See “Blackwater to the Rescue?” textbox on p. 24 below.) When those forces commit offenses that amount to serious violations of the law of armed conflict or human rights the government likewise is responsible to ensure the availability of effective mechanisms to investigate and prosecute offenders and compensate victims.<sup>194</sup>

In Iraq PSCs operate under a unique legal regime established by the Coalition Provisional Authority (CPA) in the final days of the formal occupation—a provision inherited and not yet changed by the procession of Iraqi governments that has succeeded the CPA. CPA Order Number 17 provides presumptive immunity from Iraqi criminal or civil legal process for coalition military forces, diplomatic representatives and international consultants and contractors.<sup>195</sup> Provisions within Order 17 for the inapplicability or waiver of this immunity<sup>196</sup> appear never to have been exercised. To be sure, the current state of the Iraqi justice sector provides compelling reasons for states and international organizations that send military forces or civilians to Iraq to doubt the capacity of Iraqi courts to uphold international standards of due process.

Nevertheless, the immunity of internationals in Iraq from Iraqi legal process needs not operate to create a culture of impunity for serious criminal conduct committed by those internationals. Order 17 expressly states that its immunity provisions were not an impediment to “sending states” prosecuting their personnel for criminal acts committed in Iraq.<sup>197</sup> And in the case of coalition military personnel it has not had that result—both U.S. and U.K. military personnel who have committed acts of violence or abuse against local nationals in Iraq have been court-martialed and convicted of serious offenses under U.S. and U.K. law, respectively. But there has been no similar record of criminal

## Blackwater to the Rescue?: The Battle in Najaf

Blackwater contractors played a key role in defending the regional Coalition Provisional Authority (CPA) headquarters in Najaf on April 4, 2004—a role indistinguishable in the heat of battle from that of coalition military personnel who were present.

Surrounded by hundreds of members of a Shi'a Arab militia attempting to seize CPA headquarters,<sup>198</sup> a combined force of eight Blackwater contractors, three Salvadoran soldiers and four U.S. Marines<sup>199</sup> fired thousands of rounds and hundreds of grenades, and succeeded in preventing the militia from taking the building.<sup>200</sup> One Marine involved admitted taking orders from Blackwater contractors.<sup>201</sup>

Unable to communicate directly with U.S. military authorities when the contractors saw that their ammunition supply was dangerously low, they contacted Blackwater staff.<sup>202</sup> With the authorization of CPA head L. Paul Bremer's staff, the company dispatched three helicopters from Bremer's Blackwater security detail to deliver additional ammunition; they also evacuated a wounded soldier.<sup>203</sup> U.S. Special Forces did not arrive until hours after fighting began, and after the Blackwater helicopters.<sup>204</sup>

Following the battle, both coalition forces and Iraqi insurgents escalated force. Later that day, U.S. forces went into Sadr City in Baghdad, a stronghold of Shiite leader Moqtada al-Sadr, in what one military official described as "the biggest gunfight since the fall of Baghdad a year ago."<sup>205</sup> Sadr's forces initiated violence in at least eight other Iraqi cities.<sup>206</sup>

In an October 2007 memorandum, majority staff of the House Committee on Oversight and Government Reform cited the battle at Najaf as an example of Blackwater activities in which the company engaged "in tactical military actions in concert with U.S. troops."<sup>207</sup> The memorandum cited Blackwater's own internal incident report:

On April 10, 2004, Blackwater became aware from staff for the U.S. Ambassador to Iraq that there was an attack on Najaf and joined the firefight. Several Blackwater personnel took positions on a rooftop alongside U.S. Army [sic] and Spanish [sic] forces. The Blackwater personnel reinforced the military positions and used machine guns to "engage[] whatever targets of opportunity presented themselves."<sup>208</sup>

Blackwater executive Patrick Toohey maintains Blackwater employees were "not engaged in combat at all" but rather a "security operation."<sup>209</sup> Still, when speaking about private security contractors in general, Toohey did admit that "the line is getting blurred."<sup>210</sup> He also has spoken of the increasing use of security contractors as "a phenomenon.... This is a whole new issue in military affairs. Think about it. You're actually contracting civilians to do military-like duties."<sup>211</sup>

*As the activities of private security contractors are increasingly scrutinized, consensus is forming around concepts that they are not and should not be considered to be "combatants" and that their allowable activities should not include "direct participation in hostilities" or a "combat" role. Najaf, however, demonstrates that fine contractual or legal exclusions may be difficult to adhere to in a conflict environment. It also demonstrates the importance of having a comprehensive legal regime—administrative, civil and criminal—that effectively governs the conduct of contractors at war.*

prosecution of private security contractors. Why has this happened? In this section we review the availability and suitability of the main tools and mechanisms for criminal law enforcement in cases involving PSCs.

Since World War II, U.S. defense policy has called for the stationing abroad of a substantial part of the total U.S. military force, largely outside of the jurisdiction of U.S. civil courts and legal process. In the modern era, large numbers of Department of Defense (DoD) civilian employees, contractors, and dependent civilians accompany the armed forces, also outside the traditional jurisdiction of U.S. courts and legal process. In many of these countries, bilateral agreements (sometimes in the form of formal Status of Forces Agreements (SOFAs)) between the host nation's government and the U.S. government establish decisional rules for determining which state has primary authority to prosecute U.S. personnel for criminal offenses.

U.S. federal criminal statutes, and thus the subject matter jurisdiction of civilian federal courts, traditionally did not extend beyond the territorial borders of the United States,<sup>212</sup> leaving federal courts unable to prosecute civilians for crimes committed abroad. And in a series of Cold War-era cases beginning with *Reid*

*v. Covert*,<sup>213</sup> the Supreme Court limited the ability of the military to court-martial civilians "accompanying" the armed forces under the Uniform Code of Military Justice (UCMJ). Thus when host nations in the past have been unable or unwilling to prosecute U.S. civilians, a "jurisdiction gap" arose in which crimes could go unpunished because of the inability of U.S. civilian or military prosecutors and courts to take action.

Following the decision in *Reid*, representatives of the armed forces, other executive branch officials, government commissions, members of Congress, and academic commentators expressed concern about the jurisdictional gap. In 1979 the Government Accountability Office (GAO) issued a report concluding that the lack of criminal jurisdiction over civilians and the inadequacy of the administrative sanctions caused serious morale and discipline problems in overseas military communities. The GAO recommended Congress enact legislation to extend criminal jurisdiction over U.S. citizens accompanying the forces overseas.<sup>214</sup> In 1982, the Judge Advocate General (TJAG) of the Army established a "Wartime Legislation Team" to study the application of military law to civilians during combat operations. This study resulted in a report in which the Pentagon urged Congress to extend court-

martial jurisdiction over civilians and former military members.<sup>215</sup> At the time, however, Congress acted on neither the GAO nor Army TJAG's recommendation.

In 1995 Congress directed DoD and the Department of Justice (DoJ) to "jointly appoint an advisory committee to review and make recommendations concerning the appropriate forum for criminal jurisdiction over civilians accompanying the armed forces in the field outside the United States in time of armed conflict."<sup>216</sup> The Advisory Committee submitted its report in 1997 and recommended two major changes in the law: (1) that court-martial jurisdiction be extended to cover civilians accompanying the armed forces during "contingency operations" as designated by the secretary of defense, and (2) that the jurisdiction of the civilian federal courts be extended to reach offenses committed by civilians accompanying the armed forces abroad.<sup>217</sup> As discussed below, the first of these steps has only been nominally undertaken, while substantial progress has been made on the second.

## Military Extraterritorial Jurisdiction Act

Following up on recommendations made between the late 1970s and the late 1990s, a bill to extend civilian federal court criminal jurisdiction to civilians accompanying the armed forces abroad finally was introduced in the 106th Congress. In a March 2000 hearing held on the bill by the Subcommittee on Crime, Robert E. Reed, DoD associate deputy general counsel testified that the jurisdiction gap had undermined the functioning of the military. Reed expressed concern that "the inability of the United States to appropriately pursue the interests of justice and hold its citizens criminally accountable for offenses committed overseas has undermined deterrence, lowered morale, and threatened good order and discipline in our military communities overseas."<sup>218</sup> In addition, Reed testified that the jurisdiction gap gave rise to unequal results that had a negative impact on the morale of the military: military personnel were being court-martialed, while civilians—including contractors—though they might lose their contracts, frequently escaped criminal accountability.

On November 22, 2000, President Clinton signed into law the Military Extraterritorial Jurisdiction Act (MEJA). The act permits the prosecution in U.S. federal court of certain specified persons who commit acts that are considered criminal offenses punishable under federal law by imprisonment for more than a year, had the conduct occurred within the United States.<sup>219</sup>

In its initial form, MEJA filled only two specific jurisdictional gaps. Thus military personnel who committed a crime but had left military service (either because of discharge, or because they were no longer on active duty) before they could be brought to trial under the UCMJ could now be prosecuted under MEJA.<sup>220</sup> MEJA also allowed the prosecution of civilians "employed by or accompanying the Armed forces outside of the United States."<sup>221</sup> The statute defined those "employed by the armed forces" as DoD civilian employees, and DoD contractors and subcontractors and

their employees. Persons "accompanying the armed forces" were defined as dependents residing with members of the armed forces or DoD employees or contractors.<sup>222</sup> (See "Only One MEJA Prosecution" textbox on p. 26 below for a discussion of a 2007 indictment of a DoD contractor in Iraq that could have been prosecuted under the 2000 version of MEJA.)

But with post-September 11 military operations in Afghanistan and Iraq and the massive expansion of U.S. government reliance on private contractors in those conflicts a new jurisdictional gap soon would become clear: Companies or individuals under contract with *other* U.S. government agencies—such as the Department of State (DoS), U.S. Agency for International Development (USAID), or Department of the Interior (Dol)—were not covered by MEJA in its original form.

This was the case at the time of Abu Ghraib, where private contractor interrogators were employed under a CACI International contract with Dol. In April 2004 photographs were made public depicting abusive treatment of detainees at the Abu Ghraib prison in Iraq. At about the same time it became clear that civilians working under military and possibly "other government agency" (OGA) guidance were deeply involved in Abu Ghraib interrogations and also were implicated in the abuses.<sup>223</sup> Although Attorney General John Ashcroft announced that MEJA would be used to prosecute civilians involved in the Abu Ghraib abuse, no such prosecutions occurred—then or ever. MEJA's applicability to DoD employees and contractors, and its narrow definition of "persons accompanying" the armed forces, obviously explains this<sup>224</sup>—although there were at the time and remain other statutory bases for prosecuting the contractors implicated in Abu Ghraib abuses. (See section "USA Patriot Act/Special Maritime and Territorial Jurisdiction Act" on pp. 27-28 below.)

MEJA originally had been conceived to address only a couple of discrete jurisdictional gaps, not the broader issues of accountability arising as a result of the wholesale reconfiguration and downsizing of the armed forces, where security and many other kinds of contractors increasingly operate side-by-side with uniformed troops. The need for further legislation to ensure that government civilian contractors abroad would be accountable under the law, whatever their host agency, was recognized only in the aftermath of Abu Ghraib and disturbing reports of torture and deaths in custody in Afghanistan.

In fact, substantial elements of the total contractor presence in Iraq and Afghanistan, including many contractors fulfilling security and intelligence functions, are engaged by U.S. departments or agencies *other than* DoD.<sup>225</sup> After congressional hearings into the abuses at Abu Ghraib, the breadth of MEJA accordingly was expanded.<sup>226</sup> The definition of persons covered by MEJA was broadened to employees and contractors of *all* government agencies "to the extent such employment relates to supporting the mission of the Department of Defense,"<sup>227</sup> a term which was not further defined by Congress.

### Only One MEJA Prosecution of a Contractor for Violent Crime

No private contractor had ever been indicted under MEJA for any sort of physically abusive or violent crime until February 2007, when Aaron Langston, a resident of Snowflake, Arizona, was formally charged with assaulting a fellow contractor<sup>228</sup> in Iraq with a knife. The Naval Criminal Investigative Service (NCIS) conducted the initial investigation.<sup>229</sup>

The indictment alleges that on February 15, 2007, at Al Asad Airbase, Iraq, Langston stabbed Gaddam Narayana, an Indian woman, in the throat.<sup>230</sup> At the time Langston was employed as a private contractor by Kellogg Brown and Root (KBR), which holds the multi-billion-dollar, world-wide DoD Logistics Civil Augmentation Program (LOGCAP) contract.<sup>231</sup>

Langston was initially charged by complaint on February 23, 2007, and made his initial appearance via telephone from Iraq on February 26. During this appearance, U.S. Magistrate Judge David Duncan found probable cause to believe Langston had committed the offenses in the complaint, ordering that he be temporarily detained, removed from Iraq and returned to Arizona to face the charges.<sup>232</sup>

Langston was indicted by a federal grand jury in Phoenix on March 1, 2007. If convicted, he faces up to 10 years in prison and a \$250,000 fine.<sup>233</sup> Langston falls under MEJA jurisdiction because the charges brought against him comprise offenses punishable by more than a year imprisonment had they been committed within the United States, and because in his job with KBR he was “employed by the armed forces outside the United States.”<sup>234</sup>

The case represents the only violent crime prosecution initiated by the U.S. government against a private contractor under MEJA;<sup>235</sup> no contractor ever has been charged under MEJA for abuse or violence against local nationals. To date, the only completed contractor prosecution of any sort under MEJA was the conviction in May 2007 of a DoD contractor who pleaded guilty to possession of child pornography in Baghdad.<sup>236</sup> A number of other contractor cases reportedly have been referred to the Justice Department for consideration of prosecution under MEJA, but the Department to date has not formally acted on them.

While the efforts of contractors working (including as subcontractors) for civilian U.S. government agencies *elsewhere* in the world may not “relate[] to supporting the mission of the Department of Defense,” there can be little doubt that non-DoD U.S. government contractors and subcontractors, at least in Iraq, are all indeed working—at least in substantial part—to “support[] the mission of the Department of Defense.” In Iraq MNF-I (Multi-National Forces-Iraq) is the executive agency of the DoD mission, while the U.S. Embassy has ultimate authority over the activities (and thus missions) of all U.S. government civilian agencies in the country. Since May 2006 DoD (through MNF-I) and DoS (through the U.S. Embassy) have been working under *joint* campaign plans with integrated security, economic, political, and other “lines of action.”<sup>237</sup> The current Joint Campaign Plan formally agreed by MNF-I and the U.S. Embassy in July 2007 *is* the DoD mission in Iraq; the DoD has no other mission there. That *same* Joint Campaign Plan—that is, the DoD mission—is also the mission of the U.S. Embassy and thus every U.S. government civilian agency working in Iraq. The very purpose of a joint campaign plan is to ensure unity of effort by all U.S. government agencies in support of a single mission.

Thus in Iraq *every* U.S. government agency—and thus every agency contractor and subcontractor—is supporting one mission, delineated in the Joint Campaign Plan, which is the DoD’s mission. It should be no surprise that in a hot conflict zone such as Iraq MEJA—with its 2004 amendments—will reach all U.S. government agency contractors and subcontractors. This will not be the case of course in most of the rest of the world.

This post-Abu Ghraib expansion of MEJA jurisdiction, however, has remained *completely* unexercised by DoJ: The only two contractors the department has finally prosecuted under the statute—both in 2007—were DoD contractors who could have been prosecuted under pre-2004 MEJA. (See “A High-Impact Murder in Baghdad” textbox above for discussion of a non-DoD contractor case the post-Abu Ghraib MEJA amendments make prosecutable, although DoJ has yet to file charges.)

An aggressive Justice Department determined to subject private contractors in conflict zones to criminal law would have long been making use of MEJA to achieve this end. Nevertheless, the statute still does not perfectly fit the legal challenge presented by private contractors and would benefit from some additional expansion in breadth.

### Closing the “Jurisdictional Gap”

As noted above, Human Rights First has concluded that the *current* legal framework covers most criminal misconduct by most contractors in Iraq and Afghanistan, and that arguments to the contrary merely rationalize inaction—primarily by the Justice Department. However, new, nearly identical legislative proposals in Congress—H.R. 2740 and S. 2147—would end arguments and avoid litigation over jurisdictional issues that could arise under current law.

The proposed legislation seeks to clarify and expand the scope of MEJA to cover *all* persons employed under a contract (or subcontract) with any U.S. government agency being performed

## A High-Impact Murder in Baghdad

On Christmas Eve 2006 a Blackwater contractor reportedly shot dead Raheem Khalif Hulaichi, a member of Iraqi Vice President Adil Abdul-Mahdi's security detail, near the Prime Minister's compound in the International Zone.

Former Army paratrooper Andrew J. Moonen, only recently named as a suspect in the case,<sup>238</sup> was detained at about 1 a.m. Christmas morning at his Blackwater compound quarters by International Zone Police.<sup>239</sup> Moonen allegedly had been drinking prior to the incident.<sup>240</sup> Before Christmas Day ended Blackwater dismissed Moonen on the grounds of "possessing a firearm while intoxicated," and arranged for him to leave the country the next day.<sup>241</sup> The State Department was given a copy of Moonen's itinerary, and on December 26 he was flown out of Iraq "[u]nder the authority of the DoS Regional Security Officer."<sup>242</sup>

The U.S. Embassy's efforts in the immediate aftermath of the killing appear largely concerned with diplomatic demarches and compensation payments. After internal embassy discussions on the amount of compensation to be offered, the State Department and Blackwater together "agreed on a figure of \$15,000, which Blackwater would deliver to the family with the assistance of the State Department."<sup>243</sup> Vice President Abdul Mahdi met with U.S. Ambassador Zalmay Khalilzad and insisted that "justice was even more important than compensation.... Iraqis would not understand how a foreigner could kill an Iraqi and return a free man to his own country."<sup>244</sup> U.S. Embassy officials reportedly said an investigation would be carried out, and that it was reviewing jurisdiction over the contractor.<sup>245</sup>

An initial investigation was begun by the Army Criminal Investigation Division (CID) the day after the killing.<sup>246</sup> According to press reports, the Federal Bureau of Investigation (FBI) and the U.S. Attorney's Office for the Western District of Washington are investigating the case, although this has not been confirmed.<sup>247</sup> Blackwater spokesperson Anne Tyrrell and General Counsel Andrew Howell say the company is cooperating with the Justice Department.<sup>248</sup>

Administration officials have cited legal uncertainties as the primary reasons for lack of prosecution. On October 25, 2007, Secretary of State Condoleezza Rice told the House Committee on Oversight and Government Reform that there is a "hole in the law" when it comes to prosecuting private security contractors.<sup>249</sup> However, she also said that delays in the Moonen case are a result of "not the absence of law... it's a question of evidence,"<sup>250</sup> even though investigators reportedly have "statements by witnesses, forensic evidence, the weapon involved and a detailed chronology of the events drawn up by military personnel and contractor employees."<sup>251</sup>

As for Moonen, news articles report that after being fired by Blackwater he resumed security work for another private security contractor, Combat Support Associates ("CSA"), which operates in Kuwait under a DoD contract. A CSA spokesman has been cited saying that nothing "untoward" had been found in his record during the standard background review conducted of all prospective employees.<sup>252</sup>

outside the United States in connection with either "war" or a "contingency operation" (that is, the sort of military operation currently underway in both Iraq and Afghanistan). There would be no requirement that the contract "support the mission of the DoD." This would both clarify and expand the statutory basis for criminal prosecution in U.S. federal courts.

But experience has shown it obviously is not enough simply to provide a jurisdictional basis for prosecution. Resources also need to be allocated for enforcement, and there must be much greater transparency in terms of contracts and contractor activities so that Congress has the tools to exercise its oversight function.

The proposed legislation addresses these needs in part. The bills provide for establishment of FBI "Theater Investigation Units" where the U.S. government fields substantial numbers of private contractors (as in Iraq and Afghanistan), to investigate reports of alleged criminal misconduct by contractors as well as reports of fatalities resulting from contractor use of force. Given the difficulties of investigating crimes and gathering evidence in a war zone, providing the experienced personnel and adequate resources in-theater would improve accountability for security contractors.

The legislation also would require the DoJ Inspector General to submit regular reports to Congress on the status of DoJ investiga-

tions of abuses committed by contractors including: the number of complaints received, the number of investigations opened, and the number and results of cases closed.<sup>253</sup>

## USA Patriot Act/Special Maritime and Territorial Jurisdiction Act

The Special Maritime and Territorial Jurisdiction (SMTJ) of the United States is based on the concept that the jurisdiction of U.S. courts can be expanded to fill a vacuum wherever "American citizens and property need protection, yet no other government effectively safeguards those interests."<sup>254</sup> The 2001 USA Patriot Act expanded the SMTJ to cover "buildings, parts of buildings, and land appurtenant or ancillary thereto or used for purposes of [U.S. government] missions or entities, irrespective of ownership"<sup>255</sup> in a foreign state with respect to certain listed offenses committed by or against a U.S. national.<sup>256</sup>

In the first—and to date *only*—prosecution of a U.S. citizen under the USA Patriot Act for crimes committed abroad as part of a war effort, former CIA contractor David Passaro was charged with crimes committed while working at a U.S. military base in Afghanistan. In the summer of 2003, Passaro interrogated Abdul

Wali, an Afghan who died after two days under Passaro's interrogation.

A year later federal prosecutors in North Carolina arrested Passaro and obtained a federal indictment under the USA Patriot Act/SMTJ—on two counts of assault with a deadly weapon and two counts of assault resulting in serious bodily injury—for his abuse of Abdul Wali on the forward operating base (FOB) Asadabad.<sup>257</sup>

Passaro could not be prosecuted at the time under MEJA, as his offenses took place prior to the post-Abu Ghraib amendments that expanded MEJA jurisdiction to include contractors with agencies other than the Defense Department. In August 2006 Passaro was convicted on one count of assault resulting in serious bodily injury and three counts of misdemeanor assault, and was sentenced to serve eight years and four months imprisonment.<sup>258</sup> To date, Passaro's Patriot Act case is the only completed prosecution of *any* contractor for violence or abuse toward local nationals coming out of U.S. operations in Afghanistan and Iraq.

It must be noted here that Abu Ghraib in Iraq during 2003-2004 was just as much a U.S. facility as was FOB Asadabad in Afghanistan. The USA Patriot Act/SMTJ basis for Passaro's prosecution for detainee abuse as a Central Intelligence Agency (CIA) contractor was—and remains—just as available against Department of the Interior contractors for detainee abuse at Abu Ghraib.

## War Crimes Act

The War Crimes Act authorizes the prosecution of war crimes committed by or against a member of the armed forces or a U.S. national "inside or outside the United States."<sup>259</sup> While the statute can be used to prosecute U.S. contractors abroad who are also U.S. citizens, it cannot be used to prosecute contractors who are third country nationals unless the victim of the alleged crime was a U.S. citizen.

The act originally included as war crimes any act defined as a "grave breach" in the Geneva Conventions,<sup>260</sup> certain violations of the Annex to the Hague Convention IV of 1907, and any conduct that constitutes a violation of Common Article 3 of the four Geneva Conventions.<sup>261</sup> However, in October 2006 President Bush signed into law the Military Commissions Act (MCA), which among other things revised the War Crimes Act. Section 6 of the MCA removes the War Crimes Act's prior prohibition of all Common Article 3 violations and replaces it with a narrower list of so-called "grave breaches" of Common Article 3.<sup>262</sup> Consequently, certain crimes proscribed by the former War Crimes Act and by the Geneva Conventions themselves are no longer covered by the War Crimes Act.

David Passaro's case potentially could have been prosecuted under the War Crimes Act—as intentionally causing serious bodily injury is clearly a chargeable offense under the Act—as arguably

could contractor cases arising from Abu Ghraib.<sup>263</sup> However, the War Crimes Act has never been used by the U.S. government in any criminal prosecution of a contractor—or, in fact, of anyone else.

## The Torture Act

The United States enacted the Torture Convention Implementation Act of 1994 (the Torture Act) to implement its obligation to criminalize torture under Article 5 of the United Nations Convention Against Torture. The Torture Act defines torture as an act "committed by a person acting under the color of law *specifically intended* to inflict *severe physical or mental pain or suffering* (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control."<sup>264</sup>

The Torture Act applies to prohibited acts attempted or committed outside the United States, defined as "the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States."<sup>265</sup> The Torture Act's criminal provisions apply to individuals who are either nationals of the United States found anywhere in the world and to non-U.S. citizens who are found in the United States.<sup>266</sup> Charles McArthur Emmanuel—also known as Roy Belfast, Jr., and "Chuckie Taylor"—son of former Liberian President Charles Taylor, a year ago became the first person ever indicted by the U.S. government under the 1994 Torture Act.<sup>267</sup> (See "Chuckie Taylor's Crimes of Torture" textbox on p. 30 below.)

## Uniform Code of Military Justice

The U.S. Constitution grants Congress power "to make rules for the government and regulation of the land and naval forces."<sup>268</sup> In addition, Article I of the Constitution grants Congress the authority "to make all laws which shall be necessary and proper for carrying into execution" its other enumerated powers.<sup>269</sup> Exercising this constitutional authority, Congress enacted the Uniform Code of Military Justice (UCMJ) in 1950. The law authorizes courts-martial to try members of the U.S. armed forces and others for offenses prohibited by the UCMJ.<sup>270</sup>

The jurisdictional scope of the UCMJ is defined in its Article 2, which lists those persons subject to the UCMJ.<sup>271</sup> Prior to a 2006 amendment, Article 2(a)(10) extended jurisdiction "[i]n time of war" to "persons serving with or accompanying an armed force in the field."<sup>272</sup> As part of the 2006 defense authorization process, Congress amended this provision to expand the reach of the UCMJ. As amended, the UCMJ now reaches persons "serving with or accompanying an armed force in the field" during a "declared war or a contingency operation."<sup>273</sup> A "contingency operation" is a term of art under federal law for an operation "designated by the Secretary of Defense as an operation in which members of the

## David Passaro

David Passaro worked on a contract directly for the U.S. Central Intelligence Agency (CIA) for six months in 2003.<sup>274</sup> In May 2003 he arrived at the U.S. Army forward operating base (FOB) in Asadabad, Afghanistan, the capital of Kunar Province, in an area of active Taliban operations near the Pakistani border.<sup>275</sup> Passaro, a former Army Special Forces soldier, had been assigned to the Asadabad FOB to work with a team of U.S. Special Forces and CIA personnel responsible for capturing and interrogating suspected terrorists.<sup>276</sup>

On June 19-20, 2003, Passaro interrogated Abdul Wali, an Afghani who had voluntarily turned himself in after learning that U.S. officials wanted to question him in connection with a rocket attack on the Asadabad base.<sup>277</sup> During the interrogation, Passaro reportedly kicked Wali, beat him with a flashlight, and limited Wali's access to food and water.<sup>278</sup> Wali died in custody on June 21, following the two days of interrogation.<sup>279</sup> Passaro was reportedly relieved of his duties and returned to the United States after Wali's death.<sup>280</sup>

The CIA says it immediately reported the incident to the CIA Inspector General and to the Department of Justice (DoJ).<sup>281</sup> The DoJ reported investigations in the case of some sort by the CIA's Inspector General, the Federal Bureau of Investigation and the U.S. Marshal's Service.<sup>282</sup>

On June 17, 2004—a full year after the event, and just several weeks following exposure of the Abu Ghraib photographs—the U.S. Attorney for the Eastern District of North Carolina charged Passaro with two counts of assault by a dangerous weapon and two counts of assault inflicting serious bodily injury.<sup>283</sup> Passaro was tried under the SMTJ as amended by the USA Patriot Act.<sup>284</sup>

Passaro argued the case should be dismissed on the ground that the Asadabad FOB was a remote base and not within the jurisdiction of the SMTJ.<sup>285</sup> U.S. District Court Judge Terrence Boyle ruled, however, that the base was U.S.-controlled property, noting that it supported the U.S. military mission in Afghanistan and even housed troops.<sup>286</sup> Passaro tried but was unable to call a number of high-ranking Bush Administration officials as witnesses, including George Tenet, former director of the CIA, Cofer Black, and John Yoo (author of the DoJ “torture memos”) in support of his “public authority defense” argument that his conduct was consistent with U.S. interrogation policies.<sup>287</sup> Passaro's case is notable in its use of the Classified Information Procedures Act, which requires judges to determine whether and how defendants may use classified information in their defense.<sup>288</sup> Passaro's request to use classified information reportedly forced construction of a separate, secure room to house classified materials in the federal courthouse: “The ... room is soundproof and outfitted with a security system, a mulching shredder and black file cabinets that double as safes. Numerous court filings have been heavily censored before being made public.”<sup>289</sup>

In August 2006 Passaro was convicted on a single count of assault resulting in serious bodily injury and three counts of misdemeanor assault,<sup>290</sup> and was sentenced to serve eight years and four months in a federal prison.<sup>291</sup>

To date, David Passaro's Patriot Act conviction is the only completed U.S. government prosecution of *any* contractor for detainee abuse in Afghanistan and Iraq.<sup>292</sup>

armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force,” or which results in the call or order to active duty of members of the armed forces under certain other statutory provisions.<sup>293</sup> Current military operations in Iraq and Afghanistan are both contingency operations. From the stated intent of the amendment's prime sponsor, Senator Lindsey Graham (R-SC), it is clear that the UCMJ expansion was explicitly designed to bring private security contractors under the jurisdiction of the UCMJ.<sup>294</sup>

The question remains whether private security contractors, who are not members of the military forces, lawfully can—and should as a matter of policy—be subjected to military jurisdiction and prosecuted by courts-martial for acts that are crimes under the UCMJ. At present, no case has been brought under the amended language of the UCMJ, and so the legality of its expanded scope has not been tested. As the DoD as yet has taken no definitive action to implement the 2006 jurisdictional amendment it seems this provision is not likely to be tested very soon. There are serious constitutional and human rights implications of the potential courts-martial of civilians serving as private security contractors. Pakistan and many other countries have been rightly criticized in

recent decades by human rights activists and others for abuses by military courts that have been empowered to displace civilian courts in trying civilians accused of criminal offenses. Pakistan's President Pervez Musharraf again raised the specter of such trials on a wide-spread basis as part of the state of emergency imposed in late 2007 and which still lingers, although formally lifted.

Instances in which civilians—even private security contractors operating in a conflict environment by the side of U.S. military forces—would actually be tried by court-martial should be rare. Such limited circumstances could include, for example, when a civilian contractor functions in a detention or intelligence-gathering capacity, or is involved directly in hostilities or in activities which compromise or threaten essential military interests. However, to the extent there is emerging agreement that military coordination of private security contractor activities in conflict zones is a useful and necessary step, the effectiveness of that coordination is likely to be only enhanced by the existence of UCMJ jurisdiction and the possibility of court-martial, even if UCMJ jurisdiction is never exercised. Accordingly, Human Rights First recommends that DoD should develop the necessary regulations and changes to the

## Chuckie Taylor's Crimes of Torture

On December 6, 2006, a federal grand jury in Miami charged Charles McArthur Emmanuel—also known as Roy M. Belfast, Jr., and “Chuckie Taylor,” and the son of former Liberian President Charles Taylor—with torture, conspiracy to torture, and use of a firearm during the commission of a violent crime, for acts he allegedly committed in Liberia while head of the Liberian government’s Anti-Terrorist Unit (ATU), a paramilitary unit under his father’s regime.<sup>295</sup> Specific allegations include burning victims with scalding water and hot irons, and administering electric shocks.<sup>296</sup> If convicted, Emmanuel faces 20 years to life imprisonment.<sup>297</sup>

Charles Taylor, Emmanuel’s father, was inaugurated as president of Liberia in 1997. Taylor created the ATU ostensibly to protect the executive mansion and other Liberian government facilities, and to provide security for some foreign embassies. Human rights organizations and Liberian witnesses have said that the unit was involved in numerous acts of torture and war crimes in addition to those set forth in the U.S. indictment.<sup>298</sup> Charles Taylor—the father—was indicted by the Special Court for Sierra Leone for war crimes and crimes against humanity committed in Sierra Leone, and was arrested in March 2006.<sup>299</sup> He faces his own trial in January 2008 in The Hague, The Netherlands.<sup>300</sup>

Although Emmanuel lived in Liberia during the time covered by the federal indictment, he was born in the United States and is a U.S. citizen. It is a federal crime for any U.S. citizen to engage in torture.<sup>301</sup> The Torture Act also authorizes the federal courts to exercise universal jurisdiction over persons present in the United States, regardless of nationality, who are alleged to have committed torture or other war crimes anywhere in the world.<sup>302</sup>

At the time of the indictment, Emmanuel was already in prison in Miami, having pled guilty in September 2006 to criminal passport fraud for falsifying his father’s name on a passport he used to enter the United States from Trinidad in March 2006. In December 2006 Emmanuel was sentenced to 11 months in prison on that charge.<sup>303</sup>

Emmanuel was charged by a federal grand jury in Miami in September 2007 in a superseding indictment with additional crimes of torture.<sup>304</sup> Trial is set for April 7, 2008.<sup>305</sup>

To date there have been no completed prosecutions under the Torture Act.<sup>306</sup> The U.S. government’s failure to use this statute has been criticized by the human rights community as well as the Committee Against Torture, the expert body responsible for monitoring implementation of the Convention Against Torture.<sup>307</sup>

Manual for Courts-Martial to implement the 2006 congressional expansion of UCMJ jurisdiction to prosecute PSCs, although the use of courts-martial of PSCs should be very infrequent and limited to extraordinary circumstances defined by statute or regulation.

## The Missing Pieces

The Justice Department’s failure to allocate sufficient resources to address criminal law enforcement for the U.S. contractor community abroad has been highlighted by the unprosecuted Abu Ghraib, Nisoor Square, and Jamie Leigh Jones cases, as well as a slew of cases that have not captured headlines. (See “The Nature of the Problem” pp.5-14, and the Case Studies in Appendices C-H.) There is an urgent need to have investigators on the ground in Iraq and Afghanistan; the pending bills in Congress would address this need. But there are other needs not addressed by the pending legislation.

**A dedicated DoJ office.** DoJ’s Criminal Division must be given an explicit mandate to cover this area, and dedicated funding, resources, and personnel to do so, including a deputy assistant attorney general tasked with the responsibility. There should be a staff of trial attorneys with a depth of experience in relevant criminal law and the law of armed conflict who can support prosecutions. The fact that such resources have been missing until

now has clearly contributed to the failure to act in a timely and appropriate manner in cases of contractor abuse.

**Transparency and congressional oversight.** The executive branch has, to this point, produced remarkably little information concerning PSC operations or even contracts. H.R. 2740 and S. 2147, although requiring some bare-bones reporting by DoJ about criminal investigations, otherwise do not address broader requirements for executive branch reporting on PSCs.

The need for congressional oversight is obvious: private security contractors are increasingly performing functions previously performed by the military, and Congress must accept responsibility for performing the same oversight over the executive branch’s conduct in these operations whether done through the military or through private security contractors. It also is essential for Congress to gain access in the near-term to information that will allow it to legislate more comprehensively and intelligently in this area to regulate the conduct of private security contractors on behalf of the U.S. government and to regulate as well the extent and manner in which U.S. government agencies utilize private security contractors.

A comprehensive reporting regime will have numerous elements, but likely should include routine public disclosure of all unclassified private security contractor contracts by all U.S. government agencies (including subcontracts at any level), and regular (and at least annual) reporting to Congress in such areas as:

- U.S. government agency funds and other resources expended on or devoted to private security contracts, including their management, oversight and supervision by the agency;
- The nature of the activities of such private security contractors, and the numbers of private security contractors so employed;
- Documents reflecting civil-military and other interagency agreements regarding the use of PSCs, restrictions on their activities, and the establishment of agreed lines of authority;
- Serious incidents in which such contractors are involved, to include weapons discharges and other uses of force, and third party deaths, injuries and property damage caused by such contractors; and
- Ongoing and resolved investigations by private security companies and law enforcement agencies concerning alleged misconduct by private security contractors, to include company resolutions and criminal prosecutions resulting from such investigations.

With the regular reporting of information in these areas, PSC transparency will be greatly enhanced and Congress will begin to gain access to the information necessary for effective oversight and informed legislation on PSC issues that have not been the focus of this report, including: addressing the need for limitations on spheres of allowed PSC activity; bringing greater consistency to disparate U.S. government agency PSC contracting practices; establishing clear civil-military lines of authority; and beginning to grasp the full and true costs of the U.S. government's increasing reliance on PSCs.



## Recommendations

More than six years after hostilities began in Afghanistan and four-and-a-half years after they began in Iraq, there still is no effective U.S. government law enforcement program in place to ensure that private security contractors (PSCs) are held accountable for criminal conduct.

In 2004 Congress amended the Military Extraterritorial Jurisdiction Act (MEJA) to expand the authority of the Department of Justice (DoJ) to prosecute contractor crimes. In 2006 Congress amended the Uniform Code of Military Justice (UCMJ) to expand the Department of Defense's (DoD's) authority in this area. To its credit Congress continues to focus on these issues. In the past session several committees have examined crimes by private contractors that have not been prosecuted. At least two congressional committees have held hearings in recent months focusing attention on Blackwater, Kellogg, Brown and Root (KBR), and others in the broader contractor community. In October 2007 the House of Representatives overwhelmingly passed H.R. 2740, to further enhance MEJA jurisdiction and to compel the Justice Department to allocate resources to criminal investigations of private contractors. Similar legislation—S. 2147—now is pending in the Senate.

Human Rights First commends congressional attention on this issue, and we believe that there is more still that Congress can do. However, while Congress can (and should) continue to perfect criminal jurisdiction and provide statutory prosecutorial authorities, it cannot prosecute these crimes. The executive branch must do that. And to date the Justice Department in particular has failed to take the initiative to use the enhanced jurisdiction already provided by Congress to prosecute contractor crimes.

But Congress is not powerless here. It has both the oversight authority and the power of the purse to compel the administration to make the prosecution of these crimes a Justice Department priority.

While serious PSC crimes have been documented, the lack of effective criminal accountability systems has encouraged the emergence of a culture of impunity which has set the stage for more abuse. Self-reporting has proved insufficient to address these abuses. Collaboration among the U.S. government agencies responsible for PSCs is ineffective. And while under current federal law most criminal conduct by most security contractors is in fact prosecutable, the executive branch has failed to exercise the political will to enforce federal criminal laws against PSCs. The Justice Department in particular has failed to commit the necessary resources to exercise its authority.

In order to address these problems Human Rights First recommends the following measures:

### Prosecution in the Federal Courts

1. The Department of Justice must take the lead—compelled by Congress as necessary—to investigate and prosecute cases of violent private contractor crime abroad. And MEJA should become the *principal* legal mechanism for the U.S. government to hold private contractors abroad criminally responsible for violations of the law.
2. Congress should amend MEJA to further clarify its jurisdiction over private contractors abroad and to require the Justice Department to begin to allocate adequate investigative resources to these cases.
3. Congress also should expand the list of serious federal offenses prosecutable under MEJA.
4. DoJ should establish a dedicated office within the Criminal Division to investigate and prosecute contractor crime. This office should:

- a. Have authority and responsibility for investigating and prosecuting U.S. and foreign civilians working abroad for the U.S. government, including PSCs accused of crimes falling under MEJA, the USA Patriot Act/Special Maritime and Territorial Jurisdiction Act (SMTJ), the Torture Act, and the War Crimes Act;
  - b. Have lead responsibility to direct investigations and conduct prosecutions directly and to serve as a resource to U.S. Attorney offices throughout the country that are drawn into these prosecutions; and
  - c. Be staffed with experienced prosecutors, investigators and other support staff and have adequate resources to establish joint prosecutor-investigator field missions in Iraq and Afghanistan and in other future environments where the U.S. government fields large numbers of private contractors.
5. Congress should provide necessary funds to allow for the establishment and staffing of this office, including field offices.

## Prosecutions under the UCMJ

1. The UCMJ should become an effective though clearly *secondary* legal mechanism to hold PSCs abroad criminally responsible for law of war and human rights violations.
2. DoD should develop draft regulations and amend the Manual for Courts-Martial to implement the 2006 congressional expansion of UCMJ jurisdiction to prosecute PSCs; if necessary, Congress should establish a 2008 deadline for this work to be completed.
3. However, courts-martial of civilian contractors—even PSCs—should be infrequent and limited to extraordinary circumstances defined by statute or regulation.

## Coordinating Investigations and Prosecutions

1. DoJ and DoD should develop formal, effective and robust coordination mechanisms for the investigation of contractor crimes abroad.
2. The Department of State (DoS) should negotiate agreements with third countries regarding creation of criminal jurisdiction over their own nationals who work as PSCs on U.S. government contracts, as a foundation for U.S. government deferral to such jurisdiction when that jurisdiction is actually exercised.
3. DoS—on behalf of the U.S. government—also should take a visible and constructive international leadership position in initiatives to develop international standards and best practices for comprehensive PSC regulation.

## Contracts and Company Accountability

All U.S. government agency contracts with PSCs (including subcontracts at any level) should provide that:

1. PSCs and their personnel must respect humanitarian and human rights law. Companies must have appropriate internal vetting, training and supervision mechanisms and capabilities, and substantial and rigorous internal discipline systems that efficiently and thoroughly inquire into such allegations, and when violations are found, apply appropriate sanctions to law of war and human rights violators.
2. PSCs and their personnel must cooperate with U.S. government or other relevant (including non-U.S. government) law enforcement authorities investigating alleged criminal violations of humanitarian and human rights law. This includes retaining, in country, individual contractor personnel who are under criminal investigation until those individuals are appropriately taken into custody for prosecution or released.
3. Violations of contract provisions designed to promote contractor compliance with the law of war and human rights law, or failures of contractors to cooperate with the timely review and investigation of suspected violations of these laws, should subject private security contractors to possible fines, contract suspension and/or termination, and debarment from future contracts.
4. If the executive branch fails to do so on its own, Congress should mandate this minimum degree of consistency in all U.S. government agency contracts with PSCs (including subcontracts at any level).

## Civilian Compensation

1. Both U.S. military and civilian agencies that contract with and use PSCs (including subcontractors at any level) must develop and provide access to mechanisms to provide just compensation for wrongful deaths, injuries, or damages caused by PSCs in their employ, founded on principles of transparency, consistency, and fairness.
2. Payments made by U.S. government authorities to compensate for deaths, injuries or damages caused by the actions of PSCs may be charged by the U.S. government in appropriate circumstances against the contract.
3. PSC companies may be required to post substantial bonds to ensure the funding of these compensation mechanisms.

4. Again, if the executive branch refuses to implement such reforms, Congress should mandate them.

## Further Measures to Promote Transparency and Prevention

1. DoD should be empowered and held accountable for the coordination and tracking of all U.S. government agency-funded PSCs operating in conflict zones.
2. DoD should establish formal coordination centers for PSC operations and movements, with all incidents involving use of force or potential civilian casualties or damages reported on a regular and timely basis, and with reports designed to provide useful law enforcement information and to be available to DoJ and military investigative units and other U.S. government agencies with jurisdiction or interest in appropriate cases.
3. DoD should establish common standards for all PSCs operating in conflict zones, including provisions requiring:
  - a. All PSCs to operate under common, appropriate rules of force that ensure they do not conduct missions likely to ensnarl them in combat;
  - b. All vehicles used by PSCs for overt movements to be visibly and prominently marked with unique identifying symbols and/or numbers that will allow specific PSC company vehicles to be identified; and
  - c. All PSCs to carry tracking devices in their vehicles to allow their movements to be securely tracked in real time and reconstructed after the fact, and recording devices that preserve audio and video records of PSC missions.

## Congressional Oversight

1. Congress should require comprehensive, regular public reports to Congress regarding PSC activities and operations abroad funded by U.S. government agencies. (Some reporting requirements along these lines were contained in the DoD Authorization Act, H.R. 1585, vetoed on December 28, 2007, by President Bush.<sup>308</sup>)
2. Congress should require the completion of a study during 2008 of the activities of private contractors at war on behalf of the U.S. government, with a primary purpose of the study being to identify whether there are “core government,” “core military,” and other activities—including, for example, the interrogation of detainees in U.S. government custody, and the protection and defense of military personnel, equipment and facilities in conflict zones—which should not under ordinary circumstances be assigned to private contractors. Based on our preliminary examination, Human Rights First believes that there should be a presumption against the use of private contractors as interrogators.



## **Appendices**

## A. Glossary of Terms

<i>AIF</i>	Anti-Iraqi Forces	<i>MNSTC-I</i>	Multi-National Security and Transition Command – Iraq
<i>AOR</i>	Area of Responsibility	<i>MP</i>	Military Police
<i>ATU</i>	Anti-Terrorist Unit	<i>NATO</i>	North Atlantic Treaty Organization
<i>BAPSC</i>	British Association of Private Security Companies	<i>NCIS</i>	Naval Criminal Investigative Service
<i>BIAP</i>	Baghdad International Airport	<i>OGA</i>	Other Government Agencies
<i>CIA</i>	Central Intelligence Agency	<i>OMB</i>	Office of Management and Budget
<i>CID</i>	Criminal Investigative Division	<i>ORHA</i>	Office of Reconstruction and Humanitarian Assistance
<i>CPA</i>	Coalition Provisional Authority	<i>PCO</i>	Project and Contracting Office
<i>CRG</i>	Control Risks Group	<i>PSCAI</i>	Private Security Company Association of Iraq
<i>CSA</i>	Combat Support Associates	<i>PSD</i>	Private Security Detail
<i>DAA</i>	Detainee Abuse and Accountability Project	<i>PSC</i>	Private Security Contractor
<i>DBA</i>	Defense Base Act	<i>ROCs</i>	Reconstruction Operation Centers
<i>DoD</i>	Department of Defense	<i>RPAV</i>	Remotely Piloted Airship Vehicle
<i>DoI</i>	Department of the Interior	<i>RPG</i>	Rocket Propelled Grenade
<i>DoJ</i>	Department of Justice	<i>RSO</i>	Regional Security Officer
<i>DoS</i>	Department of State	<i>RTA</i>	Road Traffic Accident
<i>EOF</i>	Escalation of Force Incidents	<i>RUF</i>	Rules on the Use of Force
<i>ESS</i>	Eurest Support Services	<i>SAF</i>	Small Arms Fire
<i>FBI</i>	Federal Bureau of Investigation	<i>SET</i>	Security Escort Team
<i>FEMA</i>	Federal Emergency Management Agency	<i>SIR</i>	Serious Incident Report
<i>FOB</i>	Forward Operating Base	<i>SMTJ</i>	Special Maritime and Territorial Jurisdiction
<i>FOIA</i>	Freedom of Information Act	<i>SOFA</i>	Status of Force Agreement
<i>GAO</i>	Government Accountability Office	<i>SOPs</i>	Standard Operating Procedures
<i>GRC</i>	Gulf Region Command	<i>SUV</i>	Sports Utility Vehicle
<i>ICDC</i>	Iraqi Civil Defense Corps	<i>TCN</i>	Third Country National
<i>IECI</i>	Independent Electoral Commission Iraq	<i>TJAG</i>	Judge Advocate General
<i>IED</i>	Improvised Explosive Device	<i>TTP</i>	Tactics, Techniques and Procedures
<i>IMN</i>	Iraqi Media Network	<i>UCMJ</i>	Unified Code of Military Justice
<i>ING</i>	Iraqi National Guard	<i>UN</i>	United Nations
<i>IP</i>	Iraqi Police	<i>UNEAD</i>	United Nations Electoral Assistance Division
<i>IPOA</i>	International Peace Operations Association	<i>USACE</i>	United States Army Corps of Engineers
<i>IZ</i>	International Zone, also known as the Green Zone	<i>USAID</i>	United States Agency for International Development
<i>JCC</i>	Joint Contracting Command	<i>USA PATRIOT Act</i>	Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act
<i>KIA</i>	Killed in Action	<i>USG</i>	United States Government
<i>KBR</i>	Kellogg, Brown, and Root	<i>USREO</i>	United States Regional Embassy Office
<i>LN</i>	Local National	<i>VBIED</i>	Vehicle Borne Improvised Explosive Device
<i>LOGCAP</i>	Logistics Civil Augmentation Program	<i>WIA</i>	Wounded in Action
<i>MCA</i>	Military Commissions Act	<i>WPPS</i>	Worldwide Personal Protective Service
<i>MEJA</i>	Military Extraterritorial Jurisdiction Act		
<i>MOA</i>	Memorandum of Agreement		
<i>MNC-I</i>	Multinational Corps – Iraq		
<i>MNF-I</i>	Multinational Forces-Iraq		
<i>MNFI-C</i>	Multinational Forces Iraq – Command		

## B. Private Security Firms

The following list, though not extensive, is an overview of some of the most influential private security and intelligence firms. While many of these firms offer a variety of security and non-security services, they all hire individuals to perform security and intelligence related functions, and many of them are members of the regional industry association, the Private Security Company Association Iraq (PSCAI).<sup>309</sup>

\*Member of PSCAI

† Member of British Association of Private Security Companies (BAPSC)

Member of International Peace Operations Associations (IPOA)

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### Aegis Defense Services\*†

Website: [www.aegisworld.com](http://www.aegisworld.com)

Founded: 2002

Location: Britain

Services: Intelligence, security, and technical services.<sup>310</sup>

**Additional Information:** In 2004, Aegis won a three-year, \$293 million contract to provide a range of security services and intelligence activities to the Department of Defense.<sup>311</sup> Under the contract, Aegis provides security services for the Project and Contracting Office (PCO), responsible for managing reconstruction operations in Iraq, and the U.S. Army Corps of Engineers, providing intelligence personnel who have "NATO equivalent SECRET clearance" for intelligence analysis, and for managing the contractor-military coordination centers, the Reconstruction Operation Centers (ROCs).<sup>312</sup> In September 2007, the Pentagon renewed and expanded its contract with Aegis. The new two-year contract is worth up to \$475 million and is the largest DoD private security company contract.

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### Advanced International Electronic Equipment W.L.L. (AIEE)\*

Website: [www.motorolajv.com/company.asp](http://www.motorolajv.com/company.asp)

Founded: 1991

Location: Kuwait

Number of Employees: 60

Services: Communications, offering radios, cell phones and maintenance, support, and training for their products.

**Additional Information:** AIEE is a joint venture between Motorola USA and Al Kahadiya that provides communications services to Kuwait and around the Middle East and is an approved U.S. government contractor.<sup>313</sup>

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### American-Iraq Solutions Group\*

Website: [www.aisgiraq.com](http://www.aisgiraq.com)

Founded: 2004

Location: Baghdad, Iraq

Services: Construction, life support, logistics and security services in Iraq.

**Additional Information:** American-Iraq Solutions has won over \$150 million in contracts, providing convoy security, personal security detail, static guards, site protection, threat analysis, quick reaction force, and related security services for the Department of Defense, United States Agency for

International Development (USAID), the Iraqi Ministry of the Interior, NATO, and numerous engineering, construction, and telecommunications firms.<sup>314</sup>

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### ArmorGroup\*†Δ

Website: [www.armorgroup.com](http://www.armorgroup.com)

Founded: 1981

Location: Headquarters in London, England.

Number of Employees: Over 9,000<sup>315</sup>

Services: Protective security services, security-training services risk management consultancy, weapons reduction and mine action services and reconstruction and development support.<sup>316</sup> ArmorGroup provides security services such as risk assessment and management, close protection, manned security, technical security systems and mine action services in Iraq to government and corporate bodies.<sup>317</sup>

**Additional Information:** Now listed on the London Stock Exchange, ArmorGroup has held contracts to provide security support and training for the 2005 Iraq elections<sup>318</sup> and to protect the British Embassy and Council Offices in Kabul, Afghanistan.<sup>319</sup>

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### Babylon Gates\*

Website: [alfagates.com/babylon\\_gates.htm](http://alfagates.com/babylon_gates.htm)

Location: Baghdad, Iraq

Services: Contracting services include security dogs, de-mining, civil engineering, real estate management and operations, business facilitation and implementation, and life support and personnel services.<sup>320</sup>

**Additional Information:** Part of the London-based Alfagates Group, Babylon Gates provides the Department of Defense with security dogs under the Joint Area Support Group (JASG)—Security and Justice department contract, provides road building for the U.S. Army Corps of Engineers, and healthcare services for Multi-National Security Transition Command—Iraq (MNSTC-I). Babylon Gates also assists the Japanese Emergency Water Purification Project in Baghdad, and provides a range of services to other contractors in the country.

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### Blackwater Worldwide\*

Website: [www.blackwaterusa.com](http://www.blackwaterusa.com)

Founded: 1997

Location: Moyock, North Carolina

Number of Employees: Approximately 1,000 contractors (not full employees) currently in Iraq.<sup>321</sup> In addition, the company maintains a database of 40,000 potential contractors.<sup>322</sup>

Services: Advanced training; logistics mobility, which includes supply chain management; technology/innovation, which includes Blackwater's work with armored personnel vehicles and unmanned aerial vehicles; and human/material resources services. Specific services include security operations, aviation support, K-9 (police dog) services, the manufacturing of armored personnel vehicles, and training for protective, maritime, law enforcement, and foreign military operations.<sup>323</sup> In 2006 the company began working to create remotely piloted airship vehicles (RPAV), or blimps, for communications and surveillance purposes.<sup>324</sup>

**Additional Information:** Blackwater Worldwide, formerly Blackwater USA, is one of the best-known private security companies working in Iraq. The company was founded by former Navy SEAL and auto heir Erik Prince, who continues as company CEO. Blackwater has contracts with the Pentagon, U.S. intelligence agencies, and the State Department.<sup>325</sup> In addition to its work in Iraq, Blackwater has been contracted to fight the opium trade in Afghanistan, to provide a commando force in Azerbaijan,<sup>326</sup> and to protect FEMA officials in post-Hurricane Katrina Gulf Coast.<sup>327</sup> It recently pulled out of IPOA.<sup>328</sup>

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### Blue Hackle\*<sup>†</sup>

Website: [www.bluehackle.com](http://www.bluehackle.com)

Location: Headquarters in London, England

Services: Security, logistical and risk management services including security reviews, personal security details, site surveys, life support, logistical support, and asset recovery.<sup>329</sup>

**Additional Information:** Blue Hackle works with corporations, law firms, financial institutions, non-governmental organizations and government agencies.<sup>330</sup>

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### Britam Defense\*<sup>†</sup>

Website: [www.britamdefence.com](http://www.britamdefence.com)

Founded: 1997

Location: Head Office in London

Services: Security support and risk assessments, including personal protection,<sup>331</sup> and security services for the oil and petroleum sector,<sup>332</sup> in addition to defense, health and safety training.

**Additional Information:** Britam has offices in London, Dubai, Singapore, Libya, and Iraq.

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### CACI International

Website: [www.caci.com](http://www.caci.com)

Founded: 1962

Location: Headquarters in Arlington, Virginia

Number of Employees: Over 11,600<sup>333</sup>

Services: CACI does not provide security services but is included here due to its contractors' alleged involvement in abuses in Abu Ghraib, detailed in Appendix H. It provides homeland security, systems integration, network services, intelligence services, knowledge management, modeling and simulation, and engineering and logistics products and services.<sup>334</sup>

**Additional Information:** CACI has worked for a number of federal agencies including the Department of the Interior and the Department of Defense.<sup>335</sup> In 2003, CACI won a series of Delivery Orders to provide intelligence-related and logistics services, including interrogator support, open source intelligence, as well as "Senior and Junior Counter-Intelligence Agents" and "Tactical/Strategic Interrogators" to the military.<sup>336</sup> Some of the contractors hired under these orders served as interrogators at Abu Ghraib, and some were allegedly implicated in the detainee abuse.<sup>337</sup> According to CACI, the company no longer provides interrogation services in Iraq.<sup>338</sup>

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### The Centurion Group\*<sup>†</sup>

Website: [www.centurionsafety.net](http://www.centurionsafety.net)

Founded: 1995

Location: Britain

Services: Training and security forces for media, humanitarian aid agencies, and corporate personnel in dangerous work environments.

**Additional Information:** In 2004, Centurion was pronounced one of the U.K.'s Top 100 Fastest Growing Private Companies.<sup>339</sup> Clients have included ABC News, Agence-France-Presse, Al-Jazeera, Amnesty International, Human Rights Watch, *Army Times*, *The Chicago Tribune*, Channel Four News, Knight Rider Newspapers, McClatchy Newspapers, NBC News, *The New York Times*, Reuters, Associated Press, *USA Today*, Voice of America, and *The Washington Post*, among others.<sup>340</sup>

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### Combat Support Associates, Ltd.

Website: [www.csakuwait.com](http://www.csakuwait.com)

Location: Kuwait

Services: A range of services including maintaining tactical equipment, supporting information systems, training programs, security, environmental services, and others.<sup>341</sup> Specific security services include force protection operations, security and patrol operations, residential security operations, emergency and contingency operations, and entry control and checkpoint operations.<sup>342</sup>

**Additional Information:** In 1999 Combat Support Associates won a ten-year contract with the U.S. Army to provide its services to U.S. forces at Arifan, Buehring, Virginia, and Ali Al Salem camps in Kuwait.<sup>343</sup>

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### Control Risks Group\*<sup>†</sup>

Website: [www.control-risks.com](http://www.control-risks.com)

Founded: 1975.

Location: Britain

Services: A variety of security and intelligence analysis, from political and security risk analysis, and pandemic services, to travel security and supply chain and executive security, to list a few,<sup>344</sup> as well as security management, discreet armed protection, and information support.<sup>345</sup>

**Additional Information:** In Iraq, Control Risks works with government and corporate clients.

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### Crescent Security Group

Website: [www.crescentsecuritygroup.com](http://www.crescentsecuritygroup.com)

Founded: 2003

Location: Kuwait City, Kuwait

Services: Convoy escort, personal escort, and site security.<sup>346</sup>

**Additional Information:** Crescent Security has provided security services to government contractors, foreign government officials, private companies, and even high-ranking military officials. On February 1, 2007, military police found in Crescent living quarters illegal steroids and a range of weapons that are prohibited for private security companies by the U.S. military. In March military officials found more prohibited weapons in a Crescent shipping container. *The Washington Post* reported that Crescent was banned from U.S. military bases as a result,<sup>347</sup> though a Crescent press report counters

that the weapons that were found were permissible under Coalition Provisional Authority (CPA) Order Number 100 and that only certain contractors, some of whom no longer work for Crescent, were barred from U.S. bases.<sup>348</sup> The company says it does not provide security services at this time.<sup>349</sup>

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### Custer Battles

Website: [www.custerbattles.com](http://www.custerbattles.com)

Founded: 2002

Location: Middletown, Rhode Island

Services: Global risk consulting, training, business intelligence, litigation support, emergency management services, and business restorations services.<sup>350</sup> Specific security services include personal security details, supply chain security, and site security.<sup>351</sup>

**Additional Information:** Custer Battles was founded by a former Army Ranger, Scott Custer, and former (Central Intelligence Agency (CIA) officer, Michael Battles.<sup>352</sup> In 2003, shortly after the fall of Baghdad, Custer Battles won a \$16.8 million contract with the Coalition Provisional Authority to provide security at Baghdad International Airport (BIAP). Around the same time, it won an additional CPA contract for over \$20 million to distribute new Iraqi currency across the country.<sup>353</sup> However, in 2004,<sup>354</sup> in the midst of fraud allegations, the Pentagon banned Custer Battles and its 15 subsidiaries from government work until at least March 2009.<sup>355</sup> In 2006 two former employees sued Custer Battles, claiming that the private security company fraudulently charged the CPA for security services it never provided.<sup>356</sup> By February 2007, a federal judge dismissed both charges, arguing in one case that Custer Battles did not knowingly defraud the CPA, and in another, overruling a jury verdict that had found the company liable. The judge argued that since the CPA is not a U.S. entity, the claims were beyond the jurisdiction of a U.S. court.<sup>357</sup>

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### DynCorp International\*<sup>†</sup><sup>Δ</sup>

Website: [www.dyn-intl.com](http://www.dyn-intl.com)

Founded: 1946

Location: Reston, Virginia

Number of Employees: Around 1,500 in Iraq

Services: Technological and security services such as aviation services, logistics, infrastructure, maritime security, weapons removal and abatement; and law enforcement and security services, including police missions and personal security and convoy escorts.<sup>358</sup>

**Additional Information:** DynCorp has a number of former government officials as executives, including Gen. Anthony C. Zinni (USMC-Ret.) as executive vice-president<sup>359</sup> and former Army Chief of Staff General Peter Schoomaker on the Board of Directors.<sup>360</sup> DynCorp has several high-profile contracts with the Department of State. Its security contractors have been guarding Afghan President Hamid Karzai since 2002.<sup>361</sup> In 2006 it was awarded part of the State Department's Worldwide Personal Protective Services contract (WPPS II) along with Blackwater and Triple Canopy, to provide security services to State Department employees in Iraq. Each contractor was awarded a maximum of \$1.2 billion.<sup>362</sup> In 2007 the State Department Inspector General dropped an audit of a separate \$1.2 billion State Department contract for an Iraqi Police Training Program due to State's gross disorganization and management of the contract.<sup>363</sup> In 2002 the firm settled charges from a former employee who claimed DynCorp contractors in Bosnia were trafficking underage women as sex slaves.<sup>364</sup>

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### Edinburgh International\*<sup>†</sup><sup>Δ</sup>

Website: [www.edinburghint.com](http://www.edinburghint.com)

Founded: 2003

Location: Guernsey

Services: Risk management consultancy, business intelligence and facilitation, logistics, enterprise development, security training, emergency response, security sector reform, and security services including maritime and airport security, static guarding, and personal security.<sup>365</sup>

**Additional Information:** Originally founded under the name ERSM Limited, Edinburgh International holds contracts in Iraq, Afghanistan, and Sudan.<sup>366</sup>

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### EOD Technology, Inc.\*<sup>†</sup><sup>Δ</sup>

Website: [www.eodt.com](http://www.eodt.com)

Founded: 1987

Location: Headquarters in Lenoir, Tennessee

Number of Employees: 450 employees plus 3,000 Third Country Nationals/Local Nationals.<sup>367</sup>

Services: Munitions response, critical mission support and security services. Specific security services include personal security, counter-improvised explosive device response, site security, surveillance, and training, to name a few.

**Additional Information:** EOD has worked with the U.S. Navy, Marine Corps, and Air Force, as well as with NATO, Multi National Security and Transition Command-Iraq (MNSTC-I), as well as corporate entities. In 2006, EODT earned \$186 million in revenues.<sup>368</sup> The Army is currently threatening to ban EODT from government work after the Army Suspension and Debarment Office accused a former EODT manager of using his intimate relationship with an Air Force contracting officer to win \$2.5 million in Army contracts.<sup>369</sup>

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### Erinyes International\*<sup>†</sup><sup>Δ</sup>

Website: [www.eryinysinternational.com](http://www.eryinysinternational.com)

Founded: 2001

Location: Britain

Number of Employees: Roughly 1,000 employees in Iraq alone.<sup>370</sup>

Services: Personal protective services, managed guard forces, security survey planning, and management and risk analysis.<sup>371</sup>

**Additional Information:** Founding partners of the security firm reportedly include members of Iraqi exile Ahmed Chalabi's inner circle.<sup>372</sup> Erinyes was one of the early contractors in Iraq and won an \$80 million contract in the summer of 2003 to provide security for Iraqi oil pipelines and refineries.<sup>373</sup> Erinyes eventually trained and deployed a 16,000 person force of local Iraqi guards to protect the oil sites.<sup>374</sup> Erinyes is now the subject of a civil suit in the United States after one of its convoys hit and killed a 19-year-old U.S. Army specialist in October 2005. The company claims the incident was an accident and that the U.S. military cleared it of any wrongdoing. Filed in October 2007, this is the first lawsuit against a security contractor brought on behalf of a U.S. service member.<sup>375</sup>

**Falcon Security Ltd.\***

Website: [www.falconiraq.com/security.html](http://www.falconiraq.com/security.html)

Location: Iraq

Number of Employees: Over 2,000

Services: Intelligence services, provision of armored vehicles, emergency medical support as well as static and personal security.<sup>376</sup>

Additional Information: Falcon has provided security services for the U.S. Army Corp of Engineers, Washington Group International, and other businesses.

**Garda World\***

Website: [www.gardaglobal.com](http://www.gardaglobal.com)

Location: Montreal, Canada

Number of Employees: Over 50,000

Services: Consulting and investigation, physical security, cash logistics, and background screening services.<sup>377</sup>

**Global Strategies Group\*†**

Website: [www.globalgroup.com](http://www.globalgroup.com)

Founded: 1998

Location: Offices in the United States, United Kingdom, Columbia, Spain, Nigeria, Saudi Arabia, Iraq, United Arab Emirates, Afghanistan, and China.

Services: Development strategies, technology systems, business strategies, and risk strategies including force protection, convoy security, and security training.<sup>378</sup>

Additional Information: Global Strategies Group (GLOBAL) worked with the Office of Reconstruction and Humanitarian Assistance (ORHA) in Iraq and coordinated its move from Kuwait to Baghdad,<sup>379</sup> and provided initial personal security to CPA headquarters in the Ninevah province in the north.<sup>380</sup> In Afghanistan, GLOBAL helped conduct a census for upcoming elections.<sup>381</sup>

**HART Security\*Δ**

Website: [www.hartsecurity.com](http://www.hartsecurity.com)

Founded: 1999

Location: Based in Cyprus, but founded and managed by British officials

Services: Consultancy; risk mitigation, including high security risk protection services, investigation services, and others; training; 24-hour emergency response; and maritime security services.

Additional Information: Though many of its contractors come from Britain, the U.S., and South Africa, Hart relies heavily on local nationals wherever they operate. At one point the company reportedly employed 2,500 local nationals in Iraq, where Hart has provided security services for the BBC, the construction of a major power line, and Iraqi elections.<sup>382</sup> It has also worked in Somalia,<sup>383</sup> provided security for the United Nations World Food Program operations, and for shipping containers at major ports around the world.<sup>384</sup> Hart has a lower contractor casualty rate than other Western security companies working in Iraq.<sup>385</sup>

**International Armored Group\*Δ**

Website: [www.interarmored.com](http://www.interarmored.com)

Location: Founded in Canada, now based in the United Arab Emirates

Services: Armored vehicle conversion for the military, law enforcement, and cash transit industry.<sup>386</sup>

Additional Information: Over 1,000 International Armored Group vehicles are currently in Iraq and Afghanistan, and hundreds of them have survived attacks.<sup>387</sup>

**Janusian\***

Website: [www.janusian.com](http://www.janusian.com)

Location: London

Services: Security analysis, due diligence, strategic consultancy, political risk, employee screening and drug testing, vendor vetting, fraud investigations, litigation support, merger and acquisition support, computer forensics, and low-profile security operations.<sup>388</sup>

Additional Information: Janusian is the security risk management subsidiary of the Risk Advisory Group. Most of its staff previously served in the British military. The company operates all over the world including in Iraq, where Janusian provided security services to an electricity reconstruction project.<sup>389</sup>

**L-3 Titan**

Website: [www.titan.com](http://www.titan.com)

Location: Headquarters in Reston, Virginia

Number of Employees: 10,000;<sup>390</sup> reportedly 6,500 linguists in Iraq.<sup>391</sup>

Services: L-3 Titan does not provide security services but is included here due to its contractors' alleged involvement in abuses in Abu Ghraib, detailed in Appendix H. It provides homeland security, intelligence, command, control, communications, computer intelligence, surveillance and reconnaissance, information technology, and aerospace services.<sup>392</sup>

Additional Information: In 2005 Titan became a subsidiary of L-3 Communications whose clients primarily include the intelligence community, and several federal government agencies such as the Department of Defense. In 1999 Titan won a contract with the Army to provide and manage linguists for translation services. This contract has a ceiling of \$650 million, and allows other agencies to order linguist services as well.<sup>393</sup> By 2003 some of Titan's interpreters were working for the Army at Abu Ghraib prison in Iraq. Military investigations have implicated two Titan contractors and subcontractors in the abuses there.<sup>394</sup>

**MPRIΔ**

Website: [www.mpri.com](http://www.mpri.com)

Founded: 1987

Location: Headquarters in Old Town Alexandria, Virginia

Number of Employees: 3,000 employees around the world.<sup>395</sup> According to a 2006 Department of Defense census, there are 500 MPRI employees working in Iraq.<sup>396</sup>

Services: Security sector reform programs and integrated international development programs; international security sector training and capacity building; U.S. defense education, training and doctrine development; logistics planning and operations and resource management; staff support to defense government and civilian clients; law enforcement services; homeland

security and emergency management solutions; simulation products; training; and technology and strategic communications.<sup>397</sup>

**Additional Information:** Previously called Military Professional Resources, Inc., MPRI was founded by a group of former U.S. military officials. Carl Vuono, president of MPRI, was the Army Chief of Staff during the first Gulf War.<sup>398</sup> MPRI worked in the Balkans during the mid-1990s training the Croatian Army. MPRI denies playing any role in controversial attacks planned by the Croalition army following their MPRI training contracts. In 2000 L-3 Communications acquired MPRI for \$40 million.<sup>399</sup> In 2005 L-3 reported over \$2 billion in revenues from its government service companies, including MPRI.<sup>400</sup> According to the 2006 Pentagon census, MPRI has 12 different contracts in Iraq, including training Iraqi Ministry of Defense officials.<sup>401</sup>

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### **Olive Group\*†Δ**

**Website:** www.olivegroup.com

**Founded:** 2001

**Location:** Headquarters in Dubai, United Arab Emirates

**Number of Employees:** Over 500

**Services:** Analysis and assessments, consulting, tracking and locating solutions, and security operations, including executive protection, manned guarding and maritime security, systems design and integration, and security training.<sup>402</sup>

**Additional Info:** Olive Group is a British company, based in Dubai, and provides security services to a number of U.S. agencies and corporations. It works with Shell, GE, Boeing, USAID, UN CH2M Hill and the European Union. It has won a number of contracts with Bechtel to provide security services for the company in Iraq and in Mississippi in the aftermath of Hurricane Katrina. Olive Group also worked with the CPA to train Iraqi Port Authority guards in 2004.<sup>403</sup>

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### **Paratus Group, LLC\***

**Website:** www.paratusiraq.com

**Founded:** 2005

**Location:** Administrative headquarters in Charlotte, NC; Operational headquarters in Iraq.

**Number of Employees:** Over 100<sup>404</sup>

**Services:** Convoy protection, personal security detail, security surveys and assessments, business risk analysis, and intelligence.<sup>405</sup>

**Additional Information:** Paratus works for U.S. and foreign governments, international businesses and organizations, and security contractors in Iraq.<sup>406</sup>

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### **Pilgrims Group Ltd.\***

**Website:** www.pilgrimgroup.co.uk

**Location:** Surrey, United Kingdom

**Services:** Consultancy, manned guarding, training, information and intelligence, communications support, technical systems, equipment, and operational security including close protection teams and armed protection teams.<sup>407</sup>

**Additional Information:** Pilgrims Group works for states, as well as for corporations specializing in healthcare, energy, telecom, and financial services<sup>408</sup> and specifically offers security services for media outlets.<sup>409</sup>

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### **Reed\***

**Website:** www.reedinc.com

**Location:** Leesburg, Virginia and Iraq

**Services:** Logistics, security, and construction. Specific security services include personal security details and training, threat assessments, site protection, mine clearing, and convoy protection, to name a few.<sup>410</sup>

**Additional Information:** Reed has been working in Iraq since 2003. It has been helping with the rehabilitation of the Iraqi Media Network, (IMN), and has provided security and logistics for the 2004 IMN Bidder's Conference, hosted by the CPA.<sup>411</sup>

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### **RONCO Consulting Corporation\***

**Website:** www.roncoconsulting.com

**Founded:** 1974

**Location:** Based in Washington, D.C.

**Number of Employees:** As of 2004, there were reportedly 90 U.S. and 300 host country workers.<sup>412</sup>

**Services:** Humanitarian mine clearance, security services, environmental remediation, and personal security detail and convoy escort.<sup>413</sup>

**Additional Information:** Clients include U.S. Department of State; U.S. Department of Defense; UUSAID; United Nations; World Bank; NATO Maintenance and Supply Agency; Canadian, British, German, and Japanese governments; and commercial firms such as Fluor, The Louis Berger Group, Perini, Rizzani deEccher, PAE Government Services, Inc., United Infrastructure Projects, Contrack International, and Blackwater.<sup>414</sup> In 2003 Ronco won a \$419,000 Department of Defense contract to come up with a plan to disarm, demobilize, and reintegrate the Iraqi army, and a State Department contract to clear landmines in the country.<sup>415</sup>

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### **Sabre International Security\***

**Website:** www.securitybysabre.com

**Founded:** 1982

**Location:** Offices in Afghanistan, British Virgin Islands, Fiji, Germany, Iraq, New York, Sri Lanka, and Sudan.

**Services:** Security consulting, protective security (including personal security details and static site security), training, and procurement.<sup>416</sup>

**Additional Information:** Sabre has provided security for USAID, U.S. Army Corps of Engineers, U.K. Foreign and Commonwealth Office, the Saudi Royal Family, the Government of Qatar, and Titan Linguistics, to name a few. Its primary clients are Parsons, Inc. and Lucent Technologies.<sup>417</sup>

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### **Sallyport Global Holdings\***

**Website:** www.sallyportglobal.com

**Location:** Based in Boston

**Number of Employees:** Sallyport Global Services, the company's security arm, has over 500 employees.<sup>418</sup>

**Services:** Disaster relief, personal and convoy security, base operations, procurement, global logistics, and rapid construction.<sup>419</sup>

**Additional Information:** Clients include ArmorGroup, The Louis Berger Group, U.S. Army Corps of Engineers, USAID, and CH2MHill.<sup>420</sup> Sallyport President John DeBlasio is a former advisor to the CPA.<sup>421</sup> The company is reported to

have hired John Morris, a former Custer Battles official who had been suspended in 2004 from working on government contracts. Sallyport claims that Morris started working with the company before he was suspended.<sup>422</sup>

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### Securforce\*†

Website: [www.securiforce.com](http://www.securiforce.com)

Location: United Kingdom and Kuwait

Number of Employees: Over 150 security specialists based in the UK and over 300 internationally.

Services: Static manned guarding and strategic security solutions.<sup>423</sup>

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### Skylink Arabia\*

Website: [www.skylinkarabia.com/skylinkarabia.htm](http://www.skylinkarabia.com/skylinkarabia.htm)

Location: Offices in Dubai, Baghdad, Basra, Erbil and Sulaimaniyah.

Services: Secure logistics operations, fueling operations, charter services, cargo operations, transportation, warehousing, life support, and safety and security services including static security, personal security details, and convoy security.<sup>424</sup>

Additional Information: Skylink holds numerous contracts in Iraq. It works with the Iraq Ministry of Oil to refuel aircraft at Baghdad International Airport and Basrah International Airport. Skylink holds a \$10 million contract to move all KBR personnel in and out of Iraq, and also works with Agility Logistics, Aegis, ESS Support Services Worldwide, and Safenet Security Services.<sup>425</sup>

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### SOC-SMG\*

Website: [www.soc-smg.com](http://www.soc-smg.com)

Location: Headquarters in Hawthorne, Nevada

Number of Employees: Currently has 300 personnel in Iraq<sup>426</sup> in addition to roughly 1,500 Ugandan contractors.<sup>427</sup>

Services: International force protection, protective security details, convoy security operations, security consulting and threat assessment, and weapons, driving and security training.<sup>428</sup>

Additional Information: In 2005 SOC-SMG subsidiary Security Management Group International was hired by the International Organization for Migration to provide security for 200,000 Iraqis in the United States to vote in the January 2005 Iraqi elections.<sup>429</sup> Since 2005, SOC-SMG has reportedly earned almost \$30 million in Department of Defense contracts in Iraq.<sup>430</sup> Recently, Ugandan contractors working for SOC-SMG have raised complaints about low pay and poor working conditions, and former Ugandan contractors are now suing SOC-SMG in Uganda for misleading them about the salary the company would pay for their work in Iraq.<sup>431</sup> There have been allegations of sexual abuse of some of these contractors who spoke of their conditions while still in Iraq.<sup>432</sup>

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### Streit Manufacturing, Inc.\*

Website: [www.armored-cars.com](http://www.armored-cars.com)

Location: United States, Canada, United Arab Emirates, and Iraq

Services: Supplies armored vehicles including trucks, SUVs, luxury SUVs, luxury sedans, cash transit vehicles, passenger transport, and special transport.<sup>433</sup>

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### Threat Management Group\*

Website: [www.thethreatgroup.com](http://www.thethreatgroup.com)

Founded: 2004

Services: Investigation, security, training, manning support, exercise management, program/acquisitions management, and disaster relief/preparedness.

Additional Information: Threat Management Group was founded by a group of former military professionals with experience in Iraq.<sup>434</sup>

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### Triple Canopy\*

Website: [www.triplecanopy.com](http://www.triplecanopy.com)

Founded: 2003

Location: Based in Herndon, Virginia

Number of Employees: Over 2,000 worldwide<sup>435</sup> including roughly 1,000 in Iraq.<sup>436</sup>

Services: Assessments, training, crisis management, protective services, and support services.<sup>437</sup>

Additional Information: Founded by former Delta Force commandos Thomas Katis, Matthew Mann, and John Peters, Triple Canopy holds a number of contracts with the U.S. government. In 2005 it was the ninth-largest contractor for the State Department, receiving more than \$90 million.<sup>438</sup> Triple Canopy is one of three private security companies protecting the U.S. Embassy and its officials in Iraq under the Worldwide Personal Protective Services (WPPS II) contract.<sup>439</sup> Triple Canopy also holds contracts with other private companies working with the U.S. military in Iraq, such as KBR.<sup>440</sup>

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### Unity Resources Group\*Δ

Website: [www.unityresourcesgroup.com](http://www.unityresourcesgroup.com)

Founded: 2000

Location: Headquarters in Dubai

Services: Consulting, training, and critical support services,<sup>441</sup> including life support, security operations and management, and physical protective services.<sup>442</sup>

Additional Information: While based in Dubai and registered in Singapore, Unity is managed by former Australian military personnel. It has recently been the subject of a number of news articles after one of its convoys killed two Iraqi women driving through Baghdad in October 2007. Clients include RTI, a firm working with USAID to promote democracy in Iraq.<sup>443</sup>

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### Wamar International, Inc.\*

Website: [www.cwamar.com](http://www.cwamar.com)

Founded: 1987

Location: Based in California

Services: Energy, aviation and aerospace, construction, environmental management, hotel and leisure management, and logistics and life support.

Additional Information: Wamar works with a number of clients including the U.S. National Security Agency, Texaco, Boeing, General Electric, and Raytheon, to name a few,<sup>444</sup> and holds a contract to provide life support services to NATO officials in Iraq.<sup>445</sup>

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## **Zapata Engineering**

Website: [www.zapeng.com](http://www.zapeng.com)

Founded: 1991

Location: North Carolina

**Services:** Environmental, facilities, infrastructure, munitions and explosives, architecture and engineering, forensic engineering, geographic information systems, radio frequency identification, non-destructive testing, anti-terrorism force protection, and arc flash.<sup>446</sup>

**Additional Information:** Zapata Engineering is a small engineering firm whose clients include the U.S. Air Force, the Army Corps of Engineers, Reserve Command, the Department of Energy, and the U.S. Navy, to name a few.<sup>447</sup> In 2004, for example, Zapata won a \$43.8 million task order with the U.S. Army Corps of Engineers to “manage captured enemy ammunition” in Iraq.<sup>448</sup> Zapata also won a five-year, \$1.475 billion contract for munitions removal, primarily in Iraq and Afghanistan.<sup>449</sup> Though the company does not provide security services itself, under its contracts with U.S. Army Corps of Engineers, it is allowed to provide its own security services.<sup>450</sup>

## C. Case Study: A High-Impact Murder in Baghdad

On the night of December 24, 2006, a Blackwater contractor reportedly shot dead Raheem Khalif Hulaichi, a member of Iraqi Vice President Adil Abdul-Mahdi's security detail, near the Iraqi Prime Minister's compound in the Green Zone.

According to recently released government and Blackwater documents, the contractor passed through a gate near the Prime Minister's compound and was confronted by the Iraqi security official, who was on duty. When challenged, the contractor reportedly fired repeatedly with a Glock 9 mm pistol, hitting the guard three times, and then fled the scene. The security official died soon afterwards.<sup>451</sup> The off-duty contractor had attended a Christmas party that evening and had allegedly been drinking heavily.<sup>452</sup> International Zone Police detained former Army paratrooper Andrew Moonen, who has only recently been named as an early suspect in the case,<sup>453</sup> at about 1:00 a.m. the next morning at his quarters at the Blackwater base, and tested his blood alcohol level.<sup>454</sup>

On December 25 Blackwater dismissed Moonen on the grounds of "possessing a firearm while intoxicated," and arranged for him to leave the country the next day.<sup>455</sup> The State Department (DoS) was given a copy of Moonen's itinerary, and on December 26 the suspect was flown out of Iraq and to the United States "[u]nder the authority of the DoS Regional Security Officer."<sup>456</sup>

Documents received pursuant to a Freedom of Information Act (FOIA) request filed by reporter Bill Sizemore of the *Virginian-Pilot* reveal that Iraqi officials responded quickly after the incident and pressed U.S. government officials to take action. Tariq Najem Abdullah, Iraqi Prime Minister Nouri al-Maliki's chief of staff wrote to the U.S. Embassy in Baghdad on December 28 and called the shooting an outright "murder."<sup>457</sup>

According to a declassified January 8, 2007 memorandum from the U.S. Embassy in Baghdad to Secretary of State Condoleezza Rice, Vice President Abdul Mahdi met with U.S. Ambassador Zalmay Khalilzad, indicating that he wanted to keep the incident and the nationality of the suspect quiet, but insisted that "justice was even more important than compensation.... Iraqis would not understand how a foreigner could kill an Iraqi and return a free man to his own country."<sup>458</sup>

Documents released to the House Committee on Oversight and Government Reform confirm that an initial investigation was done by the Army's Criminal Investigation Division (CID) the day after the killing. The CID investigation

reportedly found that the suspect had been drinking prior to the incident, and cited witnesses who described him as intoxicated.<sup>459</sup>

The U.S. Embassy's efforts in the immediate aftermath of the killing appear largely concerned with diplomatic demarches and compensation payments. On December 25 the embassy's charge d'affaires wrote to the regional security officer urging him to press Blackwater to provide "sizeable compensation:" "If we are to avoid this whole thing becoming even worse, I think a prompt pledge and apology—even if they want to claim it was accidental—would be the best way to assure the Iraqis don't take steps, such as telling Blackwater that they are no longer able to work in Iraq."<sup>460</sup>

After internal embassy discussions on the amount of compensation to be offered, beginning with suggestions of \$250,000, the State Department and Blackwater together "agreed on a figure of \$15,000, which Blackwater would deliver to the family with the assistance of the State Department."<sup>461</sup>

In a meeting with Vice President Abdul Mahdi, U.S. Embassy officials reportedly said an investigation would be carried out, and that it was reviewing jurisdiction over the contractor.<sup>462</sup> A Blackwater spokesperson initially denied that the company offered \$100,000 in "reparations," and said that "discussing any potential Blackwater offer to the family could endanger lives in Iraq."<sup>463</sup> In October 2007 the widow of the slain man told the *Los Angeles Times* that \$15,000 had been offered but had not been accepted, "because the vice president's office felt the sum was too low."<sup>464</sup>

According to press reports, the Federal Bureau of Investigation (FBI) was also conducting an investigation<sup>465</sup> and the case has been referred to U.S. Attorney's Office in western Washington, though this has not been confirmed.<sup>466</sup> Blackwater representatives state the company is cooperating with investigations conducted by the Department of Justice.<sup>467</sup>

Weeks after Blackwater fired Moonen, the chief suspect in the December 24 incident, he resumed work for another contractor.<sup>468</sup> In October 2007 the Associated Press reported that after his removal from Iraq, Moonen had been hired by Combat Support Associates, which works with U.S. troops at bases in Kuwait under a Department of Defense (DoD) contract. The article cites a Combat Support Associates spokesman as saying that nothing "untoward" had been found in his record during the background review conducted for all prospective employees.<sup>469</sup>

## D. Case Study: Zapata and “Friendly Fire” in Fallujah

On the morning of May 28, 2005, U.S. Marines and Iraqi civilians were fired upon from a convoy of late-model trucks and sport-utility vehicles (SUVs) in Fallujah. About three hours later, gunfire from a convoy of similar vehicles was directed at a Marine guard tower.<sup>470</sup> A few minutes later, Marines stopped a convoy of nineteen technical staff and security guards from the American contractor Zapata Engineering<sup>471</sup> as the convoy drove through Fallujah in white Ford trucks and an Excursion SUV that resembled the vehicles seen in the earlier incidents.<sup>472</sup> Marines then detained the Zapata contractors and took them to a compound.

The Zapata contractors were reportedly detained for three days, denied access to an attorney<sup>473</sup> or a phone call, and complained they were mistreated.<sup>474</sup> Although details are disputed, the Zapata contractors said they had fired warning shots into the air when an unidentified vehicle approached them, but had not fired at the guard tower, Marines nor Iraqi civilians.<sup>475</sup>

The contractors’ allegations of mistreatment included being stripped to their underwear<sup>476</sup> and physically abused with kicks,<sup>477</sup> being thrown to the ground,<sup>478</sup> having loaded guns placed near their heads, and threats that dogs would be used against them. One said a Marine asked him “how does it feel to be a big, rich contractor now?”<sup>479</sup> Zapata employee and former Florida State Trooper Richard Blanchard complained that “[t]hey treated us like insurgents, roughed us up, took photos, hazed us, called us names.”<sup>480</sup> Sixteen of the contractors are former U.S. military personnel and many spoke of taunting that focused on the discrepancy between contractor and military pay.<sup>481</sup>

Though the Marines released the Zapata employees after three days, the sixteen American contractors in the group were banned from working in al-Anbar province.<sup>482</sup> The contractors also lost their jobs with Zapata.<sup>483</sup> According to the Washington Post, a June 7, 2007 Marine memorandum indicated that MNF-I “has experienced many problems with Zapata and will not be extending their contract.” Another memorandum, dated June 4, 2005, “indicated that the contractors were accused of ‘repeatedly firing weapons at civilians and Marines, erratic driving, and possession of illegal weapons’ posing a ‘direct threat to Marine personnel.’”<sup>484</sup>

The Naval Criminal Investigative Service (NCIS) opened an investigation into the shooting allegations, and after a year concluded that there was not enough evidence to charge the Zapata employees in connection with the shootings. According to an NCIS spokesman, there has been no formal investigation into the abuse allegations because the contractors did not follow proper channels in filing an official complaint.<sup>485</sup> He also asserted that the contractors had received standard treatment for incoming prisoners.<sup>486</sup> The Marines claim that the Zapata detainees were “treated like all security detainees,” “humanely and respectfully.”<sup>487</sup>

This incident highlights tensions between contractors and their military counterparts stemming from differences in conduct, pay, and oversight in addition to the larger issue of accountability mechanisms. One of the detained Zapata contractors, Robert Shaver, called the relationship between contractors and military personnel a “Catch-22,” with increasing incidents of inadvertent “American-on-American” fire.<sup>488</sup> (Inadvertent friendly-fire has also been reported by Triple Canopy, although a Triple Canopy spokesman stressed that these were usually brief and quickly resolved.)<sup>489</sup>

Another source of tension is apparent in the comments the Marines allegedly made to the detained contractors: money. Contractors with an appropriate military or police background can often earn around \$100,000 and sometimes more than \$200,000 a year (or as much as \$750 a day) many times the basic pay of military enlisted personnel.<sup>490</sup> While there is some dispute over the precise magnitude of pay gap between private security contractors and military personnel<sup>491</sup>—and the magnitude is indeed far greater for U.S., U.K. and other “western” nationals, as opposed to Nepalese, Peruvian and other “third country” nationals—there is no dispute over the *fact* of a substantial gap, and this incident demonstrates that the fact that contractors earn substantially more remains a source of tension.

Finally, the Zapata incident highlights how the lack of clear mechanisms for contractor accountability negatively impacts contractor-military interaction. As Peter Singer, National Security Fellow at the Brookings Institution, explained when asked about the incident: “If the Marines think [the contractors] did do something illegal there is no process they can go through.”<sup>492</sup> Journalist Robert Pelton, while calling the Zapata incident the first example “of contractors being treated as criminals”—albeit for only three days—points out that as a general rule “contractors have *carte blanche* over there.”<sup>493</sup>

## E. Case Study: Civilian Deaths and Triple Canopy

On July 8, 2006, there were two questionable incidents in which Triple Canopy employees reportedly fired upon Iraqi civilian vehicles, damaging two vehicles, one of which then veered off the road. A third shooting incident that same day is considered uncontroversial. The subsequent incident reports said nothing about civilian casualties, although there were mentions of ambulances appearing in the area of one incident and one contractor assumed injury in the other. There was never a criminal investigation of the incident, and the shootings came to public attention only through a wrongful termination suit later filed by two Triple Canopy contractors on the July 8 convoy.

Reports from Triple Canopy and the individual contractors involved set forth conflicting factual accounts. According to his colleagues, on July 8, 2006, Triple Canopy contractor Jacob Washbourne reportedly told his team that he “want[ed] to kill somebody” that day.<sup>494</sup> That afternoon three U.S. citizens on the Triple Canopy team, Washbourne, Shane Schmidt and Charles Sheppard, along with Israeli Naucukidi, a Fijian, set out to pick up a Triple Canopy client at the Baghdad airport.<sup>495</sup> The contractors, working under a Triple Canopy subcontract with Kellogg, Brown, and Root (KBR),<sup>496</sup> a DoD contractor, were involved in two shooting incidents that afternoon that some team members have said were unprovoked.<sup>497</sup>

In the first questionable shooting of the day, the Triple Canopy convoy fired on a white pickup truck. Washbourne later admitted to the shooting, justifying his action on the grounds that the vehicle failed to comply with his instructions to stop.<sup>498</sup> Schmidt and Sheppard, however, say Washbourne fired on the truck unprovoked when it was in stopped traffic.<sup>499</sup> Naucukidi maintains it was Schmidt who fired on the pickup.<sup>500</sup> Schmidt and Sheppard observed an ambulance in the area shortly after the incident, suggesting that the shooting may have resulted in casualties.<sup>501</sup>

In the second suspect shooting of the day, Schmidt, Sheppard and Naucukidi assert that Washbourne fired on a taxi. According to Schmidt and Sheppard, before the shooting Washbourne remarked, “I’ve never shot anyone with my pistol before.”<sup>502</sup> Naucukidi reported that Washbourne had ordered Sheppard to cut off the taxi, giving him a better shot, and added that “from my point of view, this old man, he was so innocent, because he was ahead of us with a normal speed. He couldn’t have any danger for us.”<sup>503</sup> After the shooting the taxi reportedly veered off the road, suggesting that the driver may have been killed or incapacitated.<sup>504</sup>

Naucukidi said the taxi incident was merely one of numerous attacks on Iraqi civilians and that “it seemed like every day they were covering something [up].”<sup>505</sup> He also said the American contractors at Triple Canopy had a motto: “What happens here today, stays here today.”<sup>506</sup>

Triple Canopy requires its employees to immediately file incident reports in all cases involving the use of firearms,<sup>507</sup> and by most accounts Naucukidi reported the July 8 incidents to his supervisor soon afterward and wrote an account of the incidents on his laptop while Schmidt and Sheppard waited

two days to file their reports.<sup>508</sup> Schmidt and Sheppard stated they waited two days because they feared being fired and they did not know the best way to handle the situation.<sup>509</sup>

After reviewing the four contractors’ stories, Triple Canopy Country Manager Kelvin Kai compiled his own incident report. In his description of the incident involving the white pickup truck, Kai excluded all reference to Washbourne having fired into the truck’s windshield and to the presence of an ambulance in the incident’s aftermath. In his description of the taxi incident, Kai excluded observations that Washbourne shot at the taxi window, that there was evidence that a bullet hit the windshield, and that the taxi proceeded to stray off the road.<sup>510</sup> When later asked why he did not include that information, Kai simply responded that Triple Canopy could not confirm that there were any injuries.<sup>511</sup>

Kai’s report did conclude, however, that “two of these three incidents leave doubt that the Use of Force was required.” He went on to say, “it is Triple Canopy’s intent to terminate these men from contract and return them back to their home of record immediately. Given the inconsistencies in the statements and the seriousness of the allegations, I respectfully submit this information to MNFI-C [Multi-National Forces Iraq-Command] for review and further guidance.”<sup>512</sup>

While Triple Canopy gave Kai’s report to KBR and to military officials in the International Zone, Lieutenant Colonel Michael Hartig recalls that Triple Canopy officials gave a vague description of events: “[T]hey mentioned they had a couple guys do some things that were questionable on the road, and that was pretty much it.”<sup>513</sup> Lieutenant Colonel Hartig referred company officials to the Joint Contracting Command-Iraq/Afghanistan (JCC-I/A), which is responsible for administering contracts, not criminal investigations.<sup>514</sup> When a military spokesman was later approached by NBC News, he said that officials could not find a copy of Kai’s report and had no details about the shootings.<sup>515</sup> Following inquiries from the *Washington Post* into the shootings, State Department officials four months after the shootings had occurred said they did not know about them.<sup>516</sup>

Schmidt and Sheppard say no one from the Department of Justice or any other government agency has tried to contact them in connection to any investigation.<sup>517</sup> The only known investigation was Triple Canopy’s own follow-up to the shootings,<sup>518</sup> after which it said it fired Schmidt, Sheppard, and Washbourne for failing to report the incidents immediately.<sup>519</sup> Naucukidi was not dismissed but reportedly quit of his own volition.<sup>520</sup>

Schmidt, a former Marine, and Sheppard, a former Army Ranger, maintain that they were fired because they reported the incidents at all. On July 31, 2006, the men filed a wrongful termination lawsuit against Triple Canopy in Fairfax County Circuit Court in Virginia, claiming the company “terminated the employment of the Plaintiffs for reporting the shooting incidents” and effectively blacklisted the men from work with other private security companies.<sup>521</sup> Litigation of the suit continues.<sup>522</sup>

## F. Case Study: Aegis and the “Trophy Video”

In October 2006 a video appeared on the Internet showing private contractors shooting at Iraqi civilian vehicles outside Baghdad in a series of incidents. The video raised concerns about the conduct of private security contractors and spurred investigations by Aegis Defense Services, the company implicated in the shootings, and by the U.S. Army Criminal Investigation Division (CID). Both concluded there was no evidence that the contractors in the video did anything wrong. A former Aegis employee who said he filmed the shootings and posted the video on his website disputes this conclusion, and maintains that neither Aegis nor the CID interviewed him or other key witnesses during their investigations.

The controversial video appeared briefly on the Internet on an unofficial site for Aegis employees and then disappeared. Rod Stoner, a then-Aegis employee who maintained the website and published the videos, says he wanted “to draw out the problems so that Aegis would have no options but to put it right.”<sup>523</sup>

In one clip, security guards shot at a car which then crashed into a civilian taxi. The video shows people running out of the taxi, but not out of the other car.<sup>524</sup> In another clip, security guards fired automatic rifles at a different car; bullets clearly hit the vehicle, which ultimately came to a stop while the security convoy drove on.<sup>525</sup> When asked whether they had gestured or given any warning signals to this vehicle to stay behind, Stoner responded that in this case they had not had time—the vehicle was approaching too fast.<sup>526</sup> According to Stoner, a decision to remove warning signs from Aegis vehicles made them indistinguishable from regular civilian vehicles, meaning that Iraqi civilian drivers often did not know to keep their distance from the security convoys.<sup>527</sup> He added that he had no way of knowing if the Iraqis they shot at were insurgents or innocent civilians because the convoy never stopped to check.<sup>528</sup>

The clips were removed from the website but debate over the video continued on the site’s message board.<sup>529</sup> Among them was a message to Aegis employees apparently posted by Aegis CEO Tim Spicer: “Remember that your job and those of your colleagues indirectly relies on the maintenance of our contract ... refrain from posting anything which is

detrimental to the company since this could result in the loss or curtailment of our contract with resultant loss for everybody.”<sup>530</sup>

Aegis launched an internal investigation headed by an independent review board which included a British barrister and Recorder of the Crown Court and a former senior police officer.<sup>531</sup> This board concluded that the video was “recorded during Aegis’ legitimate operations in support of Multi-National Force in Iraq and the incidents recorded were within the Rules of the Use of Force,” and that “there was no evidence of any civilian casualties as a result of the incidents.”<sup>532</sup> The U.K. Foreign and Commonwealth Office supported these conclusions.<sup>533</sup>

In June 2006 CID concluded its investigation and found there was no probable cause to find any criminal activity reflected in the video. It also determined that a contractor shown firing his weapon in the video was South African and pledged to share its results with British and South African authorities. This investigation’s findings were not otherwise released publicly.<sup>534</sup>

Stoner allegedly tried to contact Aegis, and to be put in contact with those running the CID investigations, but Stoner told the Pat Finucane Center and More4 News in the United Kingdom that Aegis showed no interest in interviewing him for its investigation.<sup>535</sup> In a letter addressed to Ambassador Mitchell Reiss, the U.S. special envoy to Northern Ireland, the Pat Finucane Centre wrote: “Mr. Stoner has also informed us that it is his understanding that none of those present in the vehicle have been contacted by the Pentagon, or indeed by any official investigating the video.”<sup>536</sup>

In the aftermath of the video affair, Aegis sued Stoner for breach of contract over his website, arguing that Stoner’s site revealed information that posed a danger to its staff.<sup>537</sup> In April 2006, the company won an interim injunction that shut down the website and prevents Stoner from discussing Aegis contractors’ rules of engagement, Aegis’ rules on escalation-of-force, Aegis’ intelligence reports and databases, and information related to operational security.<sup>538</sup>

## G. Case Study: Blackwater in Fallujah

Some of the most significant insights on the difficulty of obtaining information on the conduct of private security companies has come from inquiries into the incident in Fallujah on March 31, 2004. Four Blackwater contractors in two unarmored vehicles protecting a catering truck on its way to a U.S. military base that day were ambushed, killed, and mutilated by a mob. Their bodies were dragged out of the cars, one was set on fire, another torn apart, another attached to a car and dragged along the road. Two bodies were hung upon a nearby bridge—an image captured on video that was broadcast around the world.<sup>539</sup>

The families of the four contractors ultimately sought legal redress from Blackwater. The following account does not address the merits of the claims and counterclaims regarding allegations of negligence on the part of Blackwater, but rather focuses on aspects of the litigation that reveal obstacles to transparency and accountability in security contractor operations.

Following the March 31 incident, Blackwater reached out to the families of contractors Scott Helvenston, Jerry Zovko, Wesley Batalona, and Michael Teague. Erik Prince, Blackwater CEO, appeared at the home of Zovko's mother to tell her that her son had died. He promised he would attend the funeral and that Blackwater would give her \$3,000 to cover funeral expenses, a pledge he followed through on.<sup>540</sup> Blackwater officials reportedly helped the families apply for benefits under the Defense Base Act, which provides federal insurance to contractors working with U.S. military.<sup>541</sup> In October 2004, the company flew most of the families to Blackwater headquarters in Moyock, North Carolina, where they held a memorial for the four men.<sup>542</sup>

Things changed when the families started asking questions about the circumstances of their loved ones' deaths. The families were unsuccessful in their attempts to get further information from Blackwater about the incident, including a copy of the "after-action report," the company's official investigation into the murders.<sup>543</sup> In testimony before the House Committee on Oversight and Government Reform, family members explained that Blackwater officials had told them that information on the circumstances of the deaths was classified as confidential, and that the families "would have to sue to get it."<sup>544</sup> (A recent report by the majority staff for the House Oversight and Government Reform Committee revealed, however, that Blackwater's internal documents about the Fallujah incident were never declared classified by the Department of Defense as Blackwater officials claimed.<sup>545</sup>)

### Facts and Allegations in the Lawsuit

In January 2005 the families filed a wrongful death and fraud action against Blackwater, *Nordan v. Blackwater Security Consulting, LLC*.<sup>546</sup> (Richard Nordan is the administrator of the estates of the four contractors.) The complaint alleges that in Blackwater's efforts to cut costs and increase its client base, the company "intentionally and knowingly failed to provide [the contractors] with the protections, tools, and information" initially agreed upon or promised.<sup>547</sup>

The litigation around the Fallujah incident which resulted in the deaths and mutilation of the four security contractors that formed Blackwater team "November 1"<sup>548</sup> brought to light troubling accounts of Blackwater procedures. The plaintiffs argued that procedures Blackwater employed on the Fallujah mission fell far short of those generally considered reasonable.

Standard operating procedure for Blackwater, for example, was found to call for convoys with three people in each vehicle.<sup>549</sup> Yet, "November 1" went out with two vehicles and only four men on the March 31, with no one in the back seat to watch out for a rear attack. According to Blackwater memos obtained by the Raleigh *News and Observer* and the majority staff for the House Committee on Oversight and Government Reform, the team originally had six members, but two men were told to stay in Baghdad.<sup>550</sup>

Christopher Berman, a Blackwater contractor who lived with Scott Helvenston during their Blackwater training, testified in a different legal proceeding that the absence of the backseat shooter in each vehicle made the four contractors more vulnerable to attack.<sup>551</sup> Berman also testified that there were major differences "between what [contractors] were told in training and the realities they faced on the ground."<sup>552</sup> He said Blackwater training "revolved around armored vehicles" and that contractors were told they would be issued large Glock handguns, semiautomatic machine guns, and large automatic guns.<sup>553</sup>

As "November 1" prepared for its mission, another Blackwater convoy team, "Bravo 2," was also about to go through Fallujah to pick up a Blackwater client on the Jordanian border.<sup>554</sup> Before they left, "Bravo 2" argued with Blackwater's Baghdad site manager, Tom Powell, according to the Blackwater memos obtained by the *News and Observer* and the House committee.<sup>555</sup> "Bravo 2" complained that they were jetlagged, not ready for the mission, were two men short, and missing weapons.<sup>556</sup> The memo notes: "we weren't sighted in, we had no maps, we had not enough sleep, we was [sic] taking two of our guys cutting off (our) field of fire. As we went over these things we knew [sic] the other team had the same complaints. They too had their people cut."<sup>557</sup> Blackwater officials sent both teams out as they were. Indeed, "November 1" did not have armored vehicles, and the contractors had only lighter weapons on them at the time.<sup>558</sup>

The complaint traces these problems back to the security provisions of the contractual agreements.<sup>559</sup> The Fallujah mission was for a new Blackwater client, Eures Support Services (ESS). ESS had signed a contract with Regency Hotel and Hospital Company "in association with" Blackwater for security services that required that a security detail have a minimum of two armored vehicles with at least three men in each vehicle.<sup>560</sup> In Blackwater's subcontract with Regency, however, the word "armored" had been removed from the security detail requirements.<sup>561</sup>

John Potter, the Blackwater project manager, reportedly raised concerns over this omission with Blackwater management, and wanted to make sure that Blackwater contractors would have armored vehicles to keep them safe.<sup>562</sup> The word "armored," however, stayed out of the contract,<sup>563</sup> and on March 24 Potter was fired.<sup>564</sup> The complaint states the omission of this provision saved Blackwater \$1.5 million.<sup>565</sup> The complaint also alleges that Blackwater further cut costs by refusing to purchase SAW Mach-46 weapons and to immediately deploy its contractors to Iraq to give them sufficient time to train.<sup>566</sup>

For its part, Blackwater insists that given the nature of the attack, "six men...could not have overcome a quick and unexpected ambush by a brutal enemy any more than four men could have."<sup>567</sup> The company says that four-men teams were acceptable at the time<sup>568</sup> and that since Regency was already responsible for providing equipment, cost was not a factor when it came to vehicles for its contractors.<sup>569</sup> The company further questions the concern over the use of armored vehicles, noting that "Blackwater personnel on the ground had been using soft-skinned [not-armored] vehicles in and out of the Green Zone and throughout Iraq, without incident for five months prior to the March 31 ambush" and that "similar insurgent attacks with small arms fire resulted in deaths of Blackwater personnel in armored vehicles only two months later in Iraq."<sup>570</sup>

Still, Blackwater's Baghdad Project Manager, Tom Powell, reportedly wrote an email the day before the attack complaining about a lack of equipment. "I need new vehicles. I need new COMS, I need ammo, I need Glocks and M4s...guys are in the field with borrowed stuff and in harm's way. I've requested hard cars from the beginning and, from my understanding, an order is still pending."<sup>571</sup>

The complaint also takes issue with the team's preparations, or lack thereof, for the mission.<sup>572</sup> Berman testified that contractors were told that they would

gather intelligence, review possible routes, and do advance work prior to their missions, but that the Blackwater contract manager prevented the team from doing the promised preparation and intelligence work.<sup>573</sup> “November 1” had also been told that there were no maps of the area, when it turned out that there were numerous maps of the area at Blackwater headquarters in Baghdad.<sup>574</sup> Blackwater says that the team had opportunities to review maps when they made stops at U.S. bases Camp Taji and Camp Fallujah, and when they went through military check points.<sup>575</sup> Blackwater also notes that “open routes were unpredictable because of military operations in the area,”<sup>576</sup> and that “November 1” contacted Blackwater Operations Center in Baghdad on the morning of March 31 saying they “did not know which routes were blocked and which were not.”<sup>577</sup>

In addition to maps and routes, security sources in Iraq told the *San Francisco Chronicle*, and senior executives of other security companies confirmed, that Control Risks Group (CRG), which had previously been responsible for protecting ESS convoys, had warned Blackwater that it was not safe to travel through Fallujah.<sup>578</sup> A Control Risks Group incident report says that the company refused to take on similar missions to Fallujah for ESS on two occasions for security reasons.<sup>579</sup> Blackwater denies it received a warning from CRG.<sup>580</sup> Still, U.S. military forces also avoided driving through Fallujah as much as possible, due to the dangers of the city’s roads, and when they did, they went with heavy armor and helicopters to provide air back-up.<sup>581</sup> Blackwater, by contrast, sent “November 1,” lightly armed, into what was widely recognized by the security community as one of the most dangerous places in Iraq.

In addition, according to a Naval Criminal Investigative Service (NCIS) report obtained by the House Oversight and Government Reform Committee, Kellogg, Brown and Root (KBR) contractors at Camp Fallujah where “November 1” stayed the night of March 30 gave the men “multiple warnings to avoid driving directly through Fallujah and informing them that there were ambushes occurring there.”<sup>582</sup> “November 1” responded that they would see what happened once they started driving then, but several KBR employees told NCIS that the team “seemed disorganized” with one saying “it almost felt like they were being pressured to get there as quickly as possible.”<sup>583</sup>

Blackwater maintains the team was made up of experienced veterans who made an unfortunate choice to rely on the Iraqi Civil Defense Corps (ICDC), only to be betrayed.<sup>584</sup> According to one source, “November 1” had planned to meet ICDC members outside Fallujah, where they would be shown a shorter route through the city.<sup>585</sup> Blackwater claims that the ICDC officials intentionally led the team into Fallujah and into the ambush, citing a U.S. military source,<sup>586</sup> but the majority staff report states that the Coalition Provisional Authority (CPA) report on the incident is clear that “the evidence does not support the claim that the ICDC participated in the ambush, either by escorting the convoy into Fallujah or by using its own vehicle to block the convoy from escaping the ambush.”<sup>587</sup>

As the complaint alleges, “the fact that these four Americans found themselves located in the high-risk, war-torn city of Fallujah without armored vehicles, automatic weapons and fewer than the minimum number of team members was no accident.”<sup>588</sup>

### Blackwater’s Defense Strategy and Implications to the PSC Industry

In response to the wrongful death suit, Blackwater has argued that private security contractors should receive the same legal protection accorded the armed forces, an arm of government that is accountable to the nation and carefully regulated by law, while also insisting on its prerogatives as a private corporation regarding information disclosure.

One of Blackwater’s main defense strategies centers on the argument that it should benefit from the same protection from civil litigation as does the military.<sup>589</sup> Blackwater attorneys point to the kinds of operations the contractors participated in and the fact that the families of the contractors were eligible for government insurance under the Defense Base Act as evidence that the contractors were sufficiently under military (and not Blackwater) control and that Blackwater cannot be held responsible for their deaths.<sup>590</sup>

The company argued in an October 2005 appellate brief that subjecting Blackwater to potential tort liability is tantamount to placing restraints on the president’s ability to defend the nation: “[T]he question whether contractors may be sued in any court, for war casualties while the military services may not ... could determine whether the President, as Commander-in-Chief, will be able to deploy the Total Force decades into the future.”<sup>591</sup> Similarly, in a petition to move its countersuit against Nordan to arbitration, Blackwater argues that revealing company information “in a North Carolina Court unconstitutionally intrudes on the exclusive authority of the federal government to conduct military operations abroad.”<sup>592</sup>

Blackwater has been supported in this argument by other private contractors: In September 2006, then-Halliburton subsidiary KBR filed an *amicus curiae* brief in support of Blackwater, arguing that in providing essential services to the U.S. military in Iraq, KBR acts as a “force multiplier” and therefore also a part of the U.S. Total Force.<sup>593</sup>

While arguing that private security contractors should receive the same legal protections accorded the armed forces—government agencies that are carefully regulated by laws, including those requiring substantial transparency—Blackwater has also insisted on all the prerogatives of a private corporation.

Although Blackwater did not succeed in its efforts to have the state courts dismiss the case, family attorneys claim that Blackwater has now acted to preclude the deposition of reported Blackwater whistle-blower John Potter on two occasions.<sup>594</sup> Although Potter was scheduled to give a deposition on January 28, 2005, Blackwater reportedly flew Potter to Washington days prior to the deposition and re-hired him for a position in the Middle East.<sup>595</sup> In December 2006 Potter was once again scheduled to give a deposition, but the North Carolina court postponed, so as to give the Department of Justice time to review the document requests. (Blackwater had claimed that Potter’s testimony would reveal classified information.)<sup>596</sup> Blackwater has also filed a \$10 million counterclaim against the families’ representative, Richard Nordan, with a demand that the case go to arbitration, arguing that he has “breached decedents’ contractual obligations not to sue, not to seek publicity, and to protect classified and confidential information.”<sup>597</sup>

By April 2007, Blackwater had succeeded in moving the lawsuit into private arbitration.<sup>598</sup> One major difference between a civil proceeding and arbitration lies in the fact that arbitration testimony and evidence can be kept private.

Blackwater has also avoided making public statements on the proceedings and in one case threatened taking legal action to halt disclosure of documents by the press. When approached by the press regarding memoranda from the Blackwater team “Bravo 2” concerning the Fallujah assignment, Blackwater initially did not respond to requests for comments. A Blackwater lawyer eventually responded, according to the *Virginian-Pilot*, with a letter “protesting the paper’s possession of the memoranda and suggesting possible legal action if they were used in a news report.”<sup>599</sup> While Blackwater’s litigation tactics may be within the bounds of legal representation, they have frustrated attempts to publicly investigate the incident.<sup>600</sup>

## H. Case Study: The Contractors at Abu Ghraib

In January 2004, a member of a Maryland-based Army Reserve Military Police (MP) company on active duty in Iraq turned over to the Army's Criminal Investigation Division (CID) a computer disk with graphic images of Iraqi detainee abuse that would soon be broadcast around the world.<sup>601</sup> The head of the U.S.-controlled Baghdad Central Correctional Facility—better known as Abu Ghraib—Brigadier General Janis Karpinski, was quietly suspended within days,<sup>602</sup> and internal and external investigations would follow that would further expose serious abuses at Abu Ghraib.<sup>603</sup>

One of the reports coming from these investigations, the “Fay Report,” revealed 44 separate instances of alleged detainee abuse, 10 of which involved private contractors.<sup>604</sup> An eleventh incident involved an unidentified civilian, who may be a contractor.<sup>605</sup> The Fay report, and testimony from subsequent courts-martial of military personnel, identified at least five private contractors allegedly involved in the use of abusive techniques.<sup>606</sup> The implicated contractors were provided by the Titan Corporation (including its subcontractors) and CACI International.

Abuses attributed to contract interrogators at Abu Ghraib included: the use of stress positions; dropping a detainee on the ground; using an MP to beat and intimidate a detainee; sexual humiliation; and numerous incidents involving dogs.<sup>607</sup>

One of the detainees whose treatment was tied to private contractors at Abu Ghraib was nicknamed “Taxi Driver.” In his statement to Army investigators, the former detainee said that in October 2003 military policemen put red women’s underwear over his head and tied him to a window with his hands behind his back, a position that caused such pain that he lost consciousness. In December 2003 “Taxi Driver,” whose real name has not been made public, contracted appendicitis. In efforts to get information from him, prison officials allegedly refused to give the detainee the painkillers that had been prescribed for him. Former Army Corporal Charles Graner, currently serving ten years in military prison for his actions at Abu Ghraib, claims CACI contractor Stephen Stefanowicz, a former Naval Intelligence specialist with the Defense Intelligence, ordered Taxi Driver’s abuse.<sup>608</sup>

Army Private Ivan Frederick II, another Abu Ghraib MP, testified at the court-martial of Army dog handler Sergeant Michael J. Smith that Stefanowicz, known as “Big Steve,” had directed the abuse depicted in one of the most striking photographs from Abu Ghraib: a detainee in an orange jumpsuit staring face-to-face with an un-muzzled, vicious dog. Frederick, now serving an eight-year prison sentence, testified that the detainee’s interrogator, “Big Steve,” told him: “Any chance you get, put the dogs on.”<sup>609</sup> Stefanowicz had previously been identified in the reports of both the Taguba and the Fay inquiries.<sup>610</sup> General Antonia M. Taguba, who conducted one of the first internal investigations, gave particular attention to Stefanowicz’s role at Abu Ghraib, and pressed for his further investigation.

In his initial report on the Abu Ghraib abuses, General Taguba claimed Stefanowicz “clearly knew his instructions equated to physical abuse.” Taguba sought out various accountability channels, recommending that CACI give Stefanowicz an official reprimand, fire him, and have his security clearance revoked, and later calling for “immediate disciplinary action...as well as the initiation of [further inquiry] to determine the full extent of [his] culpability.”<sup>611</sup> The Fay Report, too, recommended further investigation of the actions of Stefanowicz and four other private contractors, two from CACI and two from Titan, to determine if these individuals should be referred to the Department of Justice for prosecution.<sup>612</sup>

While Graner and Frederick are serving prison sentences and other MPs were court-martialed and convicted and served shorter sentences, Stefanowicz has not faced criminal charges in his own right; if he was called before a grand jury this has not been made public.<sup>613</sup>

In another incident, depicted in a photograph obtained by Salon.com in April 2006, Daniel Johnson, a CACI interrogator, and Etaf Mheisen, a translator with Titan, are seen with a detainee squatting on a chair, “what an Army report calls ‘an unauthorized stress position.’”<sup>614</sup> The photo was described in the Fay Report<sup>615</sup> and the CID ultimately found “probable cause to believe a crime was committed by civilian contractors.” The case was reportedly referred to the Department of Justice (DoJ).<sup>616</sup> Again, no criminal proceedings are known to have resulted.

A 2006 report of the Detainee Abuse and Accountability Project (DAA Project), of which Human Rights First is a partner, includes a summary of the reported rape by a contract interpreter of a juvenile at Abu Ghraib in November 2003.<sup>617</sup> The Taguba report judged the allegations “credible” and cited a witness who said “that he heard and saw a male civilian interpreter rape a male juvenile detainee, and saw a female U.S. soldier taking pictures.”<sup>618</sup> The DAA Project cites undated, heavily redacted correspondence from an FBI official to then-FBI director Robert Mueller regarding a case matching the description of the incident. At one point in the correspondence, DoJ officials say the case was transferred to the Violent Crimes Section of the Department of Justice, and at another point, they say that it was transferred to a Department of Justice task force working in the Eastern District of Virginia.<sup>619</sup> No further action is known to have been taken.

### The Corporate Response

CACI points to the lack of indictments of their employees as proof of its employees’ rectitude and the appropriateness of its own company policies.<sup>620</sup> CACI describes the allegations in the Taguba report about employee Stefanowicz as “unsupported based on all of the evidence made available to date,” and appears to reject its recommendations that Stefanowicz be dismissed.<sup>621</sup> Another company statement declared that two other CACI employees cited in the Fay Report were no longer employed by the company.<sup>622</sup> Stefanowicz reportedly left the company later in 2004.<sup>623</sup>

Titan’s response to the allegations against its employees and subcontractors was less defensive. In May 2004 Titan reportedly fired Adel Nakhla, the unnamed “Civilian 17” in the Fay Report, who was also named in the initial CID investigation at Abu Ghraib.<sup>624</sup> Interpreter John B. Israel, identified as the unnamed “Civilian 10” in the Fay Report and employed by Titan subcontractor SOS Interpreting Ltd., returned to his home in California in the wake of the scandal.<sup>625</sup> In June 2004 Titan announced that it would not bill the government for Nakhla’s or Israel’s time on the Iraq contract.<sup>626</sup> A third Titan subcontractor employed by SOS, Etaf Mheisen, possibly the unnamed “Civilian 16” in the Fay Report, was reportedly dismissed in November 2005.<sup>627</sup>

## No Department of Justice Prosecutions

In the three-and-a-half years since Abu Ghraib grabbed the headlines, 11 military personnel have been convicted on charges related to detainee abuse.<sup>628</sup> Others, including Lt. Col. Steven Jordan, the only officer to be tried, were only convicted of lesser charges not related to abuse.<sup>629</sup> Colonel Thomas Pappas,<sup>630</sup> commander of military intelligence and Janis Karpinski,<sup>631</sup> the former prison commander, have received forms of nonjudicial punishment or adverse administrative action. Former Corporal Charles A. Graner is currently serving the harshest sentence of the convicted military personnel: ten years imprisonment.<sup>632</sup> Yet, the story of the contractors is different. Although cases were referred to a task force of the U.S. Attorney's Office in the Eastern District of Virginia, to date, no prosecutions have resulted from these investigations.<sup>633</sup>

The Department of Justice has cited several reasons for this inaction, including the difficulty of finding and talking to possible victims and witnesses. In February 2006 the Senate Judiciary Committee questioned Paul J. McNulty, then serving as U.S. Attorney for the Eastern District of Virginia, upon his nomination to become the Deputy Attorney General under Alberto Gonzales. Committee members noted that the task force had received nineteen referrals on alleged detainee abuse in Iraq and Afghanistan, including cases from Abu Ghraib, but after a year-and-a-half still had not brought any formal charges. McNulty noted, "in some of our cases our victims can't be found ... We have had real problems in getting access to the potential witnesses in the case."<sup>634</sup>

But civil suits suggest access was not the problem. In two separate federal civil actions, detainees allegedly abused by Titan and CACI employees at Abu Ghraib have filed suit against the two corporations, as well as specific employees, as defendants.<sup>635</sup> An attorney for the case stated that in addition to pursuing the civil case, legal counsel had offered government investigators the chance to interview the plaintiffs: "But the government investigators have been unwilling to do so. So long as our clients are not interviewed, we know that the government's investigations and prosecutions are not only incomplete, but have hardly begun."<sup>636</sup>

Nearly two years since McNulty's testimony, no more progress has been reported from the Department of Justice special task force. In what is apparently a new development, DoJ is reported finally to have sought to make contact with these witnesses, possibly in relation to reports that a federal grand jury may finally be looking at the involvement of at least two contractors at Abu Ghraib. *Time* magazine recently reported that Lt. Col. Steven Jordan, the only Army *officer* court-martialed in connection with the abuses at Abu Ghraib, appeared before a federal grand jury in the Eastern District of Virginia and testified about the role that two particular contractors played at Abu Ghraib.<sup>637</sup>

In November 2007 a federal judge ruled that the civil suit against CACI could proceed. The company had tried to have the case dismissed, arguing that its contractors were under the authority of military officials and because of the "combat activities exception" to tort liability were entitled to complete immunity from civil liability—even though these were civilian personnel and Abu Ghraib was a detention facility, not a combat operation. U.S. District Judge James Robertson found that there was enough evidence to suggest that CACI had its own measure of control over its contractors, and decided that the level of CACI's responsibility and civil liability would be left for a jury to decide. As for Titan, Judge Robertson ruled that the interpreters were clearly supervised entirely by military officials, and are therefore protected from civil liability.<sup>638</sup>

## I. Analysis of Serious Incident Reports

### *Iraq Reconstruction Operations Center, July 2004-April 2005*

The Department of the Army has released 610 Serious Incident Reports (SIRs) representing all reports filed by contractors to the Project and Contracting Office (PCO) in Iraq between June 1, 2004 and April 6, 2005. These reports have been reviewed on Human Rights First's behalf by the law firm Linklaters LLP. The chart below is a summary of these SIRs, arranged chronologically.<sup>639</sup>

Each entry in the chart includes a brief description of the incident based on the content in the reports and categorizes the SIR by incident type. These categories are:

Attack on Contractors (by suspected insurgents or unnamed or unidentified forces);

Military on Contractor;

Contractor on Contractor;

Contractor Engagement (with unidentified or unnamed forces);

Contractor on Civilian;

Contractor on Military;

Contractor on Coalition Forces;

Military on Military; Attacks on Military; and

Miscellaneous (incidents such as car accidents, accidents on construction sites, or reports of concerns over unsafe locations).

Below is a breakdown of the SIRs by types of incident. These totals may be inexact due to multiple incidents reported in some reports, apparent multiple reports for some incidents (although this is not always completely clear) and other duplications. For example, while there are 610 SIRs examined, there were approximately 517 incidents reported. Despite inaccuracies explained in the report, these SIRs nevertheless give an overall picture of the kinds of incidents contractors report on a day to day basis, as well as how they report them when they do report them.

517 Incidents Reported:

61% (316 incidents) - Attack on Contractor;

16% (86 incidents) - Miscellaneous;

12% (64 incidents) - Contractor Engagement;

7% (36 incidents) - Military on Contractor; and

4% - Other Attacks (7 Contractor on Contractor, 2 Contractor on Civilian, 2 Military on Military, 2 Attack on Military, 1 Contractor on Military, 1 Contractor on Coalition Forces).

The descriptions of the SIRs in the charts use many acronyms (though not nearly as many as the SIRs themselves). A non-exhaustive list is as follows:

AIF	Anti-Iraqi Forces
DOD	Department of Defense
FOB	Forward Operating Base
IED	Improvised Explosive Device
ING	Iraqi National Guard
IP	Iraqi Police
IZ	International Zone
KIA	Killed in Action
LN	Local National
MNFI	Multi-National Force-Iraq
PSD	Private Security Detail
PSC	Private Security Company/Contractor
RPG	Rocket Propelled Grenade
RTA	Road Traffic Accident
SET	Security Escort Team
SAF	Small Arms Fire
TTP	Tactics, Techniques and Procedures
USACE	United States Army Corp of Engineers
VBIED	Vehicle Borne Improvised Explosive Device (often complete with suicide bomber)
WIA	Wounded in Action

JULY 2004			
DATE	TIME	TYPE	DESCRIPTION
7/19/04	0745	Attack on Contractors	Small arms fire ("SAF"); several contractors wounded.
7/19/04	0745	Attack on Contractors	SAF; three contractor casualties.
7/21/04	1300	Attack on Contractors	Mortar detonated on jobsite; no reported injuries.
7/23/04	1300	Attack on Contractors	Mortar attack at project site; no return fire or engagement reported.
7/24/04	1500; 1610	Attack on Contractors	At 1500, IED explosion; injuries sustained. At 1610, SAF; several contractors wounded; 1 contractor casualty.
7/24/04	1830	Miscellaneous	Accidental shooting of local national security guard.
7/28/04	1220	Attack on Contractors	SAF.
7/30/04	1430	Attack on Contractors	SAF; contractors returned fire; no insurgents believed to be wounded or killed.

AUGUST 2004			
DATE	TIME	TYPE	DESCRIPTION
8/9/04	2200	Miscellaneous	Car accident trying to avoid reckless driver in Kuwait.
8/10/04	1615	Attack on Contractors	Rocket hit ground near convoy; no injuries.
8/11/04	0945	Miscellaneous	Mortar attack on parking lot.
8/20/04	0700	Attack on Contractors	Ambush killing 1 engineer subcontractor, injuring another. SIR mentions another incident of mortar attacks at same location on 8/8/04.
8/20/04 (2 separate SIRs filed re: same incident)	1704	Attack on Contractors	Rocket rounds; no injuries.
8/21/04	1430	Attack on Contractors	IED explosive on convoy (pictures attached to SIR).
8/22/04	1605	Attack on Contractors	Mortar round attack.
8/22/04	1725	Attack on Contractors	Terrorist SAF; 3 contractor casualties, 1 contractor wounded.
8/23/04	0740	Attack on Contractors	Convoy attacked by automatic gun fire; one convoy passenger killed, 3 wounded.
8/23/04	0800	Attack on Contractors	Unconfirmed ambush of Turkish engineers.
8/24/04	1440	Attack on Contractors	Mortar attack on jobsite.
8/25/04	0900	Attack on Contractors	Attack on 2 water taker trucks.
8/25/04	0900	Attack on Contractors	Rocket attacks on jobsite.
8/25/04	Evening	Attack on Contractors	Welder shot and killed.
8/25/04	2312	Miscellaneous	Assumed errant shot struck non-strategic pipeline (pictures attached to SIR).
8/26/04	Evening	Attack on Contractors	12 armed men confronted 2 Iraqi subcontractors to find location of another subcontractor likely for purpose of kidnapping.
8/27/04	0855	Attack on Contractors	Convoy fired upon by International Zone personnel; convoy returned fire; no casualties.
8/27/04	0915	Attack on Contractors	PSD team hit by IED; no injuries.
8/27/04	1400	Attack on Contractors	Rocket attack on jobsite.
8/28/04	1200	Miscellaneous	Security subcontractor aided in arrest of trespasser at gunpoint; later, when clearing his weapon, it accidentally discharged causing injury to him.
8/28/04 (2 separate SIRs filed re: same incident)	1530	Attack on Contractors	Local national contractor attacked when leaving job site; sustained gunshot injuries (pictures attached to SIRs).
8/29/04 (2 separate SIRs filed re: same incident)	1340	Attack on Contractors	PSD team hit by 1 IED; no injuries. Further attack by 2 men in Mercedes.
8/30/04	1156	Miscellaneous	Pipeline break with resulting fire; believed to be sabotage.
8/31/04	0845	Attack on Contractors	IED attack on convoy; no injuries.
8/31/04	2200	Attack on Contractors	Insurgent sprayed bullets on convoy followed by Rocket Launcher that hit 2 vehicles; no injuries.

SEPTEMBER 2004			
DATE	TIME	TYPE	DESCRIPTION
9/1/04	0900	Attack on Contractors	PSD convoy near 5 IED detonations; no damage; no injuries.
9/1/04	Unknown	Attack on Contractors	PSD convoy with 5 trucks carrying generators became separated; last 3 trucks attacked with machine gun fire; first 2 trucks arrived safely; security returned to recover two more trucks; one truck/generator and driver missing.
9/2/04	0900	Attack on Contractors	PSD convoy with USACE soldiers attacked by IED; 1 vehicle damaged; no injuries.
9/4/04	0900	Miscellaneous	Employee suffered fatal heart attack.
9/4/04	1800	Attack on Contractors	SAF; no return fire; no injuries.
9/6/04	1000	Attack on Contractors	PSD convoy ambushed with SAF; one vehicle sustained flat tire; no injuries.
9/8/04	Unknown	Attack on Contractors	PSD convoy ambushed; 3 vehicles disabled; 3 Iraqi security killed; 2 Iraqi security injured; 2 expat security injured.
9/9/04	0935	Contractor Engagement	PSD convoy passed white sedan with weapon in the vehicle; sedan tailed second armored convoy vehicle; non-armored third convoy vehicle pulled up, at which the rear passenger of sedan raised and pointed an AK-47; third convoy vehicle opened fire on rear passenger; front passenger reached for a weapon, and second convoy vehicle's rear gunner engaged the sedan; sedan ran off the road, hitting guard rail and wall; convoy took evasive maneuvers and continued; no injuries.
9/9/04	1300	Attack on Contractors	2 mortar rounds hit project site; 2 injured.
9/9/04	2000	Attack on Contractors	Contractor's name appears on list of assassination targets by insurgents (letter written by contractor reporting threats attached to SIR).
9/10/04	1630	Miscellaneous	Sabotage on electricity towers to enable being pulled down; 300-400 steel members missing; green army helmet propped up could be hiding IED; no injuries.
9/10/04	Unknown	Miscellaneous	Sabotage on oil filters; no injuries.
9/11/04	0805	Attack on Contractors	3 mortars detonated; one worker injured.
9/11/04	1225	Attack on Contractors	2 RPG mortars detonated; one worker injured.
9/11/04	Unknown	Attack on Contractors	Cement truck driver kidnapped; other subcontractor warned.
9/12/04	0545	Attack on Contractors	5 rockets fired on resident office; two offices, 4 SUVs, and one pickup truck sustained external damage; 1 flatbed truck disabled.
9/13/04	1330	Miscellaneous	Worker electrocuted by hanging electrical conductor previously damaged by attached; worker died.
9/13/04	1400	Miscellaneous	Letter found (attached letter missing).
9/14/04 (3 SIRs filed re: this incident)	0300	Attack on Contractors	Attack with SAFs and mortars; oil pipeline exploded; damaged 430 KV line; monthly occurrence. Update: Electric powerlines also down. Update: Pipeline explosion possibly from IED or indirect fire; possible AIF involvement.
9/15/04	1630	Attack on Contractors	2 mortar rounds hit outside camp; no injuries.
9/15/04	2300	Attack on Contractors	8 masked men in 2 vehicles threatened Iraqi engineer working for US Corps of Engineers; Engineer did not appear for work next day.
9/16/04	0445	Attack on Contractors	5 mortar rounds at site, hitting trailers and fuel tank, which resulted in large fire; no injuries.
9/16/04	1720	Military on Military	Guard shot by another guard; first guard hospitalized; second guard arrested. Incident could be related to possible hitting of 12 year-old girl by ground evacuation crew; crew unable to find girl or witnesses.
9/16/04	2000	Attack on Contractors	Worksite received 5 mortar rounds, 1 RPG to the front gate, and indirect SAF; damage unknown.
9/17/04	Unknown	Military on Military	SAFs, RPGs and mortar fire from skirmish between Coalition Forces and Mahdi Militia damaged some equipment; no injuries.
9/18/04	0800	Attack on Contractors	Failed attempted kidnapping of USACE sub-contractor by 8 armed and masked men in 2 vehicles; received two further threatening letters; no injuries.
9/18/04	1000	Attack on Contractors	IED and 4 armed insurgents spotted near tension tower worksite; no injuries.
9/18/04	1600	Miscellaneous	Suicide bomber surrendered to Iraqi police; had planned to attack in a 4-ton truck with drop down sides.
9/20/04	1100	Attack on Contractors	Substation employees and worker's spouse threatened by unknown individuals.
9/21/04	0930	Attack on Contractors	IED detonated near PSD convoy; 4 injured.
9/22/04	1210	Miscellaneous	Iraqi worker killed by electrocution from underground electrical cable while digging to install sanitation sewer.
9/23/04	Unknown	Attack on Contractors	13 Turkish subcontractor employees quit and departed for Turkey; some of the workers were assaulted without injury; one death reported, separate from this incident.
9/24/04	Unknown	Attack on Contractors	Project manager quits due to death threats.
9/25/04	0500	Miscellaneous	4 trucks with generators hijacked while held in Iraqi customs 'no mans land', separated from armed security guards.

SEPTEMBER 2004 (continued)			
9/25/04	Unknown	Attack on Contractors	Unconfirmed deaths of drivers resulted in decrease of gravel delivery from 300 loads daily to 7.
9/26/04	Unknown	Attack on Contractors	Update: Unconfirmed death of one driver, confirmed death of one driver, and one unidentified dead body on road, resulting in reduced rate of gravel delivery. (Related to above SIR).
9/26/04	1045	Attack on Contractors	IED explosion destroyed lead vehicle in convoy; no injuries.
9/26/04	1129	Attack on Contractors	Location of work site threatened with aggression; work location had to be switched.
9/27/04	1130	Attack on Contractors	SAF; damaged vehicle; no injuries.
9/27/04	Unknown	Attack on Contractors	Workers threatened outside not to work at the jobsite.
9/28/04	1410	Contractor Engagement	PSD convoy followed by truck, which twice forced PSD vehicle off the road; verbal and hand warnings ignored; PSD shot left-front tire of truck, which slowed and stopped; no injuries.
9/29/04 (2 SIRs filed re: this incident)	0941	Contractor Engagement	Speeding vehicle approached rear of PSD convoy; hand signals ignored; rear gunner shot and disabled vehicle; possible gunshot injury in leg of driver; no injuries. Update: rerouting of convoy and subsequent confusion may have caused engagement.
9/29/04	1225	Attack on Contractors	SAF on PSD convoy; two vehicles disabled by flat tires; returned fire, injuring 1 AIF; no injuries.
9/29/04	1515	Contractor Engagement	Vehicle violated safe zone around PSD convoy; PSD fired one round into vehicle, disabling it; no injuries.
9/30/04	0948	Attack on Contractors	VBIED explosion, collapsing wall; possible contractor injuries and civilian casualties.
9/30/04	1253	Attack on Contractors	VBIED explosion at sewage pumping stations; 2 Iraqi National Guard ("ING") killed; 12 US military wounded.

OCTOBER 2004			
DATE	TIME	TYPE	DESCRIPTION
10/2/04	0615	Attack on Contractors	PSD convoy hit by IED. White Opel used in attack.
10/2/04	1130	Attack on Contractors	Truck carrying material captured and driver kidnapped.
10/2/04	1400	Miscellaneous	Release of kidnapped contractor.
10/2/04	1400	Attack on Contractors	Report of kidnapping received by contractor.
10/2/04	Daytime	Attack on Contractors	Iraqi employee kidnapped; released after 2 hours.
10/2/04 (2 SIRs filed re: this incident)	Unknown	Attack on Contractors	Received threat letter via e-mail
10/2/04	Unknown	Attack on Contractors	Individual kidnapped and released unharmed, but provided information to kidnapers about the construction contractor, who has since changed all his contact information, residence and office building. Both the contractor and his brother are now in hiding.
10/3/04 (3 SIRs filed re: this incident)	Unknown	Miscellaneous	10-11 year old child fell to his death in open manhole; body recovered and returned to family.
10/4/04	Unknown	Attack on Contractors	8 International Zone ("IZ") workers quit due to indirect threats received and fear from previous murder of coworker.
10/5/04	Unknown	Attack on Contractors	Patrol discovered abandoned vehicle, tan Tahoe SUV with CLS Bag, phone, property sticker, evidence of blood, medical supply usage and four warm smoke grenades around vehicle; possible kidnapping.
10/7/04	0940	Attack on Contractors	Mortar round hit 50 meters away from manhole at treatment plant where contractor personnel were working.
10/7/04	1045	Contractor Engagement	Vehicle tried to get inside of convoy despite repeated visual signals to stay away; warning shots fired at vehicle resulting in it changing routes and disappearing in traffic; no injuries or damage.
10/7/04	1320	Attack on Contractors	SAF and RPG attack on PSD convoy; one vehicle lost, left on attack site; 3 local nationals injured.
10/9/04	2200	Attack on Contractors	SAF at front gate of military base; security guards responded; no known casualties.
10/11/04	0800	Attack on Contractors	Iraqi divulged to the neighborhood that both he and contractor were working for USACE. Contractor met by armed neighbors making threats that if the contractor did not leave, his employees would be killed. Contractor removed his equipment and ceased work on the project.

OCTOBER 2004 (continued)			
10/12/04	0000	Attack on Contractors	Employee found murdered from blunt trauma and pistol wound to head.
10/12/04 (2 SIRs filed re: this incident)	0815	Attack on Contractors	PSD convoy ambushed by SAF; 2 contractor casualties (map of attack location attached).
10/12/04 (2 SIRs filed re: this incident)	0930	Attack on Contractors	SAF and IED attack on SET convoy ; 5 Iraqi members wounded; 1 vehicle abandoned and destroyed; 4 AIF wounded; convoy mission cancelled.
10/12/04	1245	Attack on Contractors	155 mm rocket landed near Contractor's office; no explosion noted; shell recovered by security groups.
10/13/04	0610	Attack on Contractors	Convoy attacked by SAF; 1 injury; convoy retreated.
10/13/04	1100	Attack on Contractors	PSD convoy attacked by SAF from three AIF; trucks damaged; 1 driver injured.
10/13/04 (2 SIRs filed re: this incident)	1400	Attack on Contractors	Explosion heard west of New Iraqi Army Base; three separate plumes of smoke were observed; PSD left jobsite.
10/14/04	1252	Attack on Contractors	2 simultaneous explosions; 1 contractor injured.
10/14/04	1540	Attack on Contractors	SAF and IED attack on PSD convoy; no injuries reported.
10/15/04	0043	Attack on Contractors	Engineer and subcontractor threatened with harm unless money paid.
10/15/04	2000	Miscellaneous	Shut down of activities due to deteriorated security situation because of poorly executed transition from one contractor to the next.
10/16/04	Unknown	Attack on Contractors	Threat against subcontractor and family resulted in them fleeing to Dubai.
10/16/04	Unknown	Attack on Contractors	Threatening phone call made to engineer; family threatened.
10/17/04	0900	Attack on Contractors	Convoy ambushed and damaged from SAF or RPG; 2 local contractors killed, 1 Local National injured.
10/17/04	2037	Attack on Contractors	Contractor received threatening email (attached to SIR).
10/17/04	Unknown	Attack on Contractors	Driver killed. Only sketchy report available due to subcontractor leadership dealing with approximately 100 employees departing for Turkey due to murder.
10/18/04	0741	Attack on Contractors	SET convoy report possible VBIED attack; no casualties noted.
10/18/04	Unknown	Attack on Contractors	Project Engineer informed that 5 employees quit and returned to Turkey due to recent anti-Turkish activities.
10/22/04	1230	Attack on Contractors	Kidnapped worker released when he said he worked for an Iraqi company and not the USACE.
10/24/04 (2 SIRs filed re: this incident)	0900	Contractor Engagement	Speeding vehicle approached convoy, ignoring repeated audible and visual warnings; rear gunner fired disabling shots; no visible damage to subject or vehicle. Update: Team Leader and Rear gunner provided corroborative statements.
10/24/04	Unknown	Attack on Contractors	Managing supervisor and deputy for security company abducted and later released; told they had 10 days to stop working or else suffer the consequences; turbine work has stopped.
10/25/04	0600	Miscellaneous/Attack on Contractors	Security issues delayed clearance for several hundred workers gathered at gate. Iraqi workers might stay away since the situation provides a target for insurgents. In addition, subcontractors received threatening letters at home and did not appear for work.
10/25/04	Unknown	Attack on Contractors	Employee shot and killed while exiting car to enter hardware store; others may be wounded.
10/26/04	0530	Attack on Contractors	Local national reports that the two new residence trailers were shot at and that his cousin, who worked at the factory, had been killed.
10/26/04	1800	Attack on Contractors	President of the contracted civil works company kidnapped from his home.
10/28/04	1550	Miscellaneous	Three vehicle accident involving one civilian car; no injuries.
10/31/04 (2 SIRs filed re: this incident)	0900	Attack on Contractors	Workers attacked by local residents when they informed them that their house could not be connected because of its illegal division. Some workers left the site and said they would not return until their safety is secured. Contractor met with local council representative.
10/31/04	1300	Attack on Contractors	Vehicle with 3 occupants shot at water truck; no injuries, no damage to equipment
10/31/04	1630	Attack on Contractors	Driver threatened and fired upon.
10/31/04	Unknown	Attack on Contractors	Driver stopped by four masked men in a vehicle, who shot the car and tires, beat him and stole his tools.

NOVEMBER 2004			
DATE	TIME	TYPE	DESCRIPTION
11/10/04	1625	Attack on Contractors	A PSD team was hit by an IED; 2 friendly injuries, slight damage to one vehicle.
11/10/04	Unknown	Attack on Contractors	A PSD team attacked by SAF
11/10/04	Unknown	Miscellaneous	Two rounds fired into IZ; no casualties or damage.
11/10/04	Unknown	Miscellaneous	Suspected illegal VCP; PSD approached VCP, and those manning it scattered to collect weapons; no shots fired from either side.
11/10/04	1455	Attack on Contractors	Mortar attack near Camp Cooke; employees left job site.
11/10/04	Unknown	Contractor Engagement	PSD team carrying principal approached by fast moving car; warning signals ignored; car disabled with shots from rear gunner; no visible injury; PSD continued to HQ.
11/13/04	0845	Attack on Contractors	SAF from houses aimed at vehicle; no injuries.
11/14/04	0930	Attack on Contractors	SAF aimed at PSD carrying one principle; no injuries; flat tire and damage to braking system sustained by car.
11/13/04	2000	Attack on Contractors	Kidnapping of 2 Iraqi PCO guards by individuals in 4 cars armed with AK47's.
11/13/04	0830	Attack on Contractors	Workers on hospital site threatened by individuals for working for the Americans
11/14/04	0944	Attack on Contractors	PSD convoy attacked by hostile fire near IZ; braking system of car damaged; no injuries.
11/12/04	1505	Contractor on Civilian	PSD car forced local nationals' car off the road and into a tree; passengers include male driver, a woman and child.
11/14/04	1230	Attack on Contractors	Security guard killed by SAF from direction of mosque as he challenged man armed with AK47 walking around perimeter of building.
11/14/04	1635	Attack on Contractors	PSD convoy carrying principal attacked by SAF from vehicle; PSD returned fire; engagement broken and PSD continued.
11/15/04	1530	Attack on Contractors	Three vehicle PSD convoy attacked by SAF; PSD did not return fire; no injuries, no damage to vehicles.
11/15/04	1030	Military on Contractor	SAF on PSD convoy by military convoy; shooter mistook PSD for VBIED and apologized; no injuries.
11/16/04	1115	Attack on Contractors	PSD passed cargo truck on road, which then flashed its lights; PSD subsequently fired upon by automatic fire from nearby buildings; no damage or injuries reported.
11/17/04	1320	Miscellaneous	PSD convoy behind US convoy noticed 4 men crouched behind vehicles, shooting across IP checkpoint; rear gunner fired 8 rounds; convoy continued to IZ.
11/17/04	0906	Attack on Contractors	PSD convoy hit by suicide VBIED; 3 PSD members received non life-threatening injuries; target vehicle was destroyed.
11/18/04	1445	Attack on Contractors	IED detonated on PSD convoy; 1 killed; 3 injured.
11/19/04	0728	Attack on Contractors	PSD attacked by mortar, RPG and SAF attack. No rounds returned, no injuries.
11/19/04	1400	Attack on Contractors	PSD fired upon by one AIF with AK47; no damage to vehicles, no injuries
11/19/04	1535	Attack on Contractors	PSD attacked by SAF; no injuries; no rounds returned
11/23/04	1100	Attack on Contractors	Vehicle attacked by young male with grenade; no reported damage or injury.
11/23/04	1624	Military on Contractor	US convoy fired upon contractor vehicle, shooting out tires; shooter acknowledged mistake; no injuries.
11/24/04	1120	Military on Contractor	PSD vehicle separated Coalition Forces convoy; rear gunner for CF humvee shot a full magazine into vehicle; no further details.
11/25/04	1135	Attack on Contractors	Four vehicle PSD attacked with SAF; PSD did not return fire; no injuries.
11/26/04	1008	Attack on Contractors	PSD convoy hit with IED and SAF; 2 minor injuries sustained; convoy continued.
11/27/04	0902	Attack on Contractors	IED detonated against 2 vehicle PSD convoy; no casualties.
11/27/04	1045	Attack on Contractors	PSD convoy followed by blue BMW; BMW signaled orange & white taxi and stopped near taxi; PSD attacked with SAF from area near BMW and taxi; insurgents tried to force PSD down side street blocked by bus; PSD drove through ambush area under sustained fire, avoiding trap; no injuries.
11/27/04	1130	Attack on Contractors	PSD convoy carrying supplies and equipment attacked by IED and SAF; 1 killed in first attack; 1 injured in second attack.
11/28/04*	0840	Attack on Military	IED detonated against US convoy while PSD nearby; damage to US convoy unknown; PSD sustained no casualties and only minor collateral damage.
11/1/04	0800	Military on Contractor/Contractor on Military	IP officers at vehicle stop questioned delivery truck drivers about their weapons; drivers produced permits and identification, which IP officers took, spat on them, tossed them to the ground and ridiculed Kurdish drivers for working for the Americans; drivers felt threatened, fled the scene while shooting at the officers; no injuries reported but IP vehicle damaged.
11/1/04	1000	Attack on Contractors	Convoy hit with IED; 1 critical casualty.
11/1/04	1520	Attack on Contractors	Contractor moving disassembled commercial satellite in truck followed by sedan, attacked by automatic weapons from nearby vehicles; contractor's sedan escaped; truck hijacked and drivers kidnapped; hijackers demanded \$4,000, but drivers were released before ransom was paid; truck and equipment missing.

NOVEMBER 2004 (continued)			
11/2/04	1015	Attack on Contractors	PSD convoy on way to pump station attacked by 20 insurgents with automatic weapons; PSD drove out of the area without returning fire; one vehicle sustained minor gunshot damage to rear window.
11/3/04	1125	Attack on Contractors	SET convoy attacked by SAF from unknown number of AIF; SET did not return fire; minor damage to windshield.
11/4/04	Unknown	Miscellaneous	Member of PSD team accidentally shot himself in the foot.
11/5/04 (2 SIRs filed re: this incident)	1019	Attack on Contractors	PSD team attacked by AIF with automatic fire from both sides of the road; PSD returned fire, drove through engagement area, but one truck lost power; while trying to recover their truck, PSD was attacked again by AIF; PSD returned fire, recovered truck and returned to base.
11/6/04	1345	Miscellaneous	Project manager for state dept. project issued warning of possible hostile action against construction site on Sunday, November 14, 2004; PM overheard rumors that hostile action might occur sometime after prayers for the end of Ramadan.
11/7/04 (2 SIRs filed re: this incident)	Morning	Attack on Contractors	Two local national engineers threatened for working for Americans; engineers appealed to local governing mosque that they were working for French; attacked and assassinated on way to work.
11/7/04 (2 SIRs filed re: this incident)	0850	Attack on Contractors	IED exploded near PSD convoy; 1 British technician died immediately; 1 South African died later from injuries.
11/7/04	1000	Contractor Engagement	PSD fired two rounds at car speeding towards convoy; vehicle sustained damage; PSD team continued to destination; no casualties.
11/8/04	1522	Attack on Contractors	PSD convoy was hit by IED and SAF; PSD returned fire and suppressed ambush; security personnel charged building, capturing six Iraqi males and seizing 12 IED's; 1 killed; 3 injured.
11/8/04	1545	Attack on Contractors	4 PSD wounded in attack by AIF. US military rendered assistance.
11/9/04	0845	Attack on Contractors	VCIED detonated at gate to worksite just as PSD transporting USACE entered; no USACE injuries; other minor injuries possible.
11/9/04	1200	Attack on Contractors	Threatening letter led to work stoppage.
11/9/04	1850	Attack on Contractors	Base hit by combination of rocket and mortar attacks; USACE evacuated; no damages or injuries reported.
11/10/04	1000	Attack on Contractors	Engineer kidnapped by unknowns in 3 vehicles.
11/10/04	1135	Attack on Contractors	SET Convoy attacked by SAF and RPG from AIF; 2 SET injured; rescued by Quick Reaction Force ("QRF"); vehicle forced to be abandoned.
11/11/04	Unknown	Miscellaneous	Unsafe conditions at 3 sites lead to work stoppage; not certain whether work environment is unsafe or entire area is unsafe.
11/11/04	0950	Contractor Engagement	PSD convoy forced to stop between LN vehicles behind military convoy; red pick-up truck advanced towards rear of PSD; rear gunner made eye contact and hand gestures which were ignored; rear gunner shot 3 rounds into engine of truck; driver raised his hands and smiled; possible vehicle may have been testing the protocol.
11/11/04	1415	Contractor Engagement	PSD team transporting principal approached by fast moving vehicle; rear gunner disabled vehicle by shooting into engine, after it failed to heed his signals to stop; shots caused no visible injury.
11/11/04	Unknown	Attack on Contractors	PSD convoy's rear vehicle hit by automatic fire causing damage to engine; PSD returned fire; no injuries.
11/11/04	1455	Attack on Contractors	Mortar attack at worksite; unexploded round discovered; site closed down.
11/11/04	1415	Contractor Engagement	PDS convoy stopped in traffic; trailing bus failed to stop; gunner disabled bus by shooting into it. At 1445, convoy was stopped again, and 2 motorcycles approached the rear; motorcyclists ignored hand signals and aggressive posturing by gunner; gunner shot at front wheel of first motorcycle; motorcyclist stopped, smiled and waved; possible attempt to test protocols.
11/11/04	1500	Attack on Contractors	Crane operator on project killed on his way home from working at the site.
11/12/04	2000	Attack on Contractors	2 Iraqi PCO guards kidnapped by armed gunmen in 4 black cars; 2 other Iraqi PCO guards reported missing; 1 guard later released; Iraqi guards may be under observation by insurgents.
11/13/04 (SIR same as database SIR above)	0830	Attack on Contractors	Workers on hospital site threatened by individuals for working for the Americans; workers had to leave; another local individual tried to find out about a contractor site foreman and his address; third incident here in 2 weeks.
11/13/04	0845	Attack on Contractors	PSD heard gunshots fired from houses near highway; no damage, no injuries.
11/13/04	Unknown	Attack on Contractors	10 workers kidnapped on way home from work, being held hostage.
11/13/04	Unknown	Attack on Contractors	10 workers kidnapped on way home from work, being held hostage.
11/13/04	2230	Miscellaneous	Overpass bridge destroyed by AIF to lure US forces into routes and areas where they can be easily attacked.
11/13/04	Unknown	Attack on Contractors	3 PCO guards kidnapped and killed; bodies found.
11/13/04	1255	Attack on Contractors	PSD convoy attacked by SAF from vehicle traveling in opposite direction; tire deflated.
11/14/04	0944	Attack on Contractors	PSD convoy shot at from nearby buildings; no injuries, vehicle damaged.
11/14/04	1200	Military on Contractor	Contractor guard fired shot at what he thought was possible insurgent; US Army mistook guard as enemy, as he was not wearing the usual 'chocolate chip' uniform; guard killed.

NOVEMBER 2004 (continued)			
11/14/04 (same as database SIR above)	1230	Attack on Contractors	Security guard killed by SAF from direction of mosque as he challenged man armed with AK47 walking around perimeter of building.
11/14/04 (same as database SIR above)	1635	Attack on Contractors	PSD convoy carrying principal attacked by SAF from vehicle; PSD returned fire; engagement broken and PSD continued.
11/15/04 (same as database SIR above; 2 SIRs filed re: this incident)	1030	Attack on Contractors	SAF on PSD convoy by military convoy; shooter mistook PSD for VBIED and apologized; no injuries.
11/15/04 (same as database SIR above)	1530	Attack on Contractors	Three vehicle PSD convoy attacked by SAF; PSD did not return fire; no injuries, no damage to vehicles.
11/16/04 (same as database SIR above)	1115	Attack on Contractors	PSD passed cargo truck on road, which then flashed its lights; PSD subsequently fired upon by automatic fire from nearby buildings; no damage or injuries reported.
11/16/04	Unknown	Miscellaneous	Worksite entirely gutted; 2 generators, fuel storage containers, doors stolen.
11/17/04	1330	Attack on Contractors	SAF from south side of road; no equipment or personnel injuries.
11/17/04	1430	Attack on Contractors	Four rocket/mortar attacks at jobsite; no reports of injuries or damage; workers sent home.
11/18/04 (same as database SIR above)	1445	Attack on Contractors	IED detonated on PSD convoy; 1 killed; 3 injured.
11/19/04	1535	Attack on Contractors	PSD attacked with several rounds of SAF; no rounds returned, no injuries.
11/19/04	1610	Attack on Contractors	SET Convoy hit by SAF from AIF; rear gunner returned fire; no injuries.
11/19/04	1816	Miscellaneous	Workers threatened by squatters as they tried to clear rubble; subcontractor will not work on site if squatters are present; squatters presented IDP documentation.
11/21/04	1130	Attack on Contractors	Crane operator threatened by AIF that he and his family will be killed; leaving site with crane and has no intention of returning.
11/22/2004 (multiple SIRs filed re: this incident)	1400	Attack on Contractors	Field engineer and foreman kidnapped from worksite by 7 masked and armed men in 2 cars; a worker who tried to intervene was beaten; victims placed in trunk.
11/22/04	Unknown	Attack on Contractors	Quarry owner threatened to be killed for supplying job site with gravel; truck drivers receive similar threats; supply of gravel in jeopardy.
11/22/04	Unknown	Miscellaneous	On day of meeting for Schools Assessment Validation, insurgents sent notes to headmasters to shut down schools.
11/25/04 (same as database SIR above)	1135	Attack on Contractors	Four vehicle PSD attacked with SAF; PSD did not return fire; no injuries.
11/25/04	Unknown	Miscellaneous	Engineer's son attacked near home, and his cell phone taken.
11/26/04 (same as database SIR above)	1008	Attack on Contractors	PSD convoy hit with IED and SAF; 2 minor injuries sustained; convoy continued.
11/27/04 (same as database SIR above)	0902	Attack on Contractors	IED detonated against 2 vehicle PSD convoy; no casualties.
11/27/04 (same as database SIR above)	1045	Attack on Contractors	PSD convoy followed by blue BMW; BMW signaled orange & white taxi and stopped near taxi; PSD attacked with SAF from area near BMW and taxi; insurgents tried to force PSD down side street blocked by bus; PSD drove through ambush area under sustained fire, avoiding trap; no injuries.
11/28/04	Unknown	Attack on Contractors	Subcontractor kidnapped at gunpoint while driving daughter to school; daughter not taken kidnappers demanded ransom.
11/29/04	1815	Attack on Contractors	Two rounds mortar attack; one exploded, injuring 1; one unexploded shell discovered.
11/30/04	Unknown	Attack on Contractors	Local national transporting SUV pursued by 3 vehicles with gunshots; SUV hijacked; driver detained for 24 hours and then released.

DECEMBER 2004			
DATE	TIME	TYPE	DESCRIPTION
12/1/04	Unknown	Attack on Contractors	VBIED attack; 1 casualty, 3 injured.
12/1/04	1330	Military on Contractor	Military fired shots at PSD vehicle; apologized after.
12/2/04	1512	Military on Contractor	Military fired warning shots at PSD vehicle.
11/2/04	1350	Contractor Engagement	PSD convoy threatened by speeding vehicle; fired shots at vehicle into engine, then disengaged and drove away. SIR notes that warning had been issued early that day that vehicle matching same description was a VBIED.
12/4/04	1210	Attack on Contractors	SAF; no casualties.
12/3/04	1620	Military on Contractor	Military fired at PSD convoy, hitting a civilian vehicle; no contractor injuries, other casualties unknown.
12/8/04	1015	Attack on Contractors	SAF; no injuries.
12/10/04	1430	Military on Contractor	US sentry fired warning shots at PSD convoy; stated that next shot would have been at the window.
12/10/04	1336	Attack on Contractors	SAF; no casualties.
12/12/04	0935	Attack on Contractors	IED detonated; no injuries.
12/12/04	0900	Attack on Contractors	Ambush at illegal Iraqi checkpoint; casualties, injuries unknown.
12/13/04	0930	Military on Contractor	Military inexplicably fired warning shots at PSD convoy.
12/13/04	0933	Military on Contractor	Bulgarian military fired warning shots at PSD convoy.
12/14/04	1155	Contractor Engagement	PSD pursued by 2 Mercedes, which did not maintain safe distance; one shot fired at each car; both cars disabled; PSD did not stop - injuries unknown.
12/14/04	1700	Attack on Contractors	PSD convoy hit by RPG and SAF; 4 casualties, 1 injured.
12/15/04	Unknown	Attack on Contractors	IED detonated.
12/15/04	1141	Military on Contractor	Military fired shots at PSD convoy.
12/16/04	1450	Attack on Contractors	SAF on PSD convoy; PSD eventually returned fire, wounding insurgent driver in the foot; SIR notes that armor-piercing rounds used by insurgents.
11/14/04	1630	Attack on Contractors	Ambush on PSD convoy including SAF and RPG attack; contractors returned fire; 2 insurgent casualties; contractor injuries.
12/12/04	1600	Attack on Contractors	False checkpoint ambush resulting in kidnapping of 10 guards traveling with PSD convoy.
12/18/04 (2 separate SIRs filed re: this incident; second one below)	0735	Attack on Contractors	Ambush on PSD convoy including several IED explosions; contractors returned fire.
12/19/04	0800	Attack on Contractors	Anti-Tank mine attack; 1 contractor injured.
12/22/04	0920	Attack on Contractors	IED detonated.
12/22/04	1045	Attack on Contractors	Drive-by shooting at PSD team.
12/22/04	1045	Attack on Contractors	Drive-by shooting at PSD team.
12/22/04	2000	Attack on Contractors	SAF ambush; contractors returned fire.
12/23/04	1120	Contractor Engagement/Military on Contractor	Contractors fired at civilian vehicle it deemed a threat (no report on outcome); US military believed PSD team were firing at them, and returned fire disabling one of the vehicles in the PSD convoy.
12/30/04	1534	Attack on Contractors	SAF ambush; contractors returned fire.
12/30/04*	1420	Contractor Engagement	PSD convoy pursued by vehicle; shots fired by contractors into gravel after warning signals issued; vehicle eventually departed.
12/8/04	0330	Miscellaneous	Helicopters circling, SAF; contractors suspect US military operations; fearful of friendly fire.
12/14/04	1630	Attack on Contractors	Ambush of PSD vehicle; vehicle believed stolen.
12/15/04	1141	Military on Contractor	US convoy inexplicable fired on PSD convoy; no injuries.
12/15/2004 (same as database SIR above)	Unknown	Attack on Contractors	IED detonated.
12/18/04	0730	Attack on Contractors	Ambush on convoy; IED detonated, SAF; 1 AIF casualty.
12/23/04	2130	Attack on Contractors	Huge explosion at site, suspected VBIED; no casualties.
12/24/04	1030	Miscellaneous	Iraqi impounded 2 Jordanian vehicles; vehicles later hijacked.

JANUARY 2005			
DATE	TIME	TYPE	DESCRIPTION
1/2/05	1535	Attack on Contractors	SAF; no casualties.
1/3/05	Unknown	Attack on Contractors	VBIED detonated; 2 contractors, 2 passengers killed.
1/4/05	1012	Military on Contractor	Checkpoint soldier fired at convoy; no injuries.
1/6/05	1030	Miscellaneous	SAF not believed to be aimed at PSD convoy.
1/7/05	1510	Miscellaneous	PSD convoy road traffic accident ("RTA") with civilian vehicle.
1/8/05	Unknown	Attack on Military	Contractor reported SAF on military convoy.
1/7/05	0816	Attack on Contractors	SAF and IED attack on PSD convoy; contractors returned fire.
1/10/05	1325	Attack on Contractors	IED, SAF, RPG attack on PSD convoy; focus of attack shifted to military.
1/9/05	1520	Military on Contractor	US soldier fired at PSD vehicle.
1/10/05	1055	Attack on Contractors	SAF; contractors returned fire; no casualties.
1/11/05	1300	Military on Contractor	Iraqi Police fired at PSD convoy; later apologized.
1/14/05	0844	Attack on Contractors	IED attack; 2 PSD casualties.
1/14/05	0638	Military on Contractor	Shots fired at PSD convoy; no casualties or injuries.
1/14/05	0953	Attack on Contractors	SAF, mortar attack on PSD vehicle; contractors returned fire; 2 possible AIF casualties.
1/15/05	0845	Contractor on Coalition Forces	PSD perceived jeep as threat, fired shots into engine; turns out driver was part of British forces.
1/15/05	1022	Contractor Engagement	Contractors fired warning shots at suspicious vehicle; no injuries.
1/16/05	1113	Contractor Engagement	PSD convoy fired warning shots near suspicious vehicles; no injuries.
1/17/05	Unknown	Contractor Engagement	PSD convoy fire at advancing vehicle; no injuries.
1/18/05 (multiple database SIRs filed re: this incident)	1223	Attack on Contractors	PSD convoy attacked by VCIED, SAF; convoy returned fire with AIFs; no casualties.
1/19/05	1024	Attack on Contractors	Attack on PSD convoy; 1 expat security killed, 1 Iraqi security killed, 1 Iraqi missing.
1/19/05	0630	Attack on Contractors	Truck driver had tires blown out by fire from armed men.
1/20/05	1335	Attack on Contractors	RPG attack on PSD convoy; no injuries.
1/21/05	1010	Miscellaneous	IED detonated; 1 local national ("LN") killed.
1/22/05	1447	Military on Contractor; Contractor on Contractor	Military at checkpoint fired at PSD convoy; when convoy turned around, another PSD convoy fired as well; no injuries.
1/22/05	0945	Contractor Engagement	Contractor fired a warning shot at grey minibus that refused to adhere to signal to stay back.
1/23/05	1020	Contractor Engagement	PSD fired warning shot at vehicle that failed to adhere to repeated warnings to stop advancing.
1/24/05	Unknown	Miscellaneous	"Incompetent terrorists" unsuccessfully attempted to breach outer wall of school with explosives.
1/26/05	1030	Miscellaneous	PSD convoy observed IED explosion.
1/27/05	0655	Contractor Engagement	PSD convoy fired at approaching vehicle after ignored hand signals; blew out front tire, but vehicle occupants not injured.
1/27/05 (same as database SIR above)	0930	Military on Contractor	Strange actions by Iraqi police officer at checkpoint caused minor PSD car accident.
1/28/05	0200	Military on Contractor	PSD convoy detained and harassed by IP.
1/29/05 (2 separate SIRs filed re: this incident)	2000	Miscellaneous	2 explosions reported penetrating palace wall; casualties included a DOD contractor and a Navy sailor.
1/31/05	Unknown	Miscellaneous	Subcontractor's son kidnapped.

FEBRUARY 2005			
DATE	TIME	TYPE	DESCRIPTION
2/4/05	1235	Contractor Engagement	PSD convoy fired warning shots at cement truck when it refused to stop approaching convoy; SIR states "...this truck (albeit maybe innocent)..."
2/4/05	1435	Attack on Contractors	SAF; no casualties.
2/5/05	1430	Attack on Contractors	IED detonated; no casualties.
2/5/05	1400	Contractor Engagement	Vehicle refused to follow instruction to stop; PSC fired warning shots including into windscreen. IP detained driver and 1 passenger; 1 passenger killed – IP investigation.
2/5/05	1510	Contractor Engagement	Vehicle failed to stop after traditional hand signals; PSD team fired 1 warning shot – vehicle accelerated. 2 more shots fired, but vehicle accelerated; PSD team proceeded to fire 23 shots from PKM and 9 from AK before vehicle stopped; driver survived.
2/6/05	0945	Contractor Engagement	PSD convoy fired 2 shots into radiator of vehicle after it failed to heed flashcard to stop; taxi then sped up on convoy and did not heed traditional warnings either – PSD fired total 4 shots into radiator of taxi, after which taxi pulled off road due to engine trouble.
2/8/05	1138	Attack on Contractors	SAF; no casualties.
2/6/05	1310	Attack on Contractors	SAF; no casualties.
2/9/05	0711	Military on Contractor	PSD team shot at by American troops.
2/11/05	1130	Attack on Contractors	SAF; no injuries.
2/12/05	1530	Attack on Contractors	SAF.
2/13/05	1700	Attack on Contractors	SAF; PSD convoy returned fire.
2/13/05	1010	Miscellaneous	Illegal Iraqi police checkpoint.
2/13/05	0730	Military on Contractor	US military fired at PSC convoy.
2/15/05	1420	Contractor Engagement	PSD convoy fired warning shots into vehicle that failed to heed hand signals; 2 shots fired into ground and 2 into radiator; vehicle drove off.
2/16/05	0940	Attack on Contractors	SAF; PSD convoy returned fire.
2/17/05	Unknown	Attack on Contractors/Miscellaneous	PSD convoy attacked by local nationals with rocks and petrol while stopped at cordon. Convoy used new convoy which conveyed incident to ROC immediately.
2/17/05	1310	Attack on Contractors/Miscellaneous	PSD convoy attacked by local nationals with rocks and petrol while stopped at cordon; warning shots fired; no casualties (same as incident above).
2/18/05	1000	Attack on Contractors	IED attack on PSD convoy.
2/21/05	0800	Attack on Contractors	SAF; PSD convoy returned fire; 3 contractors injured.
2/22/05	1341	Attack on Contractors	PSD convoy came under heavy RPG, SAF attack; after fire fight, it is believed there were enemy casualties. SIR notes "The PSD team had to use a large amount of ammunition in order to win fire fight. The after action review highlighted the need for teams to have a sizeable reserve of ammunition."
2/22/05	1341	Attack on Contractors/Miscellaneous	PSD convoy came under heavy RPG, SAF attack; after fire fight, it is believed there were enemy casualties. SIR notes that transponder was successfully used to immediately notify US forces and get quick help (same incident as above).
2/22/05	1150	Contractor Engagement	PSD convoy fired shots at vehicle that did not heed all signs to stop.
2/23/05	1235	Attack on Contractors	PSD convoy attacked by heavy machine gun fire.
2/23/05	1223	Attack on Contractors	PSD team ambushed with heavy SAF and RPG attack; PSD team returned fire; 3 unconfirmed enemy casualties.
2/24/05	1300	Contractor Engagement	PSD convoy fired warning shots in the air at suspicious vehicle after it failed to heed hand signals.
2/25/05	0930	Military on Contractor	PSD convoy fired at by Polish troops; US military later apologized on behalf of the Polish troops.
2/25/05	1330	Attack on Contractors	PSD vehicle hit by IED.
2/25/05	0830	Military on Contractor	PSD team stopped at checkpoint; guard shot in the air; later apologized.
2/26/05	1315	Military on Contractor	Prior to PSD approaching US checkpoint, heard gunshots, US military fired shots at car; no injuries.
2/18/05	1136	Contractor Engagement	PSD team fired warning shot into hood of suspicious vehicle after it failed to heed hand signals; 2 occupants of the vehicle walked away unhurt.
2/18/05	1512	Contractor Engagement	PSD team fired warning shots on suspicious vehicle after it failed to heed hand signals and was driving aggressively; 2 occupants of the vehicle walked away unhurt.
2/18/05	1800	Attack on Contractors	Iraqi contractor and his son kidnapped; ransom demand of \$40,000 reported.
2/20/05	1137	Contractor Engagement	PSD team fired warning shots at aggressive vehicle that ignored other signal; vehicle disabled; single occupant injured, treated by US military personnel; extent of injuries unknown, but do not appear life-threatening.
2/21/05	0935; 1618	Contractor Engagement	Same PSD convoy engaged in 2 shooting incidents in 1 day: both involved firing warning shots/defensive bursts at aggressive vehicles that failed to heed other signals; both drivers appeared to be unhurt.
2/22/05	1000	Miscellaneous	Explosives detection canine found traces of explosives in vehicle belonging to contractor.

FEBRUARY 2005 (continued)			
2/27/05	1145	Contractor Engagement	PSD team fired at aggressive vehicle after it ignored all visual warnings; vehicle disabled, but occupants got out of vehicle and appeared uninjured.
2/27/05	1505	Contractor Engagement	PSD team fired at 2 aggressive vehicles after they failed to heed hand and verbal signs; no apparent casualties.
3/6/05*	2000	Attack on Contractors	Attack on school site; hour gunfight ensued; gunmen ordered workers and contractors to cease work at the site.
2/1/05	0830	Miscellaneous	Suspect device found; determined to be false alarm.
2/1/05 (multiple SIRs filed re: this incident)	1530	Contractor Engagement	PSD team fired shots at bumper of aggressive vehicle; driver did not appear injured, nor did any bystanders, but vehicle was damaged.
2/2/05	1800	Attack on Contractors	Small mortar attack.
2/3/05 (2 separate SIRs filed re: this incident)	1507	Attack on Contractors	VBIED detonated; minor injuries sustained by PSD team member.
2/4/05	0300	Miscellaneous	3 enemy terrorists infiltrated site; 1 captured and interrogated in detention cell.
2/4/05	1218	Attack on Contractors/Contractor Engagement	3 simultaneous incidents: (i) suspicious vehicle noted, suspected of conducting surveillance; (ii) vehicle aggressively approached PSD convoy, which shot disabling burst into vehicle; (iii) second vehicle approached convoy and opened fire with AK-47s – suspected coordinated attack.
2/4/05 (same as database SIR above)	1235	Contractor Engagement	PSD convoy fired warning shots at cement truck when it refused to stop approaching convoy.
2/4/05	1435	Attack on Contractors	SAF.
2/5/05 (multiple SIRs filed re: this incident)	0738	Miscellaneous	PSD convoy involved in traffic accident.
2/5/05 (same as database SIR above)	1510	Contractor Engagement	Vehicle failed to stop after traditional hand signals; PSD team fired 1 warning shot – vehicle accelerated. 2 more shots fired, but vehicle accelerated; PSD team proceeded to fire 23 shots from PKM and 9 from AK before vehicle stopped; driver survived.
2/6/05	0745	Attack on Contractors	3 Iraqi contractor killed, 4 injured when bus attacked by gunmen with AK-47s.
2/6/05 (same as database SIR above)	0945	Contractor Engagement	PSD convoy fired 2 shots into radiator of vehicle after it failed to heed flashcard to stop; taxi then sped up on convoy and did not heed traditional warnings either – PSD fired total 4 shots into radiator of taxi, after which taxi pulled off road due to engine trouble.
2/6/05 (2 separate SIRs filed re: this incident)	1310	Attack on Contractors	SAF; no return fire.
2/6/05	1341	Attack on Contractors	SAF; no return fire.
2/6/05	1430	Military on Contractor	PSD vehicle received a bullet to radiator from Army convoy.
2/6/05	1605	Miscellaneous	PSD vehicle involved in traffic accident.
2/6/05	Unknown	Miscellaneous	News crew and producer duped by fake University security, real security intervened; 1 imposter caught.
2/7/05	0115	Miscellaneous	Contractor involved in slip and fall.
2/7/05	0815	Contractor Engagement	PSD team fired at engine compartment of vehicle that approached notwithstanding hand signals; vehicle disabled, 2 occupants appeared uninjured but unconfirmed.
2/10/05	Unknown	Miscellaneous	Truck driver killed and truck stolen.
2/12/05 (multiple SIRs filed re: this incident)	1517	Contractor Engagement	Stationary PSD convoy fired shots into radiators of 2 vehicles after they failed to heed visual and verbal signals. SIR notes that "Civilian drivers who approach Coalition Forces in this manner are frequently attackers."
2/13/05 (same as database SIR above)	1010	Miscellaneous	Illegal Iraqi police checkpoint.
2/14/05	Unknown	Miscellaneous	Water pipe was cut on 1/7/05; contractor had asked water dept to shut off valve; as of 2/14, water still flowing.
2/16/05 (same as database SIR above; 2 separate SIRs filed re: this incident)	0940	Attack on Contractors	SAF; PSD convoy returned fire.
2/16/05	1023	Attack on Contractors	SAF; Security Escort Team ("SET") returned fire.
2/16/05	1630	Attack on Contractors	Contractors attacked by terrorists; saved by Iraqi Army.
2/16-17/05	Unknown	Miscellaneous	Unconfirmed report of RPG attack on substation purportedly because of American presence.
2/17/05	0530	Miscellaneous	Iraqi gravel truck driver shot in leg.

FEBRUARY 2005 (continued)			
2/17/05	1045	Attack on Contractors	PSD team struck IED; no casualties, injuries.
2/17/05 (same as database SIR above)	1310	Attack on Contractors	PSD convoy attacked by local nationals with rocks and petrol while stopped at cordon; warning shots fired; no casualties.
2/18/05 (same as database SIR above)	1600	Attack on Contractors	Iraqi contractor and son kidnapped; \$40,000 ransom demand reported.
2/18/05 (same as database SIR above)	1000	Attack on Contractors	IED attack on PSD convoy.
2/18/05	1130	Attack on Contractors	Subcontracted trucking company came under SAF attack.
2/20/05	0930	Contractor Engagement	Heavily-laden vehicle approached rear of PSD convoy; after repeated warning, PSD opened fire causing vehicle to swerve into a wall; casualties unknown.
2/20/05	1000	Miscellaneous	QC inspector visited building set for demolition, confronted squatters preventing subcontractor from demolishing building.
2/20/05	Unknown	Miscellaneous	Subcontractor threatened and prevented from entering site where squatters present.
2/20/05	1120	Attack on Contractors	IED explosion on PSD convoy.
2/20/05 (same as database SIR above)	Unknown	Contractor Engagement	PSD team fired warning shots at aggressive vehicle that ignored other signal; vehicle disabled; single occupant injured, treated by US military personnel; extent of injuries unknown, but do not appear life-threatening.
2/21/05 (same as database SIR above)	0800	Attack on Contractors	SAF; PSD convoy returned fire; 3 contractors injured.
2/22/05 (same as database SIR above)	1150	Contractor Engagement	PSD convoy fired shots at vehicle that did not heed all signs to stop. SIR suggests "information campaign for civilians to not approach too close to PSD if warned off."
2/22/05 (same as database SIR above)	1341	Attack on Contractors	PSD convoy came under heavy RPG, SAF attack; after fire fight, it is believed there were enemy casualties. SIR notes "The PSD team had to use a large amount of ammunition in order to win fire fight. The after action review highlighted the need for teams to have a sizeable reserve of ammunition."
2/22/05	1341	Attack on Contractors	SAF, RPG attack on PSD convoy; enemy engaged; AIF casualties believed.
2/23/05	0905	Attack on Contractors	PSD convoy encountered small IED.
2/23/05 (same as database SIR above)	1223	Attack on Contractors	PSD team ambushed with heavy SAF and RPG attack; PSD team returned fire.
2/23/05 (same as database SIR above)	1235	Attack on Contractors	PSD convoy attacked by heavy machine gun fire.
2/23-24/05	Unknown	Attack on Contractors	2 incidents: (i) 3 armed individuals demanded contractor stop road repair; (ii) next day same 3 attempt to extort contractor (simultaneously, contractor vehicle near site was shot).
2/24/05	1030	Miscellaneous	Rocket attack on guard building near camp.
2/24/05 (same as database SIR above)	1300	Contractor Engagement	PSD convoy fired warning shots in the air at suspicious vehicle after it failed to heed hand signals.
2/24/05	1715	Miscellaneous	PSD convoy vehicle involved in serious traffic accident.
2/25/05 (same as database SIR above)	0835	Military on Contractor	PSD team stopped at checkpoint; guard shot in the air; later apologized.
2/25/05 (same as database SIR above; 2 separate SIRs filed re: this incident)	0930	Military on Contractor	PSD convoy fired at by Polish troops; US military later apologized on behalf of the Polish troops.
2/25/05	1330	Attack on Contractors	PSD vehicle hit by IED.
2/25/05	1330	Attack on Contractors	PSD vehicle hit by IED.
2/27/05	0945	Contractor Engagement	SET team stationary because of 2 flat tires; approached by vehicle that did not slow down; team fired shots into engine compartment; no individuals in vehicle appeared injured and vehicle drove off.
2/27/05	1100	Miscellaneous	Concerns reported re: gas turbine.
2/27/05 (2 separate SIRs filed re: this incident)	1330	Miscellaneous	Uncle of contractors kidnapped; eventually released when demands met.
2/28/05	0830	Miscellaneous	Iraqi administrative assistant threatened with death; likely not insurgent-related.
2/28/05 (2 separate SIRs filed re: this incident)	1345	Miscellaneous	Construction bulldozer uncovered certain pre-existing landmines; operations ceased to search the area for other such threats.

MARCH 2005			
DATE	TIME	TYPE	DESCRIPTION
3/2/05	1140	Military on Contractor	At 1140, unidentified US military shot SAF at PSD convoy, damaging windshield; PSD stopped for lunch; at 1325, PSD convoy passed the same US military convoy, again receiving SAF; no injuries.
3/5/05	1200	Attack on Contractors	VBIED detonated on road, damaging rear PSC convoy's rear tire; no injuries.
3/6/05	1341	Attack on Contractors	PSD attacked by SAF; no damage or injuries.
3/6/05	1430	Military on Contractor	PSD vehicle shot by Army convoy; no injuries.
3/7/05	1340	Attack on Contractors	PSD attacked by IED; no damage or injuries.
3/6/05	0845	Contractor Engagement	PSD convoy stopped in traffic; one vehicle passed the other stopped vehicles and speeded towards the rear of the convoy; warning shots fired in air caused vehicle to stop. Same incident happened again in heavy traffic with different vehicle from side street approaching lead convoy vehicle; warning shots fired in air; vehicle stopped; no damage or injuries.
3/8/05	2010	Military on Contractor	PSD approached rear of US MNFI convoy, which flashed white light; PSD fell back until it lost sight of MNFI; thinking MNFI turned off, PSD proceeded, and the front vehicle was strafed with automatic fire by MNFI; no damages or injuries.
3/9/05	1315	Attack on Contractors	PSD attacked by IED and SAF; 3 injured.
3/9/05	1800	Attack on Contractors	PSD convoy attacked by SAF; 1 AIF killed; 2 AIF injured; 1 contractor injured.
3/10/05	1040	Contractor Engagement	PSD convoy stopped in traffic; one vehicle speeded towards convoy; PSD fired pen flare and warning shots then fired at the front of the vehicle; vehicle swerved and stopped; no injuries.
3/10/05	1745	Attack on Contractors	PSD convoy attacked with SAF by bandits trying to steal cargo; no casualties.
3/11/05	1345	Attack on Contractors	PSD challenged, detained, and threatened by IA troops; contractors hit panic button; IPS arrived on scene to escort PSD away from IA checkpoint.
3/11/05	1600	Attack on Contractors	IED detonated under PSD convoy; one vehicle disabled.
3/12/05	1015	Attack on Contractors	PSD slowed to allow military convoy to merge on route; SAF from buildings adjacent to route; no injuries.
3/12/05	1318	Attack on Contractors	PSD convoy engaged by AIF forces from multiple sides; PSD returned fire; no casualties.
3/12/05	1350	Attack on Contractors	PSD convoy received machine gun fire; no casualties.
3/12/05	1600	Military on Contractor	PSD vehicle broke down on bridge, blocking traffic; PSD team attempted to push vehicle over the bridge. MNFI soldier fired 3 warning shots overhead; soldier apologized.
3/12/05	1418	Attack on Contractors	PSD convoy hit IED and attacked by IDF and SAF; 2 contractors killed; 3 wounded.
3/13/05	1350	Attack on Contractors	PSD convoy in slow traffic hit by SAF; 1 injured.
3/14/05	1025	Attack on Contractors	PSD convoy attacked with IED and SAF; 1 injured.
3/14/05	1655	Contractor Engagement	PSD convoy approached by speeding vehicle; warning signals ignored; 3 rounds shot into road in front of vehicle, which swerved and stopped.
3/15/05	1130	Attack on Contractors	PSC engaged by SAF from black BMW; no injuries.
3/15/05	0950	Attack on Contractors	PSD convoy attacked by IED; 1 Iraqi National casualty.
3/15/05	1545	Attack on Contractors	PSD convoy attacked by SAF; contractors did not engage; no injuries.
3/17/05	1130	Attack on Contractors	PSD vehicle hit by IED; no casualties.
3/18/05	1345	Attack on Contractors	PSD drove through ambush of SAF.
3/19/05	0956	Attack on Contractors	PSC convoy hit by IED explosion; no damage or injuries.
3/20/05	1415	Attack on Contractors	Lead vehicle in PSD convoy detonated roadside IED, damaging wheel; no casualties.
3/20/05	1503	Attack on Contractors	PSD attacked with SAF; 1 injured.
3/20/05	0945	Attack on Contractors	PSD hit by IED; 3 injured.
3/21/05	1015	Attack on Contractors	PSD attacked by SAF from black Mercedes; 1 injured.
3/24/05	0910	Contractor on Contractor	One PSD team deliberately confronted another PSD team on the road, swerving to cause the second PSD team to stop.
3/24/05	2146	Attack on Contractors/ Contractor Engagement	PSD convoy was stopped at checkpoint when speeding vehicle approached security; warning shots fired; vehicle hit security vehicle and ricocheted into a truck, killing driver.
3/25/05	1458	Attack on Contractors	PSC convoy attacked with SAF and possible IED; 1 killed, 4 injured; 2 vehicles disabled.

MARCH 2005 (continued)			
3/25/05	1740	Attack on Contractors	Previously attacked PSD convoy (above) drove through SAF ambush; 1 injured.
3/25/05	1600	Contractor on Contractor	PSD vehicles (white Ford pickup trucks) with expats are driving local PSD vehicles (saloons, minibuses) off the road despite local PSD identifying themselves.
3/25/05	1005	Contractor on Contractor/Contractor on Civilian	High-profile PSDs (Chevy Suburbans) fired low velocity shot on low-profile PSDs; low-profile PSD displayed ID card with U.S. flag, but high-profile PSDs kept guns aimed. High-profile PSDs also drove civilian vehicles off to the side of the road.
3/26/05	1140	Attack on Contractors	PSD convoy trailing a military convoy attacked by mortars; no injuries.
3/26/05	1103	Military on Contractor	PSD fired upon by Iraqi National Guard ("ING"); no injuries.
3/28/05	1230	Attack on Contractors	PSD convoy attacked by SAF from river parallel to road; no injuries.
3/25/05	1545	Attack on Contractors	PSD convoy ambushed by heavy fire from overpass and nearby buildings; 1 killed, 5 injured.
3/28/05	1500	Attack on Contractors	PSD attacked by SAF and returned fire; no injuries.
3/30/05	1906	Attack on Contractors	PSD convoy shadowed by white Datsun, which started attacking with SAF; PSD returned fire.
3/31/05	1030	Attack on Contractors	IED detonated near PSD convoy; no injuries.
3/31/05	1640	Attack on Contractors	PSC convoy attacked with mortar fire while stopped to change flat tire; no injuries.
3/17/05	0925	Attack on Contractors	PSD convoy ambushed by SAF from white sedan; additional AIF on overpass fired at convoy; 1 PSD injured during tire change.
3/16/05	1400	Attack on Contractors	Kidnapping by 4 men in white sedan near sewer collapse worksite.
3/17/05	1411	Contractor Engagement	PSD convoy approached by speeding vehicle; driver defied warnings and signals; gunner fired burst into hood of vehicle.
3/26/05	1215	Contractor Engagement	PSD convoy approached by black sedan; gunner issued hand signals and flashlight warning, and sedan stayed back; sedan approached again and was warned to back off; finally, the sedan did not heed the warning, and gunner shot into the vehicle.
3/28/05*	1500	Attack on Contractors	PSD convoy attacked with SAF from 3 men on roof of residential building; PSD returned fire, ending engagement; no injuries or damage.
3/1/05	0630	Attack on Contractors	3 trucks hijacked with drivers; remaining vehicles set on fire.
3/1/05	0830	Attack on Contractors	IED discovered at worksite by construction worker; controlled explosion conducted.
3/2/05	0700	Miscellaneous/Attack on Contractors	Worker on roof hit by AK-47 round falling from sky; bullet could be from an incident involving car bomb and SAF at a nearby checkpoint.
3/2/05	0950	Contractor Engagement	PSD convoy in heavy traffic approached by single vehicle veering through traffic; warning lights ignored; warning shot to median ignored; shot into engine ignored; rear gunner fired 3-5 rounds into windshield of vehicle, which rolled to a halt on the roadside; rear gunner removed from duty and condition of vehicle's driver under investigation.
3/2/05 (same as database SIR above; multiple SIRs filed re: this incident)	1140	Military on Contractor	At 1140, unidentified US military shot SAF at PSD convoy, damaging windshield; PSD stopped for lunch; at 1325, PSD convoy passed the same US military convoy, again receiving SAF; no injuries.
3/2/05	Unknown	Miscellaneous	Sub-contractor working on school threatened to shoot anyone who comes to inspect it.
3/3/05	0725	Attack on Contractors	Explosions at worksite; first attack at 0725, subsequent explosions at 1100.
3/3/05	Unknown	Attack on Contractors	Rocket hit edge of compound; no injuries.
3/4/05	Unknown	Attack on Contractors	Iraqi national arrived at worksite carrying weapon and issuing death threats against workers; contractor took complaint to Head Mullah, who resolved the issue.
3/5/05	2310	Military on Contractor	3 rounds warning shots fired upon PSD convoy by US Army convoy, after being waved through by Commander; vehicle commander apologized.
3/6/05	0730	Attack on Contractors	Flyers threatening death to female Iraqi workers distributed; newly hired female workers terminated for their own protection; lone employee will evaluate her continued employment with coalition office.
3/6/05 (same as database SIR above; multiple SIRs filed re: this incident)	0845	Contractor Engagement	PSD convoy stopped in traffic; one vehicle passed the other stopped vehicles and speeded towards the rear of the convoy; warning shots fired in air caused vehicle to stop. Same incident happened again in heavy traffic with different vehicle from side street approaching lead convoy vehicle; warning shots fired in air; vehicle stopped; no damage or injuries.
3/6/05 (multiple SIRs filed re: this incident)	1052	Attack on Contractors	IDF rocket attack at residential site.

MARCH 2005 (continued)			
3/6/05 (same as database SIR above; multiple SIRs filed re: this incident)	1341	Attack on Contractors	PSD attacked by SAF; no damage or injuries.
3/7/05	1300	Attack on Contractors	PSD convoy passed 2 Bradley tanks and white sedan parked on side of road; two people hiding behind road detonated an IED; PSD fired upon people, injuring one; no PSD or US Army injured.
3/7/05 (same as database SIR above; multiple SIRs filed re: this incident)	1340	Attack on Contractors	PSD attacked by IED; no damage or injuries.
3/7/05	Unknown	Miscellaneous	Excavator at construction site of new fort discovered buried chemical rocket.
3/8/05	1200	Attack on Contractors	Italian PSC convoy attacked by children throwing rocks and IED; undetonated IEDs found on side of road.
3/8/05 (same as database SIR above)	1645	Contractor Engagement	Vehicle speeded towards PSD convoy slowed in traffic; rear gunner's hand signals and flashing lights ignored; gunner fired into vehicle, halting it.
3/9/05	0911	Attack on Contractors	PSD convoy hit by IED; minor damage to vehicle.
3/9/05	1315	Attack on Contractors	PSD attacked by IED and SAF; 3 injured.
3/9/05	1700	Attack on Contractors	Project site attacked by 3 rounds of IDF; building roof damaged.
3/9/05 (multiple SIRs filed re: this incident)	1745	Contractor on Contractor	PSC convoy returning to compound was met by Iraqi men carrying weapons; Iraqi fired into escort vehicle; PSD returned fire; later learned Iraqis were a PSD team; 2 Iraqis killed, 1 injured; 1 contractor injured (Previously reported as insurgent attack on PSD convoy in separate SIR and database SIR above).
3/10/05 (same as database SIR above)	1040	Contractor Engagement	PSD convoy stopped in traffic; one vehicle speeded towards convoy; PSD fired pen flare and warning shots then fired at the front of the vehicle; vehicle swerved and stopped; no injuries.
3/10/05	1200	Military on Contractor	Local police allowed thugs on site to threaten and harass contractor for extortion.
3/10/05 (SIR same as database SIR above)	1745	Attack on Contractors	PSD convoy attacked with SAF by bandits trying to steal cargo; no casualties.
3/10/05	2200	Miscellaneous	Concrete block of anti-ram perimeter wall collapsed, injuring 2 workers.
3/11/05 (SIR same as database SIR above)	1600	Attack on Contractors	IED detonated under PSD convoy; one vehicle disabled.
3/12/05 (multiple SIRs same as database SIR above)	1318	Attack on Contractors	PSD convoy engaged by AIF forces from multiple sides; PSD returned fire; no casualties.
3/12/05 (SIR same as database SIR above)	1418	Attack on Contractors	PSD convoy hit IED and attacked by IDF and SAF; 2 contractors killed; 3 wounded.
3/12/05	1441	Contractor Engagement	PSD convoy slowed by military convoy ahead; silver BMW sped up to approach PSD; hand signals ignored; disabling shots fired into vehicle.
3/12/05 (SIR same as database SIR above)	1600	Military on Contractor	PSD vehicle broke down on bridge, blocking traffic; PSD team attempted to push vehicle over the bridge. MNFI soldier fired 3 warning shots overhead; soldier apologized.
3/12/05	Unknown	Miscellaneous	Rain and mud during 3/12/05 - 3/15/05 prevented crew from working.
3/13/05	0800	Attack on Contractors	Attempted VBIED hit another car in parking lot and stopped; car was defused; no injuries.
3/13/05 (SIR same as database SIR above)	1350	Attack on Contractors	PSD convoy in slow traffic hit by SAF; 1 injured.
3/14/05 (same as database SIR above)	1655	Contractor Engagement	PSD convoy approached by speeding vehicle; warning signals ignored; 3 rounds shot into road in front of vehicle, which swerved and stopped.
3/15/05 (SIR same as database SIR above)	1545	Attack on Contractors	PSD convoy attacked by SAF; contractors did not engage; no injuries.
3/16/05	1000	Miscellaneous	Contractor diagnosed with Type 2 diabetes.
3/16/05	1400	Attack on Contractors	PSD convoy ambushed by unknown gunmen with PKMs and AK-47s; 1 PSD casualty.
3/16/05	Unknown	Miscellaneous	Surveyor for security fencing on Iran/Iraq border told that there are land mines in the area.
3/17/05	1015	Attack on Contractors	PSD convoy attacked by AIF; no injuries; some damage to vehicles.
3/17/05	1600	Attack on Contractors	Rocket launched at hotel; no casualties; minor damage.
3/19/05	1530	Attack on Contractors	PSD convoy attacked by SAF from AIF hiding in building; PSD returned fire; no injuries.

MARCH 2005 (continued)			
3/19/05	Unknown	Attack on Contractors	On 3/4/05, Iraqi national arrived at worksite carrying weapon and issuing death threats against workers; contractor took complaint to Head Mullah, who resolved the issue. Update: group of locals arrived at worksite and threatened workers; work stopped.
3/20/05	0730	Attack on Contractors	Rocket attack on Resident Office; no injuries or damage; 5 other unfired rockets discovered.
3/20/05	0800	Miscellaneous	South Gate failed to open until 1230, preventing workers from arriving at job site.
3/20/05 (2 SIRs filed re: this incident)	1025	Contractor Engagement	PSD convoy slowed near checkpoint; 3 civilian vehicles approached from rear; rear gunner issued hand and verbal warnings; driver's side rear gunner shot into middle vehicle's engine; traffic stopped PSDs, who formed a cordon; middle civilian vehicle did not contain explosives or weapons, but LP gas bottles; driver and passenger were injured; PSD medic provided first aid, and PSD convoy escorted the wounded to the hospital.
3/20/05 (detailed SIR of database SIR above)	1415	Attack on Contractors	Lead vehicle in PSD convoy detonated roadside IED, damaging wheel; no casualties. Update: disabled car was set on fire to avoid being used as VBIED.
3/20/05	1515	Miscellaneous	PSC's car erroneously entered a mine field; security sent to rescue employees and strip usable items from vehicle; no injuries.
3/21/05	0730	Attack on Contractors	Gunman shot 3 of his relatives at worksite; victims hospitalized with injuries; incident reported to IPS.
3/21/05 (detailed SIR of database SIR above)	0950	Attack on Contractors	PSD convoy strafed with SAF from black sedan traveling alongside rear vehicle of convoy; 1 Iraqi PSD injured and transported to Green Zone.
3/21/05	0951	Attack on Contractors	Incident not described; one Iraqi PSD injured.
3/21/05	1100	Attack on Contractors	Iraqi engineer and contractor threatened with death unless they quit.
3/23/05	0930	Contractor Engagement	PSD convoy tailed by blue Mercedes; rear gunner gave warning with hand and light signals; driver ignored warnings; rear gunner shot 3 rounds into Mercedes' radiator; driver continued to accelerate; gunner shot radiator again; Mercedes changed to right lane; right defensive gunner fired 2 rounds into vehicle; Mercedes stopped on right side of road; driver and passenger appeared to move inside vehicle; Iraqi guard approached vehicle; convoy continued.
3/25/05	1500	Attack on Contractors	Mortar attack on camp perimeter; no injuries or damage.
3/25/05	1756	Attack on Contractors	VBIED at construction site; 4 civilians dead, 4 civilians injured; 4 IP injured.
3/25/05	2345	Miscellaneous	Suspicious man seen taking photographs of lift station and contractor staff; man recognized as a known killer; subcontractor pulled out of job.
3/26/05 (same as database SIR above)	1103	Military on Contractor	PSD fired upon by Iraqi National Guard ("ING"); no injuries.
3/26/05	1140	Contractor Engagement	PSD convoy approached by speeding silver/green vehicle; hand signals and warning shots at side of road were ignored; shots into vehicle grill resulted in vehicle pulling over to the side; no injuries.
3/26/05 (same as database SIR above)	1140	Attack on Contractors	PSD convoy trailing a military convoy attacked by mortars; no injuries.
3/26/05	1200	Attack on Contractors	Gunman entered worksite and ordered that the newly built offices be demolished; no injuries or damage.
3/26/05 (same as database SIR above)	1215	Contractor Engagement	PSD convoy approached by black sedan; gunner issued hand signals and flashlight warning, and sedan stayed back; sedan approached again and was warned to back off; finally, the sedan did not heed the warning, and gunner shot into the vehicle.
3/28/05	0614	Attack on Contractors	Reconstruction site 60-70% complete was destroyed with 4 IEDs placed at each corner and 3 RPGs fired from nearby building; roof caved in.
3/28/05	0614	Attack on Contractors	Reconstruction site 60-70% complete was destroyed with 4 IEDs placed at each corner and 3 RPGs fired from nearby building; roof caved in.
3/28/05	0945	Contractor Engagement	PSD convoy threatened by speeding white Toyota; light signals given and 2 rounds of warning shots were fired; gunner fired into grill of Toyota, halting its progress; no injuries.
3/28/05	1204	Contractor Engagement	PSD set out from plant; local national guard dressed in civilian clothing aimed his AK47 at the rear vehicle and acted as if gun was in recoil; gunner fired one shot over guard's head, forcing him to take cover; no injuries; same guard has made previous threatening gestures towards PSD.
3/28/05 (same as database SIR above)	1500	Attack on Contractors	PSD convoy attacked with SAF from 3 men on roof of residential building; PSD returned fire, ending engagement; no injuries or damage.
3/29/05	1410	Contractor Engagement	PSD convoy followed by speeding red Toyota SUV; warning signals ignored; shots fired into engine, causing SUV to pull off to the side; driver and passenger seen exiting SUV.

MARCH 2005 (continued)			
3/30/05	1902	Attack on Contractors	PSD convoy stopped in traffic; one shot fired at rear vehicle, shattering window; no injuries.
MARCH 2005	0935	Attack on Contractors	PSD convoy hit with SAF from AIF.
MARCH 2005	1100	Attack on Contractors	VBIED captured at rear gate of Compound; driver surrendered to commander; no injuries.
*End of Database SIR entries			

APRIL 2005			
DATE	TIME	TYPE	DESCRIPTION
4/1/05	1215	Attack on Contractors	Shooting at convoy.
4/1/05	2032	Attack on Contractors	IED attack on convoy; no casualties.
4/1/05	2030	Military on Contractor	Appears military shot at convoy – friendly fire.
4/1/05	1641	Attack on Contractors	Double IED attack on convoy; 1 contractor casualty.
4/2/05	0905	Contractor on Contractor	High profile contractor shot at low profile contractor - friendly fire.
4/2/05	2030	Miscellaneous	Carjacking – facts unclear.
4/4/05	1330	Attack on Contractors	Attempted carjacking; contractors engaged resulting in 5 Anti-Iraqi Forces (“AIF”) casualties and 1 contractor injured. SIR mentions that the contractor believes that the insurgents expected local nationals – not contractors – to be in the car.
4/6/05	1430	Attack on Contractors	SAF, Mortar and RPG attack on convoy; contractors returned fire killing 1 insurgent, wounding another.
4/6/05	1700	Attack on Contractors	IED explosion.
4/7/05	1420	Attack on Contractors	IED explosion, shots fired at convoy; contractors did not engage; no injuries.
4/7/05	1505	Attack on Contractors	SAF; contractors did not engage.
4/8/05	1315	Contractor Engagement	Contractor convoy pursued by dark sedan; contractors fired warning shots; sedan windshield may have been damaged; unclear whether any injuries sustained by sedan driver.
4/7/05	1200	Contractor on Contractor	One PSD convoy inexplicably fired on another; no injuries – friendly fire.
4/11/05*	1300	Contractor Engagement	Suspicious vehicles approaching convoy; contractors used proper rules of engagement resulting in firing 3 warning shots in ground; no injuries.
4/1/05	1030	Contractor Engagement	Convoy threatened by vehicle that sped up on to convoy; contractors followed standard procedure resulting in shots to engine of vehicle; disabled vehicle pulled off road; no known casualties or injuries.
4/1/05	Un-known	Attack on Contractors	A group of armed people shut down water pump and threatened engineer contractors with death if they turned it back on.
4/2/05	Un-known	Attack on Contractors	Site Engineer of subcontractor sent death threat letter.
4/5/05	1210	Contractor Engagement	Convoy approached by sedan at unsafe distance; contractors fired defensive disabling bursts; sedan driver may have been injured.
4/7/05	1143	Attack on Contractors	Engineer at work site verbally threatened by two unknown men; threat may be attempt to extort money.
4/9/05	0743	Attack on Contractors	Rocket attack on camp.
4/9/05	0743	Attack on Contractors	Rocket attack on camp.
4/10/05	1645	Contractor Engagement	Convoy pursued by sedan; several hand and verbal warnings given; one 3-round burst fired at sedan; shots did not hit car; no casualties.
4/11/05 (same as database SIR above)	1300	Contractor Engagement	Suspicious vehicles approaching convoy; contractors used proper rules of engagement resulting in firing 3 warning shots in ground; no injuries.
4/16/05	1510	Attack on Contractors	Suicide bomber in vehicle (“VBIED”) detonated in midst of convoy.
4/21/05	0905	Attack on Contractors	VBIED detonated in midst of convoy; 1 contractor casualty, 1 wounded.
*End of Database SIR entries			

UNDATED			
DATE	TIME	TYPE	DESCRIPTION
Unknown	0212	Miscellaneous	Rocket attack; targets unconfirmed.
Unknown	1646, 1705	Miscellaneous	At 1646, contractor's car followed by black Opal, weaving in and out of traffic, until vehicle was blocked by oncoming traffic; at 1705, similar incident occurred.
Unknown	0625	Attack on Contractors	Convoy of two vehicles attacked by IED; damages to both vehicles.
Unknown	Unknown	Attack on Contractors	Three truckers ambushed and killed; trucks and trailers taken; victims had informed others they were afraid of being killed for making deliveries.
Unknown	1215	Attack on Contractors	Three vehicle convoy attacked with exploding device. Damage to one vehicle; no injuries.
Unknown	1243	Miscellaneous	SAF at police station; unconfirmed hits.
Unknown	0745	Attack on Contractors	IED attack on four vehicle convoy. SAF could be heard but did not hit convoy; no injuries; convoy proceeded as planned.
Unknown	Unknown	Attack on Contractors	Design manager for subcontractor traveling in unarmed Suburban killed by insurgents.
Unknown	Unknown	Attack on Contractors	Kidnapping of Iraqi translator for contractor; kidnappers threatened to kill translator for working with Americans.

## J. Serious Incidents Reports Cited in this Report

November 8, 2004, PSD Team, Serious Incident Report, (not numbered).

### INCIDENT REPORT

SER	HEADING
1.	WHO(was involved)
	PSD TEAM
2.	WHAT HAPPENED
	<p><b>OVERVIEW:</b> PSD Team conducting Mission to provide security escort from [REDACTED] with 8 Transport trucks to [REDACTED] and return with Transport trucks with ammunition to [REDACTED] and then to [REDACTED]. The trip was without incident until the convoy was attacked approximately [REDACTED] on the return portion of the trip. XXX was driving the last vehicle in the convoy in the far left portion of the lane of traffic when a huge explosion hit the vehicle from the far right side of the road and pushed the vehicle around 180 degrees. The vehicle had all tires blown and the engine was penetrated in several places. The armor plating in the doors was penetrated in an estimated 3 places. XXXX, was riding in the front passenger seat and was killed instantly. XXX received a slight shrapnel wound to the right knee area and XXX and XXXX, both passengers in the back seat, received multiple shrapnel wounds. XXXX and XXXXX received first aid and were medevaced by MNF-1 forces to [REDACTED] where they were reported to be in stable condition. XXXX determined the vehicle to be a total loss and, due to the circumstances at the time, determined to abandon the vehicle. The remaining 3 security escort vehicles, all remaining security personnel and the transport vehicles continued to Taji where the transport vehicles were left and the Team proceeded with [REDACTED] to [REDACTED] for treatment and [REDACTED] for EOM.</p> <p><b>Incident:</b> The team was stopped initially by MNF-1 forces who had found a large artillery shell in the road. MNF-1 advised team to proceed around the obstacle. Team was hit by IED approximately 700 meters farther down the road. Team immediately received heavy SAF from nearby buildings and a wall. Team returned accurate fire and suppressed the ambush. XXXX began first aid and XXXX began reporting and medivac request. XXXX Security personnel charged a building rendering suppressive fire and upon entering the building discovered at least 6 Iraqi males, several AK-47's and approximately 12 IED's in the process of being completed. The Iraqi males were removed and detained by XXXX Security until being turned over to MNF-1 forces who arrived in about 10 minutes after initial contact. The location of the attack was within 800 meters of an Iraqi Police and an Iraqi National Guard check point. Upon contact the Iraqi Police got in vehicles and departed the area. Within about 15 minutes from contact and upon arrival of the MNF-1 forces, 2 vehicles with ING personnel came to the scene. The IED was well placed in an elevated and concealed location off the right side of the road. It appeared to have been placed about 1 foot off the ground and covered by reeds and brush. No cargo was lost or damaged.</p> <p><b>Summary:</b> Additional personnel included XXXXX who went to assist with training of XXXX. XXXX was driving one of the Transport vehicles at the time of the incident because one of the Iraqi drivers had become ill and needed assistance. The enemy continues to be able to construct and hide IED's but are unable to deliver accurate or sustained SAF. In this instance the enemy appeared ill-trained and unwilling or unable to effectively finish an IED ambush.</p>
3.	WHERE IT HAPPENED(GRIDS)
	J85 MC 2900023075
4.	WHEN DID IT HAPPEN(TIME AND DATE)
	8 Nov 04/ 1622
5.	OTHER(information relevant to incident)
	XXXX continues to provide good security operators who are able to deliver accurate, timely and effective fire to protect personnel and cargo.

6.	<b>ACTIONS REQUIRED</b> (list any actions that are required, who should take the action, and what you are doing about it)
	Recommendations: MNF-1 and Iraqi Government need to continue evaluation, vetting and purging of the Iraqi Police and ING. Iraqi Police and ING need to increase effective patrolling of roads and streets. MNF-1 intelligence gathering needs to be more effective. More trained and effective expat security operators are needed to allow 4 expats per team. Two additional security operators are needed to provide back-up capability for those security operators who sustain multiple incidents over a short period of time and need a physical and mental rest. Security Operators with EMT/ medical backgrounds should be sought for employment.
7.	<b>NAME OF PERSON TAKING REPORT</b>
	ROC Ops Offr
8.	<b>CONTACT INFORMATION OF PERSON TAKING REPORT</b>
	7901934118

November 12, 2004, "Incident Report – Collision on BIAP Road – 12 Nov," Serious Incident Report.

INCIDENT REPORT - Collision On BIAP road-12 Nov  
 Posted: 14 November 2004 14:14 (AST)

INCIDENT REPORT  
 (Information Received By a PSD Team Leader who witnessed the incident.)  
 A PSD 2 vehicle convoy traveling on the BIAP road at 1505 hrs in 2 x white Landcruiser at fast speed and very close together.  
 Unnecessarily, as it gave very little warning, it forced local national's car off the road and into a tree. The car was driven by a male but had a woman and child in.

This happened on the 12 November, and is an example of unprofessional operating standards by a Security/Ops team in the area

MISC

December 23, 2004, "Incident Report 1082 - Blue on Blue on Rte [Redacted]," Serious Incident Report.

26 **INCIDENT REPORT #1082 - BLUE ON BLUE ON RTE [REDACTED]**

Posted: 24 December 2004 17:15 (AST)

What: 23NOV04

BAGHDAD: MNF/PSD BLUE ON BLUE INCIDENT

Region: BAGHDAD

Sector: MANSOUR

Site: ROUTE [REDACTED]

Where (Specific Location): 38S MB 35600 83800

When (DTG): 231120 DEC 04

CASUALTIES: NIL

INITIAL REPORT

As at (DTG): 23 2200 DEC 04

What happened: On the 23 Dec 04 at 1120 hrs an XXXX Team were proceeding along Route [REDACTED] to the BIAP. At Grid MB 356/838 an American convoy of three Humvees was going in the opposite direction towards the CPA. The XXXX team was on the opposite side of the road just coming out from under the bridge and another American convoy of armored Bradley's was about to enter route [REDACTED] after the bridge on a slip road.

The convoy proceeding towards the CPA had cause to fire on a civilian vehicle that was approaching its rear and was not heeding to the warnings given by the top rear gunner. The rear gunner then opened fire on the civilian vehicle.

The American convoy driving onto Route [REDACTED] heard the shots and believed to be under threat from the XXXX C/B and fired at the third vehicle in the XXXX team convoy. The vehicle was hit on the front passenger wheel which disabled the vehicle.

What did we do about it: The XXXX team proceeded to BIAP where it waited for the American convoy to appear which it did a short time later. The Team Leader of the PSD team which had just received fire spoke to the rear gunner and asked for an explanation. The gunner replied, "I thought you were firing at us."

Current Situation: All teams informed to use extra care when travelling around MNF convoys/patrols, as they seem indiscriminate at what they shoot at

BB  
CA  
SF

February 6, 2005, "1173 SIR - PSD Fire Warning Shots," Serious Incident Report.

1173 SIR - PSD fire warning shots.

Posted: 06 February 2005 17:11 (AST)

AJ 06 0945hrsC FEB 05, A PSD convoy in Tikrit, at Grid TUZ583 717, on Route [REDACTED], during a mission a Dark Green BMW came from behind speeding towards a PSD convoy. After the rear vehicle had waved several times with their flashcard, the BMW continued at speed approaching the convoy, therefore the rear Gunner initially fired 2 x rds into the radiator in the BMW and he pulled back. A Taxi after watching the incident accelerated towards the convoy and also didn't react to the flashcard, so the rear Gunner fired 2 rds in the taxi radiator. The Taxi did not react and a further 2 x rds were fired into it's radiator. The Taxi pulled off the road due to engine failure. PSD Team did not sustain any damage or injuries.

WS

February 6, 2005, PSD Team Keeper One, Serious Incident Report.

**FOUO (For Official Use Only)**

**SIR (Serious Incident Report):**

1. Collect as much of the information as outlined below, but do not delay in sending "FIRST REPORT."

4. Send follow up reports on serious incident until the information is complete and accurate.

CIRCLE appropriate one:      FIRST - INTERIM - FINAL report

<b>A</b>	<b>WHO:</b> <i>(List Name's, also provide contractor information and relevant engineer project involved)</i>
	PSD TEAM KEEPER ONE, ██████████
<b>B</b>	<b>WHAT/WHERE:</b> <i>(Explain what happened and where it happened – PROVIDE GRID)</i>
	On ██████████, approx 8Km north off ██████████ (GR 583 717) during a mission a Dark Green BMW came from behind speeding towards the convoy. After the rear vehicle had waved several times with their flashcard, the BMW continued at speed approaching the convoy, therefore the rear Gunner initially fired 2 rds into the radiator in the BMW and he pulled off. A Taxi after watching the incident accelerated towards the convoy and also didn't react to the flashcard so the rear Gunner fired 2 rds in the taxi radiator. The Taxi did not react and further 2 rds was fired into it's radiator then the Taxi pulled off the road due to engine failure. The Team did not sustain any damage or injuries.
<b>C</b>	<b>WHEN:</b> <i>(State date and time the incident occurred and when GRD LEADERSHIP WAS NOTIFIED)</i>
	060945FEB05
<b>D</b>	<b>Report IMPACT on GRD Operations:</b> <i>(IMPORTANT! Ensure you provide scope and consequence, if any, on GRD Operations)</i>
	NIL, mission continued without delay.
<b>E</b>	<b>OTHER:</b> <i>(List any suitable information that might be significant to the incident)</i>
	[This is both first and final report due to it's nature. Nothing more to report.]
<b>F</b>	<b>Actions Required:</b> <i>List required actions and identify who should carry them out.</i>
	NIL;
<b>G</b>	<b>Provide Name and Contact information of individual taking the report.</b>

b2  
b2

**FOUO (For Official Use Only)**

February 17, 2005, "Successful Use of the Tapestry Transponder," Serious Incident Report.

**SUCCESSFUL USE OF THE TAPESTRY TRANSPONDER!**  
 Posted: 18 February 2005 16:07 (AST)

**INCIDENT 17 FEB 05**

The PSD company received a transponder on the Sunday 13 Feb 05 which they used on a convoy on 17 Feb 05. While on a convoy North of Taji the convoy came to an MNFI cordon, the forces where in the process of detonating an IED. While stopped at the cordon a crowd of local nationals gathered and started to attack the vehicle with rocks and petrol bombs. The convoy commander hit his panic button and the Victory ROC responded.

After being briefed by the Victory RROC the ROC informed [redacted] and the PSD company. A representative from the company came to the ROC and help to co-ordinate communications with the convoy commander. The ROC produced an initial report that was pushed out to the PSD community and placed on the internet. After the convoy had return to Taji military base the PSD company produced a comprehensive report that was used to update the earlier report and the one on the internet.



February 17, 2005, "SIR 1196 - PSD Convoy Attacked North of Taji," Serious Incident Report.

**SIR 1196 - PSD CONVOY ATTACKED NORTH OF TAJI**  
 Posted: 17 February 2005 14:29 (AST)

At 1310 hrs 17 Feb 05 a PSD convoy while traveling north on [redacted] North of Taji, stop at a MNFI cordon, Grid 38S MC 2912 2152. The MNFI where detonating a IED and had setup a cordon.

While the PSD waited for the IED to be cleared the convoy was attacked by a crowd of LN's who tried to set fire to one of the vehicles. Warning shoots where fired and the convoy extracted to a local MNFI base. No Casualties reported.

Truck 1: Lost 2 x windows and 1 x spare wheel  
 Truck 2: Lost 1 x windows and the driver lost all his personal belongings



February 20, 2005, [redacted] GRC Team #3, ID 4, Serious Incident Report.

ID	[redacted] 4
Who	[redacted] GRC Team #3
What	The PSD was on a reconnaissance mission (no principals on-board) to the [redacted] when the convoy entered heavy traffic. Vehicle traffic was halted utilizing hand signals at an appropriate distance. A single (White Nissan Soden) vehicle with one male occupant broke into the safe zone at high acceleration and ignored all attempts of non-verbal communication. The Rear Gunner engaged the vehicle with a single burst, the vehicle continued on requiring a side gunner to engage and finally disable the vehicle. The single vehicle occupant (male) was injured and treated by U.S. military personnel, injuries to driver are unknown but do not appear to be life threatening.
Where	[redacted]
Grid Coordinates	38SMB 4043385486
When	2/20/2005 11:37:00 AM
Impact	The team continued on completing their Reconnaissance and returned to Camp Victory, no principals on-board.
Action Required	USACE GRC is constantly reviewing Training, Tactics and Procedures (TTP's) recommending and introducing new less than lethal weapons. After Action Review (AAR) will be initiated for recommendation of new technologies to improve existing TTP's.
POC Name	[redacted] b6
POC Phone	[redacted] b6
POC e-Mail	[redacted] b6
CCIR	[redacted]

b2, b6, b7F

b2

b2

February 21, 2005, [redacted] PSD Team 2, ID 6, Serious Incident Report.

ID	[redacted] 6
Who	[redacted] PSD Team 2 <span style="float: right;">b2, b6, b7F</span>
What	<p>Team 2 had two shooting contacts today while traveling to and from [redacted]. The PSD Team was traveling to [redacted] when a black BMW approached from the rear in an aggressive manner. The driver ignored all visual warnings and moved up to the rear of the convoy. The vehicle was immobilized by a short burst of defensive fire. The BMW continued to accelerate after being engaged and then came to an abrupt halt. The driver of the BMW got out of the vehicle and did not appear hurt. On the return trip, the PSD was passing very near the location of the earlier event when a white van rushed the convoy. The van driver ignored the visual signals and approached the rear of the convoy in an aggressive manner. The PSD fired short burst of defensive disabling fire and the driver of the white vehicle was seen standing apparently unharmed beside the white van.</p> <span style="float: right;">b2 b2</span>
Where	[redacted] <span style="float: right;">b2</span>
Grid Coordinates	18SMB45654890 & 18SDM
When	2/21/2005 9:35:00 AM
Impact	<p>The second event happened at 16:18. There were no casualties or battle damage. The PSD was hindered by the heaviest civilian traffic the crews have yet encountered. The specific location of the attack has a recent history of IED attacks and [redacted] has a heavy concentration of recent IED attacks. There was intelligence indicating suspected new IED attacks in the area of FOB Inshore.</p> <span style="float: right;">b2</span>
Action Required	<p>We have asked [redacted] to study the traffic situation and determine if the new congestion problem is leading to additional contacts or if the problem is increased enemy attacks.</p> <span style="float: right;">b2, b6, b7F</span>
POC Name	[redacted] b4
POC Phone	[redacted] b6
POC e-Mail	[redacted] b4
CCIR	[redacted]

March 2, 2005, (Contractor's name withheld) GRD PSD Team, Serious Incident Report (First).

**Serious Incident Report:**  
**(See Attached CCIR for what is considered a Serious Incident)**

1. Collect as much of the information as outlined below, but **DO NOT DELAY IN SENDING "FIRST REPORT"**.

2. Email to GRD Operations, G-3 and Chief of Staff via email (NIPR or SIPR). If the information included in report is classified the SIR must be sent via SIPR.

NOTE: INITIAL (FIRST) REPORT IS REQUIRED ALMOST IMMEDIATELY AFTER IT IS SAFE TO DO SO. GRD IS TASKED TO SUBMIT SIRs TO HIGHER HEADQUARTERS WITHIN TWO HOURS OF THE INCIDENT. FOLLOW-UP AND MORE DETAILED REPORTS (INTERIM – FINAL) WILL BE SUBMITTED AS ADDITIONAL INFORMATION IS GATHERED AND IS EXPECTED WITHIN 24 HOURS OF THE INCIDENT.

NIPR (UNCLASS Email)	SIPR (Classified Email)
[REDACTED]	[REDACTED]

b6

3. Phone GRD Operations (914) 360 – 5085; DSN: 318 836-1053; DVNT: 302-537-1088 and inform operations of the SIR and how the report was sent.

4. Send follow up reports on serious incidents until the information is complete and the entire incident is captured. Enter the following information:

Annotate appropriate SIR: **FIRST** – INTERIM – FINAL

A. Who: (Provide contractor information and relevant engineer project involved.)

(Contractor's name withheld) GRD PSD Team

B. Where/What: (Explain what happened and where it happened – provide grid.)

Three vehicle (Contractor's name withheld) GRD SET carrying 2 GRD principals to the [REDACTED] [REDACTED] departed GRD HQ on a pre-determined route along [REDACTED] and [REDACTED] [REDACTED]

b2  
b2  
b2

In the vicinity of (Grid withheld) on [REDACTED] the convoy was proceeding NW. Traffic was relatively heavy and controlled to the rear by the SET Gun Truck and the traffic was held back approximately 75 m by the rear gunner using visual signals to control traffic.

b2

At approximately 09:50hrs, a dark blue Opal driven by one male was identified zig-zagging through traffic in an effort to advance on the convoy. As the vehicle broke from the body of

controlled traffic and accelerated towards the SET Team, the rear gunner signaled the vehicle driver directly using a VF17 panel and a surefire flashlight. The driver ignored all visual signals and proceeded to accelerate towards the convoy. The rear gunner fired one aimed shot into the median to the right of the approaching vehicle, the vehicle continued to accelerate towards the SET, a second aimed shot was fired into the vehicles engine, but the vehicle continued to close on the convoy. As a last resort and in the belief that this vehicle posed a real and immediate threat to the principals being carried, the rear gunner fired a 3 – 5 round burst through the windscreen directly at the driver.

The vehicle was seen rolling to a halt on the side of the road, local Iraqi Nationals were seen immediately attending the scene. The SET continued en-route to [REDACTED] b2

GRID 38S MB 48523 86344

C. When: (State date and time the incident occurred and when GRD leadership were notified.)

02 0950 March 05

D. Report impact on GRD Operations: IMPORTANT! Ensure you provide scope and consequence, if any, on GRD Operations.

TBD

F. Other: (List any suitable information that might be significant to the incident.)

The condition of the driver shot at is under investigation.

G. Actions Required: (List required actions and identify who should accomplish the action.)

SET Team Rear Gunner has been removed from duty in line with normal (Contractor's name withheld) procedure given the nature of the incident and whilst an investigation is underway.

H. Provide Name and Contact Information of individual taking Report:

#### Attached are the criteria for a CCIR:

1. Change of Status / Attack / Sabotage / Looting on power grid (Electrical Power / Dams / Substations / Lines)
2. Specific Threat / Attack / Engagement / Capture / Missing GRD or Contractor Personnel or Facilities
3. Assassination / Attack / Kidnap or attempt on GRD or Contractor leadership
4. Change in Status of Local stability (permissiveness)
5. Loss of any GRD or Contractor personnel (any casualty)
6. Work stoppage on GRD project site > 24 hours
7. Contractor personnel leaving / threatening to leave worksite
8. Cancellation / Change in funding of GRD programs / projects
9. Change in force protection status (security personnel / HAV) that delays / stops project execution
10. Infraction of ROE by GRD personnel or Contractors or any event that may illicit an adverse political, media or international reaction (cross border; General Order No. 1)
11. IRMO Projects that miss start dates by more than three days

March 8, 2005, [Redacted] GRC TM 3, ID 11, Serious Incident Report.

ID	11
Who	[Redacted] GRC TM 3
What	The PSD TM was returning from [Redacted] to the [Redacted] when the Team was slowed by traffic. Civilian traffic formed behind the PSD at a safe distance when a vehicle broke from the main body of traffic and proceeded toward the PSD at deliberate speed. The driver ignored all verbal and hand signals. When the vehicle closed to well within the vbeed danger range, the rear gunner fired a short defensive burst into the hood of the oncoming vehicle. The fiat came to an immediate stop.
Where	[Redacted]
Grid Coordinates	38SMB 5241986288
When	3/8/2005 4:45:00 PM
Impact	There were no indications of injuries to the driver of the vehicle that attempted to enter the convoy. There was no damage or casualties in the PSD. After this event the PSD encountered an ambush site that was controlled by the Iraqi Police and US Military. The PSD identified potential enemy surveillance directed at the PSD. The PSD took immediate action to leave the fire sack and took refuge at the [Redacted] until the danger passed.
Action Required	[Redacted]
POC Name	[Redacted] b6
POC Phone	[Redacted] b6
POC e-Mail	[Redacted] b6
CCIR	[Redacted]

b2, b6, b7

b2

b2

b2

b6

b6

b6

### Serious Incident Report:

(See Attached CCIR for what is considered a Serious Incident)

1. Collect as much of the information as outlined below, but DO NOT DELAY IN SENDING "FIRST REPORT".

2. Email to GRD Operations, G-3 and Chief of Staff via email (NIPR or SIPR). If the information included in report is classified the SIR must be sent via SIPR.

NOTE: INITIAL (FIRST) REPORT IS REQUIRED ALMOST IMMEDIATELY AFTER IT IS SAFE TO DO SO. GRD IS TASKED TO SUBMIT SIRs TO HIGHER HEADQUARTERS WITHIN TWO HOURS OF THE INCIDENT. FOLLOW-UP AND MORE DETAILED REPORTS (INTERIM – FINAL) WILL BE SUBMITTED AS ADDITIONAL INFORMATION IS GATHERED AND IS EXPECTED WITHIN 24 HOURS OF THE INCIDENT.

NIPR (UNCLASS Email)	SIPR (Classified Email)
[REDACTED]	[REDACTED]

b6

3. Phone GRD Operations (914) 360 – 5085; DSN: 318 836-1053; DVNT: 302-537-1088 and inform operations of the SIR and how the report was sent.

4. Send follow up reports on serious incidents until the information is complete and the entire incident is captured. Enter the following information:

Annotate appropriate SIR: FIRST – INTERIM – FINAL

A. Who: (Provide contractor information and relevant engineer project involved.)

GRC PSD Team, two USACE principals aboard [REDACTED]

b2, b6, b7F

B. Where/What: (Explain what happened and where it happened – provide grid.)

A four vehicle (Contractor's company's name withheld) PSD team was on route from [REDACTED] towards the [REDACTED] (Grid with withheld.), when the convoy was slowed by traffic. Other traffic was forming up behind the convoy and the PSD team kept them at a safe distance. A vehicle broke from the pack and proceeded, at a high rate of speed, towards the convoy.

b2  
b2

The rear gunner waved hand signals, flashing lights and his weapon to try and wave the Iraqi driver back, but these signals were ignored. In addition, the driver ignored the Arabic sign affixed to the back of the vehicle that warns vehicle to stay 50m back. A short burst of 3 SAW rounds were fired by the rear gunner into the threatening vehicle. Vehicle was immobilized.  
GRID 38S MB 5241986288

It is believed no casualties were caused.

The convoy conveyed the principals without stopping.

**C. When:** (State date and time the incident occurred and when GRD leadership was notified.)

8 1645 March 05

**D. Report impact on GRD Operations: IMPORTANT!** Ensure you provide scope and consequence, if any, on GRD Operations.

None.

**E. Other:** (List any suitable information that might be significant to the incident.)

N/A

**F. Actions Required:** (List required actions and identify who should accomplish the action.)

TBD

**G. Provide Name and Contact Information of individual taking Report:**

(Contractor's company name withheld.) PSD Team Leader

**Attached are the criteria for a CCIR: (Please highlight appropriate criteria.)**

**1. Change of Status / Attack / Sabotage / Looting on power grid (Electrical Power / Dams / Substations / Lines)**

**2. Specific Threat / Attack / Engagement / Capture / Missing GRD or Contractor Personnel or Facilities**

**3. Assassination / Attack / Kidnap or attempt on GRD or Contractor leadership**

**4. Change in Status of Local stability (permissiveness)**

**5. Loss of any GRD or Contractor personnel (any casualty)**

**6. Work stoppage on GRD project site > 24 hours**

**7. Contractor personnel leaving / threatening to leave worksite**

**8. Cancellation / Change in funding of GRD programs / projects**

**9. Change in force protection status (security personnel / HAV) that delays / stops project execution**

**10. Infraction of ROE by GRD personnel or Contractors or any event that may illicit an adverse political, media or international reaction (cross border; General Order No. 1)**

**11. IRMO Projects that miss start dates by more than three days**

March 8, 2005, PSD 7 Vehicle Convoy, "12:23 Warning Shots Fired by PSD," Incident Report (Final).

1223 Warning Shots fired by PSD  
Posted: 08 March 2005 11:38 (AST)

**INCIDENT REPORT (FINAL)**

**1. WHO (was involved)**

PSD 7 vehicle convoy

**2. WHAT HAPPENED**

A PSD convoy traveling from [redacted] to [redacted]. The vehicle was equipped with flashing lights and an orange warning panel written in Arabic indicating vehicles to stop. Whilst in [redacted] street and rounding the Circle, the traffic was backed up and caused the convoy to come to a halt.

b2  
b2

While stationary the rear vehicle indicated to the traffic behind to stop, giving approximately 100- 120 meter standoff distance from the approaching traffic. All vehicles came to a stop except one vehicle which passed the stationary vehicles and approached the rear vehicle at high speed, despite the well gunner indicating for him to stop, the well gunner fired a warning shot in the air. No injuries or damage was caused.

b2  
b2

The convoy then proceeded on and at the University on [redacted] street was forced to stop a second time, due to heavy traffic. The vehicles then again took up strategic positions while waiting for the traffic to move. At this time a blue vehicle approaching [redacted] street from a side street was seen. The well gunner from the lead vehicle started to wave the vehicle off and indicated for this vehicle to stop. The driver of the mentioned vehicle failed to comply with the gunner's instructions and was at high speed heading straight for the Principal vehicle. The well gunner then fired a warning shot in the air at this vehicle which continued to approach and finally stopped at the rear of our vehicle after the well gunner again indicated for him to stop. No injuries or damage was caused.

**3. WHERE IT HAPPENED (GRIDS)**

Grid 38S MB 44461 83257 & 38S MB 42907 82558 [redacted] street.

b2

**4. WHEN DID IT HAPPEN**

08 March 0845hrs C 05

**5. WHAT IS IMPACT ON OPERATIONS**

Nil

**6. OTHER (information relevant to incident)**

Nil

**7. ACTIONS REQUIRED**

Nil

**8. NAME OF PERSON TAKING REPORT**

ROC OPS OFFICER

**9. CONTACT INFORMATION OF PERSON TAKING REPORT**

c/o ROC

March 12, 2005, Team Leader Team 3 GRC [redacted], "Interim SIR Disable Fire Incident GRC Set 3, Possible Deliberate Attempt at Charging and Ramming of Convoy with Hostile Intent by Lone Iraqi Male National in a Sedan."



b2, b6, b7F

**INTERIM SIR DISABLE FIRE INCIDENT GRC SET 3  
12 MARCH 2005**

[Redacted] view to be inserted here on Final SIR) b2

<b>What Incident Is</b>	<b>POSSIBLE DELIBERATE ATEMPT AT CHARGING AND RAMMING OF CONVOY WITH HOSTILE INTENT BY LONE IRAQI MALE NATIONAL IN A SEDAN</b>
<b>Region</b>	[Redacted]
<b>Sector</b>	[Redacted]
<b>Site</b>	[Redacted]
<b>Where (Specific Location)</b>	38 SMB 32923 82689
<b>When (DTG)</b>	14H41 12 MAR 2005
<b>Own Casualties</b>	NONE
<b>Own Equipment Losses</b>	NONE
<b>AIF Casualties and Losses (Confirmed Not Confirmed)</b>	UNKNOWN
<b>AIF TTP</b>	ATTEMPT TO CUT INTO CONVOY AND RAMMING OF BACK VEHICLES WITH POSSIBLE HOSTILE INTENT SEDAN TYPE VEHICLE WITH LONE MALE OCCUPANT
<b>Review Of Effectiveness of Own TTP with recommendations if required</b>	TTP were not effective in that the driver of the Sedan took no notice of the waving off by the rear facing PSO and ignored the showing of the weapon. The incident had to be escalated as per RUE and finally disable fire was used.

b2

b2

b2

[Redacted] b2, b6, b7F

March 17, 2005, GRC [redacted] Team 2, ID 15, Serious Incident Report.

SIR 1196 - PSD CONVOY ATTACKED NORTH OF TAJI  
Posted: 17 February 2006 14:29 (A6T)

At 1310 hrs 17 Feb 05 a PSD convoy while traveling north on [redacted] North of Taji, stop at a MNFI cordon. Grid 385 MC 2912 2152. The MNFI where detonating a IED and had setup a cordon.

While the PSD waited for the IED to be cleared the convoy was attacked by a crowd of LNF's who tried to set fire to one of the vehicles. Warning shoots where fired and the convoy extracted to a local MNFI base. No Casualties reported.

Truck 1: Lost 2 x windows and 1 x spare wheel

Truck 2: Lost 1 x windows and the driver lost all his personal belongings



March 20, 2005, GRN [redacted] Security Team, GRN Serious Incident Report (First).

ID	[redacted] 15
Who	GRC [redacted] Team 2
What	A sedan approached the PSD team at a high rate of speed. The driver of the sedan had eye contact with the PSD rear gunner and deliberately closed with the team in defiance of the vehicle safety sign and the gunner's hand signals. The rear gunner fired a defensive disabling burst into the hood of the oncoming vehicle.
Where	[redacted]
Grid Coordinates	38SMB4287978056
When	3/17/2005 2:11:00 PM
Impact	No damage or injuries to GRC.
Action Required	
POC Name	[redacted] b6
POC Phone	[redacted] b6
POC e-Mail	[redacted] b6
CCIR	

b2, b6, b7f

b2

March 20, 2005, GRN (Contractor) Security Team, GRN Serious Incident Report (Final).

### **GRN SIR (Serious Incident Report):**

**(See Attached CCIR for what is considered a Serious Incident)**

Form last revised 24 OCT 04

1. Collect as much of the information as outlined below, but do not delay in sending "FIRST REPORT".

2. Email to GRN and GRD Operations via email. If the information included in report is classified the SIR must be sent via SIPR.

GRN

NIPR (UNCLASS Email)	SIPR (Classified Email)
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

b6

3. Phone GRN Operations VOIP – 540-527-1487/1489/1474, DNVN – 527-1198, DSN: 302 527-1198; GRD Operations (914) 360 – 5085; DSN: 318 836-1053 and inform operations of the SIR and how the report was sent.

4. Send follow up reports on serious incident until the information is complete and accurate.

CIRCLE appropriate one: FIRST – INTERIM - FINAL report

Who: GRN [REDACTED] Security Team b2, b6, b7F

What/Where: On 20<sup>th</sup> Mar 05, GRN [REDACTED] Security Team was traveling in a four vehicle convoy [Veh-1 HAV gun truck, Veh-2 HAV, Veh-3 HAV, Veh-4 Rear Gun Truck] North on [REDACTED] from [REDACTED] to [REDACTED] to pick up GRN personnel. At 1025 hours the convoy approached Checkpoint vic LF 143 785 and stopped due to traffic congestion. A white pickup truck with two male passengers approached the convoy at a high rate of speed from behind the convoy. The vehicle was given hand and arm signal warnings but continued to close on the vehicle. The side gunner of the rear HAV fired one burst of disabling fire at the vehicle. The vehicle stopped and the two occupants were wounded. One person was wounded in the arm, the second person was wounded in the lower leg. The [REDACTED] Team medic rendered first aid to the victims. The team then transported the two wounded to the [REDACTED] hospital. The team arrived at [REDACTED] hospital at approximately 1105 hours. The team arrived at [REDACTED] at 1205 hours.

b2, b6, b7F  
b2  
b2

b2, b6, b7F  
b2  
b2

When: Incident occurred 1025 hours on 20 Mar.

What is impact on GRD/GRN Operations: TBD

Other: NSTR

Actions Required:

- Team submit initial report to [REDACTED] b2
- Team conduct debrief and AAR upon return to GRN HQ

Name and Contact Information of Person Taking Report:

[REDACTED] Operations Officer, GRN/USACE; VOIP: 540-542-1461, DSN: 312-265-1461; DNVN 527-1198, [REDACTED]

b6  
b6  
b6

Attached are the criteria for a CCIR:

1. Change of Status / Attack / Sabotage / Looting on power grid (Electrical Power / Dams / Substations / Lines)
2. Specific Threat / Attack / Engagement / Capture / Missing GRD or Contractor Personnel or Facilities
3. Assassination / Attack / Kidnap or attempt on GRD or Contractor leadership
4. Change in Status of Local stability (permissiveness)
5. Loss of any GRD or Contractor personnel (any casualty)
6. Work stoppage on GRD project site > 24 hours
7. Contractor personnel leaving / threatening to leave worksite
8. Cancellation / Change in funding of GRD programs / projects
9. Change in force protection status (security personnel / HAV) that delays / stops project execution
10. Infraction of ROE by GRD personnel or Contractors or any event that may illicit an adverse political, media or international reaction (cross border; General Order No. 1)

**GRN SIR (Serious Incident Report):**

(See Attached CCIR for what is considered a Serious Incident)

Form last revised 24 OCT 04

1. Collect as much of the information as outlined below, but do not delay in sending "FIRST REPORT"

2. Email to GRN and GRD Operations via email. If the information included in report is classified the SIR must be sent via SIPR.

SIPR (UNCLASS Email)	SIPR (Classified Email)
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]

b1e

3. Phone GRN Operations VOIP – 540-527-1487/1489/1474, DNVT – 527-1198, DSN: 302 527-1198; GRD Operations (914) 360 – 5085; DSN: 318 836-1053 and inform operations of the SIR and how the report was sent.

4. Send follow up reports on serious incident until the information is complete and accurate.

CIRCLE appropriate one: **FINAL** report *New or updated information in Blue font, see attached slides*

Who: GRN (Contractor) Security Team

**What/Where:** On 20<sup>th</sup> Mar 05, GRN (Contractor) Security Team was traveling in a four vehicle convoy [Veh-1 HAV gun truck, Veh-2 HAV, Veh-3 HAV, Veh-4 Rear Gun Truck] North on [Redacted] from [Redacted] to [Redacted] to pick up GRN personnel. At 1025 hours the convoy approached Checkpoint vic (Grid) and prepared to stopped due to traffic congestion. Three civilian vehicles lined abreast of each other approached from the rear of the convoy. The rear gunner gestured hand signal warnings for the vehicles to stay back. The vehicles started to slow down when within 50 m of the rear vehicle. The left most vehicle (sedan) then pulled forward and slightly ahead of the middle vehicle (white pickup truck). The white pickup truck then accelerated around the left side of the lead sedan driving on the left shoulder and partially on the earth embankment. The rear gunner provided repeated hand gesture and verbal warnings to the white pickup. The rear gunner observed two male personnel and 3 LP gas bottles in the back of the pickup truck. The pickup closed within approximately 20 meters of the (Contractor) rear vehicle. The rear gunner did not engage the vehicle because he did not have a clear field of fire due to presence of other civilian vehicles. The driver side rear shooter heard the spot report from the rear gunner and also provided verbal and hand gesture warnings to the vehicle. The driver side rear shooter engaged the pickup truck engine compartment with one aimed burst (3 mds) when the vehicle closed within 15 m of the rear (Contractor) vehicle. The white pick up continued to proceed towards the convoy. The rear side gunner engaged the pickup truck engine compartment with a second aimed burst (3 md). The pickup truck slowed to a halt approximately 5 meters from the rear (Contractor) vehicle. The (Contractor) team was unable to proceed forward due to stopped vehicles. The team then deployed to form a cordon around the the principals vehicles and the (Contractor) Team Leader approached the white pickup to assess the potential of VBIED. The team leader observed the LP gas bottles, but did not observe indicators of IED (wires and explosives) or weapons. The team leader observed one Iraqi male, the driver, had an apparent gun shot wound to the lower right leg. The second Iraqi male, the passenger, had lacerations to his right wrist. The (Contractor) Team leader called forward for the Team

b2  
b2

Medic and assistant to render first aid. A CP supervisor approached the team leader. The supervisor stated an ambulance was not available but arranged for another civilian vehicle to transport the wounded to the [REDACTED] vic (Grid). The Team was requested to escort the wounded to the hospital to ensure they were treated. The Team arrived at the hospital at approximately 1105 hours. The Team verified the wounded were receiving treatment and attempted to leave contact information. The Team then proceeded on to the [REDACTED] and submitted a spot report to the [REDACTED] personnel.

**When:** Incident occurred 1025 hours on 20 Mar.

**What is Impact on GRD/GRN Operations:** -TBD No Impacts

**Other:** The Checkpoint personnel appeared indifferent to the incident.

**Actions Required:**

- Initial report submitted to the [REDACTED]

**Name and Contact Information of Person Taking Report:**

[REDACTED] Operations Officer, GRN/USACE; VOIP: 540-542-1461, DSN: 312-265-1461; DNVT 527-1198, SIPR: [REDACTED] NIPR: [REDACTED]

**Attached are the criteria for a CCIR:**

1. Change of Status / Attack / Sabotage / Looting on power grid (Electrical Power / Dams / Substations / Lines)
2. Specific Threat / Attack / Engagement / Capture / Missing GRD or Contractor Personnel or Facilities
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4. Change in Status of Local stability (permissiveness)
5. Loss of any GRD or Contractor personnel (any casualty)
6. Work stoppage on GRD project site > 24 hours
7. Contractor personnel leaving / threatening to leave worksite
8. Cancellation / Change in funding of GRD programs / projects
9. Change in force protection status (security personnel / HAV) that delays / stops project execution
10. Infraction of ROE by GRD personnel or Contractors or any event that may illicit an adverse political, media or international reaction (cross border; General Order No. 1)

March 25, 2005, "1260 - PSD Shoot at Low Profile PSD," Serious Incident Report.

Incident Report 1259: Dangerous PSD drills  
Posted: 25 March 2005 19:44 (AST)

BB

Incident Report 1259: Dangerous PSD drills

Reported received from YYY PSD team leader.

DTG: 25TH MARCH 2005 1600-1630 HOURS.

LOCATION: ROUTE [REDACTED] FROM [REDACTED] IN THE IZ TO THE ROUTE FORCE NORTH TURN OFF GR:35 83.

DESCRIPTION OF INCIDENT: The XXX PSD vehicles were White Ford F350 pick ups which had been converted to overt gun trucks. The XXX team was led by ex-pats but were crewed by local looking nationals using AKs and PKMs. The vehicles were up-armoured with firing ports in the windows. The XXX PSD team were escorting around 4-5 civilian trucks.

The YYY PSD team vehicles are local looking saloons and mini-buses.

The XXX PSD convoy was parked up inside the IZ just before [REDACTED]. The YYY PSD team passed them and made their way down route [REDACTED] towards BIAP. On route they slowed down as there was an American Army patrol ahead which was causing congestion.

From behind the YYY team and at great speed appeared the XXX Convoy. YYY PSD moved over to let them through and showed their air marker panel but the XXX vehicles still forced the YYY team off the road. They also forced many other vehicles off the road all the way along route [REDACTED].

YYY PSD TEAM LEADER COMMENT: "This is a continuing problem on Route [REDACTED] PSDs need to be reminded that they are not the only PSDs on the road. They also need to train their men correctly as their actions only create more enemies amongst the locals. Behaviour like this could also lead to Blue on Blue incidents. I hope that something can be done to alert ALL PSDs to this behaviour which is also carried out by PSDs in SUVs".

1260 - PSD shoot at low profile PSD  
Posted: 25 March 2005 20:32 (AST)

1260 - PSD shoot at low profile PSD

Report received from XXX PSD team leader

March 25, 2005, "Incident Report 1259: Dangerous PSD Drills," Serious Incident Report.

Title: Overt PSD shoot at low profile PSD

Date: 03/25/2005

Time: 1005

Grid Ref: 385GRMB4403284945

Injured: NIL

Details: The following is another example of a PSC with overt security vehicles not taking into account that there are other PSC's using a more low profile approach and vehicles: XXX low profile PSD team had left the IZ via Golf 1 and were about to join the Al Dawrah Expressway towards Route [REDACTED] when the rear callsign reported another PSD team moving up fast. XXX vehicles moved as far left as possible, without leaving intended route and slowed their speed. This was to allow the other PSD team through. As soon as the rear vehicle of the YYY PSD team passed vehicle 2 of the XXX team, the rear gunner fired a low velocity shot in the direction of XXX vehicle 2. XXX operator grabbed the flash card with the US flag and displayed it in the window of the vehicle. The rear gunner of the YYY PSD team then through a cylindrical object from the vehicle, possible a grenade, which was not heard to explode. The flash card was hard against the windscreen and in full view. The YYY rear gunners large calibre weapon was trained on the XXX callsign at all times. All of this was also witnessed by the rear gunner of XXX vehicle three. The incident took a few seconds from start to finish, however, a description of the YYY PSD callsigns in question are: Veh 1 - Poss white Suburban with a large antenna mounted on the bonnet Veh 2 - Black Suburban with pods, antennas poss ECM on the roof, also large antenna on the bonnet Veh 3 - Gold Suburban Veh 4 - Silver Suburban with large calibre weapon at the rear. From what could be seen all personnel belonging to the YYY PSD were wearing beige uniform and were all of western origin. At no stage did any XXX callsign present a threat to this other PSD, there were no sudden moves. Callsigns also witnessed local civilian vehicles being pushed to one side in a very aggressive manner by the whole convoy.

XXX Team Leader Comment: PSC's must have regard for other PSC's in the same theatre of operations, even if they are using different methods to achieve a similar aim

BB

April 1, 2005, [Redacted] Personnel Security Detail (PSD) Gulf Region Central Team #3, Serious Incident Report, (not numbered).



US Army Corps of Engineers

Date: 1 April 2005

Highlight/Bold Appropriate Report: FIRST – INTERIM – FINAL

Who: (List NAME(s), Organization or Contractor/Contract)

[Redacted] Personnel Security Detail (PSD) Gulf Region Central Team #3

b2, b6, b7F

What/Where: (Detail what happened and WHERE it happened Provide Grid)

On route to [Redacted] from [Redacted], route [Redacted] was taken, approaching the [Redacted] at GRID 38 SMB 40065 99069. The convoy was held up behind stationed traffic. At grid reference The SET GRC TEAM 3 convoy was threatened by a beige colour PEOGOT vehicle that speeded up on to convoy. All efforts were made to get the driver to stop. Signs were given, but the driver ignored all SOP drills. The rear gunner was forced to disable the speeding PEOGOT at about 20 meters from convoy, by shooting well aimed shots to the engine.

b2

When: (WHEN the incident happened and when GRD LEADERSHIP NOTIFIED)

10:30 AM

What is Impact on GRD Operations: (What is the So What?)

The disabled vehicle pulled of and as far known nobody was killed or injured.

Other: (List any other information that might be relevant to the incident)

None

Actions Required: (List any actions that are required and who should take the action)

Contact Information of Person Taking Report:

Select Applicable CCIR: (delete others)

1. Engagement.

April 5, 2005, GRC [redacted] PSD TM 3, ID 20, "GRC Significant Incident Report."

# GRC Significant Incident Report

**ID** 20

**Who** GRC [redacted] PSD TM 3 b2,b6,b7F

**What** PSD 3 was approached by a sedan moving at a high rate of speed. The white sedan closed to an unsafe distance until the rear vehicle of the PSD fired a defensive disabling burst. The white sedan continued to move forward into the PSD convoy and the side door gunner was obliged to fire a defensive burst as well.

**Where** On [redacted] at the intersection with [redacted] b2

**Grid Coordinates** 38 SMB 3552 9528

**When** 4/5/2005 12:10:00 PM

**Impact** None. No friendly casualties and no battle damage to the PSD. The white sedan driver may have been injured.

**Action Required** Additional investigation.

**POC Name** [redacted] b7c

**POC Phone** 540-665-5065

**POC e-Mail** [redacted] b7c

**CCIR** Engagement

April 8, 2005, "PSD Fire Warning Shots," Escalation-of-Force Serious Incident Report.

PSD fire warning shots

**WHEN**  
04/08/2005 13150

**WHERE**  
38S LB 645 055

**OUTLINE OF INCIDENT**  
Escalation of Force  
Force: Unknown  
Target: PSD

**DETAILS OF INCIDENT**  
The XXX team was travelling in a 4 armoured vehicle convoy on Mobile from Fallujah to Ramadi. At approximately, 1300 a dark colored sedan with at least two known passengers approached from the rear of the convoy. Upon rear gunner signalling with high powered flashlight to fall back and keep distance, this sedan failed to do so and kept pacing at same distance of about 100m. When the rear gunner leaned into his machine gun's sights, the sedan suddenly decelerated.  
About 15 minutes later a dark colored sedan, appeared to be the same one, accelerated to the rear of the convoy and again, upon rear gunner signalling failed to keep distance and kept approaching. At about 100m from the rear vehicle the rear gunner fired warning shots into the ground. The sedan failed to fall back, so more rounds were fired and guided the vehicle to side of the road. Approximately 10 rounds were fired and the sedan's windshield may have been damaged from ricocheting rounds

as

## K. Agreement Regarding the Status of United States Military and Civilian Personnel

Westlaw

State Dept. No. 03-67

Page 1

State Dept. No. 03-67, 2003 WL 21754316 (Treaty)

(Publication page references are not available for this document.)

UNITED STATES OF AMERICA  
Afghanistan

Agreement regarding the Status of United States Military and Civilian Personnel of the U.S. Department of Defense Present in Afghanistan in connection with Cooperative Efforts in Response to Terrorism, Humanitarian and Civic Assistance, Military Training and Exercises, and Other Activities

Entered into force May 28, 2003

Effected by exchange of notes September 26 and December 12, 2002 and May 28, 2003

DIPLOMATIC NOTE

Note

DIPLOMATIC NOTE

No. 202

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Islamic Transitional Government of Afghanistan, and has the honor to refer to discussions between representatives of our two governments regarding issues related to United States military and civilian personnel of the United States Department of Defense who may be present in Afghanistan in connection with cooperative efforts in response to terrorism, humanitarian and civic assistance, military training and exercises, and other activities.

The Embassy proposes, without prejudice to the conduct of ongoing military operations by the United States, that such personnel be accorded a status equivalent to that accorded to the administrative and technical staff of the Embassy of the United States of America under the Vienna Convention on Diplomatic Relations of April 18, 1961; that United States personnel be permitted to enter and exit Afghanistan with United States identification and with collective movement or individual travel orders; that Afghan authorities shall accept as valid, without a driving fee or test, driving licenses or permits issued by the appropriate United States authorities to United States personnel for the operation of vehicles; and that such personnel be authorized to wear uniforms while performing official duties and to carry weapons when their orders call for it.

The Embassy further proposes that vehicles and aircraft owned or operated by or for the United States armed forces shall not be subject to the payment of landing, navigation, over flight or parking charges or overland transit fees or tolls while in Afghanistan; however, the United States armed forces shall pay reasonable charges for services requested and received. Aircraft and vehicles of the United States shall be free of inspections.

The Government of the United States of America, its military and civilian personnel, contractors and contractor personnel shall not be liable to pay any tax or similar charge assessed within Afghanistan.

The Government of the United States of America, its military and civilian personnel, contractors and contractor personnel may import into, export out of, and use in the Republic of Afghanistan any personal property, equipment, supplies, materials, technology, training or services required to implement this agreement.

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State Dept. No. 03-67

Page 2

State Dept. No. 03-67, 2003 WL 21754316 (Treaty)

(Publication page references are not available for this document.)

Such importation, exportation and use shall be exempt from any inspection, license, other restrictions, customs duties, taxes or any other charges assessed within Afghanistan. The governments of the United States of America and Afghanistan shall cooperate in taking such steps as shall be necessary to ensure the security of United States personnel and property in Afghanistan.

In the event that the government of the United States of America awards contracts for the acquisition of articles and services, including construction, such contracts shall be awarded in accordance with the laws and regulations of the Government of the United States of America. Acquisition of articles and services in the republic of Afghanistan by or on behalf of the Government of the United States of America in implementing this agreement shall not be subject to any taxes, customs duties or similar charges in Afghanistan.

The Government of Afghanistan recognizes the particular importance of disciplinary control by United States military authorities over United States personnel and, therefore, Afghanistan authorizes the United States Government to exercise criminal jurisdiction over United States personnel. The Government of Afghanistan and the Government of the United States of America confirm that such personnel may not be surrendered to, or otherwise transferred to, the custody of an international tribunal or any other entity or state without the express consent of the Government of the United States.

The Government of Afghanistan recognizes that it shall be necessary for United States personnel and systems to use the radio spectrum. The United States Government shall be allowed to operate its own telecommunication systems (as telecommunication is defined in the 1992 Constitution of the International Telecommunication Union). This shall include the right to utilize such means and services as required to assure full ability to operate telecommunication systems, and the right to use all necessary radio spectrum for this purpose. Use of radio spectrum shall be free of cost.

Finally, the Embassy proposes that, other than contractual claims, the parties waive any and all claims against each other for damage to, or loss or destruction of, property owned by each party, or death or injury to any military or civilian personnel of the armed forces of either party, arising out of activities in Afghanistan under this agreement. Claims by third parties arising out of the acts or omissions of any United States personnel may, at the discretion of the United States Government, be dealt with and settled by the United States Government in accordance with United States law.

If the foregoing is acceptable to the Government of Afghanistan, the Embassy proposes that this note, together with the Ministry's reply to that effect, shall constitute an agreement between the two governments which shall enter into force on the date of the Ministry's reply.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Transitional Islamic Government of Afghanistan the assurances of its highest consideration.

Embassy of the United States of America Kabul, September 26, 2002

Transitional Islamic State of Afghanistan

Ministry of Foreign Affairs

[SEAL]

Fifth Political Department

State Dept. No. 03-67  
 State Dept. No. 03-67, 2003 WL 21754316 (Treaty)  
 (Publication page references are not available for this document.)

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Document No. 791

Date: December 12, 2002

Note

The Ministry of Foreign Affairs of the Transitional Islamic Government of Afghanistan respectfully informs the Embassy of the United States of America:

Following the negotiations between the Honorable Minister of Foreign Affairs and the American side that took place in Washington, the Ministry of Foreign Affairs declares its concurrence with the content of Note No. 202 dated, September 26, 2002, of the esteemed Embassy regarding the application of the provisions of the 1961 Vienna Convention to the civilian and military personnel of the United States of America.

The Ministry of Foreign Affairs avails itself of this opportunity to reiterate the assurances of its consideration.

[Stamp of the Ministry of Foreign Affairs]

America and Canada Political Affairs Division

Document No. 93

Date: May 28, 2003

To the Embassy of the United States of America in Kabul:

Pursuant to Note No. 791, dated December 12, 2002, regarding the conclusion of an agreement for application of the provisions of the 1961 Vienna Convention to the civilian and military personnel of the United States Department of Defense present in Afghanistan for the useful campaign against terrorism, humanitarian assistance, and other activities, the Ministry of Foreign Affairs declares its concurrence with the terms of Note No. 202, dated September 26, 2002, which reads as follows.

(The Embassy of the United States of America without prejudice to the ongoing military operations by the United States, proposes that such personnel be given the status equivalent to the one given to the administrative and technical staff of the United States Embassy under the Vienna Convention on Diplomatic Relations of April 18, 1961; that the personnel of the United States be permitted to enter and exit Afghanistan with United States identification and with collective movement or individual travel orders; that Afghan authorities shall accept as valid, without a driving fee or test, the licenses and permits issued by the appropriate authorities of the United States to the personnel of the United States for operating vehicles; and that while performing official duties, the personnel should be authorized to wear uniforms and carry weapons when needed.

The Embassy also proposes that vehicles and airplanes owned or operated by or for the United States armed forces shall not be subject to the payment of landing, navigation, over flight or parking charges or overland transit fees or tolls while in Afghanistan. However, the United States armed forces shall pay reasonable charges for service requested or received. US planes and vehicles of the United States shall be free of inspection.

The Government of the United States, its military and civilian personnel, contractors and contractor personnel shall not be liable for any kind of tax or other similar fees assessed within Afghanistan.

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(Publication page references are not available for this document.)

The Government of the United States, its military and civilian personnel, contractors and contractors personnel may import and export any personal property, equipment, supplies, materials, technology, training services that are required for the implementation of this agreement and use them in Afghanistan. Such importation, exportation and use should be exempt from any inspection, license, other limitations, tariffs or any other rental charges assessed in Afghanistan. If necessary, the Governments of the United States and Afghanistan shall cooperate for takings steps to ensure the security of the United States personnel and property in Afghanistan.

If at any time the Government of the United States of America awards contracts to acquire materials and services, including construction, they should be awarded in accordance with the law and regulations of the Government of the United States. The acquisition of material and services in Afghanistan by the Government of the United States of America or on its behalf in implementation of this agreement shall not be subject to any taxes, tariffs or similar charges in Afghanistan.

The government of Afghanistan recognizes the particular importance of disciplinary control by the United States military authorities over United States personnel and the Government of Afghanistan authorizes the United States of America to exercise its criminal jurisdiction over the personnel of the United States. The Government of Afghanistan and the Government of the United States confirms that without the explicit consent of the Government of the United States, such personnel may not be surrendered to, or otherwise transferred to the custody of an international tribunal or any other entity or State.

The Government of Afghanistan recognizes the right of use of the radio spectrum for the personnel and systems of the United States. The United States shall be allowed to operate its own telecommunication systems (as defined in the constitution of the International Telecommunication Union). This shall include the right to use such means and services as required, assuring full ability to operate telecommunication systems, and the right to use all necessary radio spectrum for this purpose. Use of the radio spectrum shall be free of cost.

Finally the Embassy proposes that, other than contractual claims, the parties waive any and all claims against each other for damage to or loss or destruction of property owned by either party, or death or injury to any military or civilian personnel of the armed forces of either party, as a result of activities in Afghanistan under this agreement. Claims by third parties that will arise as a result of the actions or omissions of United States personnel should, at the discretion of the United States Government, be dealt with and settled in accordance with United States law).

With reference to the content of the above Note of the esteemed Embassy, the Ministry of Foreign Affairs declares that this document shall enter into force upon signature.

Respectfully,

Doctor Abdullah

Minister of Foreign Affairs of the Transitional Islamic State of Afghanistan

State Dept. No. 03-67, 2003 WL 21754316 (Treaty)

END OF DOCUMENT

## Endnotes

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- <sup>2</sup> Alissa J. Rubin, "Iraqi Cabinet Votes to End Security Contractor Immunity," *New York Times* (October 30, 2007), available at <http://www.nytimes.com/2007/10/31/world/middleeast/31iraq.html> (accessed December 1, 2007).
- <sup>3</sup> While Human Rights First has been critical of the Department of Defense's failure to hold senior military officers criminally accountable in this case, the comparison with contractors is revealing: in the latter case, *none* have seen trial.
- <sup>4</sup> General George Fay identified five contractors in his official report on Abu Ghraib. See Lieutenant General Anthony R. Jones, Article 15-6 Investigation of the Abu Ghraib Prison and 205th Military Intelligence Brigade, August 2004, pp. 130-134, available at [http://www.humanrightsfirst.org/us\\_law/800th\\_MP\\_Brigade\\_MASTER14\\_Mar\\_04-dc.pdf](http://www.humanrightsfirst.org/us_law/800th_MP_Brigade_MASTER14_Mar_04-dc.pdf) (accessed September 30, 2007). Henceforth "Fay Report". Major General Antonio Taguba also named 2 contractors in his investigation. See Major General Antonio N. Taguba, Report of the Article 15-6 Investigation of the 800<sup>th</sup> Military Police Brigade, March 2004, p. 48, available at [http://www.humanrightsfirst.org/us\\_law/800th\\_MP\\_Brigade\\_MASTER14\\_Mar\\_04-dc.pdf](http://www.humanrightsfirst.org/us_law/800th_MP_Brigade_MASTER14_Mar_04-dc.pdf), (last accessed November 29, 2007). Henceforth "Taguba Report."
- <sup>5</sup> The Fay report, and testimony from subsequent courts-martial of military personnel, identified five private contractors allegedly involved in the use of abusive techniques, and recommended that they be forwarded to the Army General Counsel to determine whether they should be referred to the DoJ for prosecution. Fay Report, pp. 130—134; Mark Benjamin and Michael Scherer, "Big Steve' and Abu Ghraib," *Salon.com*, March 31, 2006, available at [http://www.salon.com/news/feature/2006/03/31/big\\_steve/index\\_np.html](http://www.salon.com/news/feature/2006/03/31/big_steve/index_np.html) (accessed December 1, 2007).
- <sup>6</sup> In February 2006 the Senate Judiciary Committee questioned Paul J. McNulty, then serving as U.S. Attorney for the Eastern District of Virginia, upon his nomination to become the Deputy Attorney General under Alberto Gonzales. Committee members noted that the task force had received nineteen referrals on alleged detainee abuse in Iraq and Afghanistan, including cases from Abu Ghraib, but after a year-and-a-half still had not brought any formal charges. Senate Committee on the Judiciary, *Confirmation of the Nomination of Paul J. McNulty, of Virginia, to be Deputy Attorney General, Department of Justice*, 109<sup>th</sup> Congress, 2<sup>nd</sup> Sess., February 2, 2006. S-HRG 109-722, p. 36, available at [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109\\_senate\\_hearings&docid=f:31446.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_senate_hearings&docid=f:31446.pdf) (accessed December 12, 2007). See also Mark Benjamin, "No Justice For All," *Salon.com*, March 31, 2006, available at [http://www.salon.com/news/feature/2006/03/31/big\\_steve/](http://www.salon.com/news/feature/2006/03/31/big_steve/) (accessed December 12, 2007).
- <sup>7</sup> Department of Justice, United States Attorney Eastern District of North Carolina, "David Passaro Sentenced to 100 Months Imprisonment: First American Civilian Convicted of Detainee Abuse During the Wars in Iraq and Afghanistan," news release, February 13, 2007, available at <http://charlotte.fbi.gov/dojpressrel/2007/ce021307.htm> (accessed December 4, 2007). (Henceforth, DOJ press release, "David Passaro Sentenced to 100 Months Imprisonment.")
- <sup>8</sup> "More than 180,000 civilians — including Americans, foreigners and Iraqis — are working in Iraq under U.S. contracts, according to State and Defense department figures obtained by the Los Angeles Times." T. Christian Miller, "IRAQ: Private Contractors Outnumber U.S. Troops in Iraq," *L.A. Times*, July 4, 2007, available at <http://www.corpwatch.org/article.php?id=14554> (accessed December 11, 2007).
- <sup>9</sup> "U.S. military officials acknowledged that the [U.S. Central Command] census [of contractors working on U.S. and Iraqi bases] did not include other government agencies, including the U.S. Agency for International Development and the State Department.... State Department officials said they could not provide the department's number of contractors." Miller, "Private Contractors Outnumber U.S. Troops in Iraq."
- <sup>10</sup> Human Rights First includes in this estimate those private contractors that bear arms and conduct security operations even if not formally designated as security contractors. Reported estimates range widely. A 2006 GAO Report cited a 2005 Department of Defense estimate of 25,000 security contractors and a Private Security Company Association of Iraq (PSCAI) estimate of over 48,000 security contractors. Statement of William Solis, Director Defense Capabilities and Management, United States Government Accountability Office, Testimony Before the Subcommittee on National Security, Emerging Threats, and International Relations, Committee on Government Reform, June 13, 2006, GAO-06-865T, p. 2, available at <http://www.gao.gov/new.items/d06865t.pdf> (accessed November 29, 2007). (Henceforth GAO Report, June 13, 2006.) However, Robert Pelton writes, "The PSCAI best estimate is that there are more than 70,000 privately armed men in Iraq, not including insurgents or militias." Robert Young Pelton, *Licensed To Kill: Hired Guns in the War on Terror* (New York: Three Rivers Press, 2007), p. 336. Other estimates have been made by Doug Brooks, president of the International Peace Operations Association told Reuters in September 2007 that there were 20,000—

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- <sup>11</sup> The GAO in 2006 cited the Director of the Private Security Companies Association of Iraq estimating that there were a total of 181 private security companies working in Iraq alone as of March 2006. GAO Report, June 13, 2006, p. 2.
- <sup>12</sup> According to the Army Corps of Engineers, Zapata Engineering is not itself a security contractor, though it has an agreement with the Army Corps of Engineers that allows the firm to hire or subcontract necessary security personnel. David Phinney, "Marines Jail Contractors in Iraq," Corpwatch.org, June 7, 2005, available at <http://www.corpwatch.org/article.php?id=12349> (accessed December 11, 2007).
- <sup>13</sup> Josh White & Griff Witte, "Tension, Confusion Between Troops, Contractors in Iraq," *Washington Post*, July 10, 2005, available at <http://www.washingtonpost.com/wp-dyn/content/article/2005/07/09/AR2005070901175.html> (accessed December 11, 2007).
- <sup>14</sup> There were three Iraqi maintenance workers in the group.
- <sup>15</sup> Griff Witte & Josh White, "Navy Won't File Charges in Iraq Contractor Fracas," *Washington Post*, March 25, 2006, available at [http://www.washingtonpost.com/wp-dyn/content/article/2006/03/24/AR2006032401840\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2006/03/24/AR2006032401840_pf.html) (accessed December 1, 2007).
- <sup>16</sup> Witte & White, "Navy Won't File Charges in Iraq Contractor Fracas."
- <sup>17</sup> 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, available at [http://www.washingtonpost.com/wp-dyn/content/article/2007/04/14/AR2007041401490\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2007/04/14/AR2007041401490_pf.html) (accessed December 1, 2007); Lisa Myers, Aram Roston & the NBC News Investigative Unit, "Did an American Fire on Iraqis Unprovoked?," NBC Nightly News, December 21, 2006, available at <http://www.msnbc.msn.com/id/16316248/> (accessed December 1, 2007).
- <sup>18</sup> Sheppard and Schmidt say they have not been contacted. 'There's been no follow-up whatsoever by any government agencies,' says Schmidt." Myers, "Did an American Fire on Iraqis Unprovoked?"
- <sup>19</sup> Fainaru, "Four Hired Guns"; Myers, "Did an American fire on Iraqis Unprovoked?"
- <sup>20</sup> Criminal Investigative Division (CID) Report of Investigation, December 25, 2006; Blackwater Memorandum to State Department re: Termination of Independent Contractor (Dec. 25, 2006); Blackwater Developmental Counseling Form (December 25, 2006); and Diplomatic Security Service Incident Report January 12, 2007, cited in Memo from Majority Staff to Members of the Committee on Oversight and Government Reform Re: Additional Information About Blackwater USA, October 1, 2007, pp. 9-10, available at <http://oversight.house.gov/story.asp?id=1510> (accessed December 1, 2007). (Henceforth, House, Blackwater Memorandum.)
- <sup>21</sup> House, Blackwater Memorandum, pp. 9-10. See also Bill Sizemore, "Blackwater Supports Inquiry into Fatal Shooting," *Virginian-Pilot*, July 25, 2007, available at <http://content.hamptonroads.com/story.cfm?story=129077&ran=169933> (accessed December 1, 2007); Yochi J. Dreazen, "New Scrutiny for Iraq Contractors," *Wall Street Journal*, May 14, 2007, available at [http://online.wsj.com/public/article/SB117910638122101554-TMh1\\_CHvlg\\_lIqHLOV7fFcXd4\\_20070613.html?mod=fpa\\_editors\\_picks](http://online.wsj.com/public/article/SB117910638122101554-TMh1_CHvlg_lIqHLOV7fFcXd4_20070613.html?mod=fpa_editors_picks) (accessed October 3, 2007).
- <sup>22</sup> Dreazen "New Scrutiny for Iraq Contractors," and Gene Johnson, Associated Press, "Legal Avenues Against Blackwater Murkey," *Washington Post*, October 3, 2007, available at <http://www.washingtonpost.com/wp-dyn/content/article/2007/10/03/AR2007100300093.html?tid=informbox> (accessed December 1, 2007).
- <sup>23</sup> Karen DeYoung and Ann Scott Tyson, "Blackwater Faces New Monitoring From State Dept.: Pentagon Reports Poor Coordination With Security Contractors in Iraq," *Washington Post*, October 6, 2007, available at <http://www.washingtonpost.com/wp-dyn/content/article/2007/10/05/AR2007100500865.html?wpisrc=newsletter> (accessed October 6, 2007).
- <sup>24</sup> Jennifer K. Elsea and Nina M. Serafino, *Private Security Contractors in Iraq: Background, Legal Status, and Other Issues*, CRS Report to Congress, order code RL32419, July 11, 2007, pp. 27-30. T. Christian Miller, "Iraq: Private Security Guards Operate with Little Supervision," *Los Angeles Times*, December 4, 2005.
- <sup>25</sup> "The military has brought charges against dozens of soldiers and Marines in Iraq, including 64 servicemen linked to murders." Fainaru, "Four Hired Guns." Deborah Hastings also reports that more than 60 soldiers have been court-martialed on murder-related charges involving Iraqi citizens, in Deborah Hastings, Associated Press, "Contractors in Iraq Accused of Opening Fire on Civilians and Soldiers," ABCNews.com, August 11, 2007, available at <http://www.abcnews.go.com/US/wireStory?id=3470191> (accessed October 16, 2007).
- <sup>26</sup> Department of Justice, "Prepared Remarks of Attorney General John Ashcroft - Passaro Indictment Announcement," June 17, 2004, available at <http://www.usdoj.gov/archive/ag/speeches/2004/ag061704.htm> (accessed January 4, 2008).
- <sup>27</sup> Memorandum, Michael E. Bishop (Al Hillah RSO), to Mark J. Hunber (Baghdad), Subject: Pending claims filed against USREO Al-Hillah for incidents involving PSD, July 5, 2005, included as link in Brian Ross, "Exclusive: State Dept. E-Mails Say Blackwater Hurting U.S. in Iraq," *The Blotter*, ABCNews.com, October 25, 2007, available at [http://blogs.abcnews.com/theblotter/2007/10/exclusive\\_state.html](http://blogs.abcnews.com/theblotter/2007/10/exclusive_state.html) (accessed December 2, 2007).
- <sup>28</sup> Sabrina Tavernise and James Glanz, "Guards' Shots Not Provoked, Iraq Concludes," *New York Times*, September 21, 2007, available at <http://www.nytimes.com/2007/09/21/world/middleeast/21blackwater.html> (accessed October 30, 2007).
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- <sup>37</sup> *Ibid.*
- <sup>38</sup> *Ibid.*
- <sup>39</sup> "Truck drivers and translators accounted for a significant share of the casualties, but the recent death toll includes others who make up what amounts to a private army." Broder and Risen, "Contractor Deaths in Iraq Soar to Record."
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- <sup>42</sup> Raghavan and Ricks, "Private Security Puts Diplomats, Military at Odds: Contractors in Iraq Fuel Debate."
- <sup>43</sup> House, Blackwater Memorandum.
- <sup>44</sup> Blackwater PSD Incident Report (October 24, 2005), cited in House, Blackwater Memorandum, p. 7.
- <sup>45</sup> "According to a Blackwater contractor who was on the mission, the tactical commander of the mission 'openly admitted giving clear direction to the primary driver to conduct these acts of random negligence for no apparent reason.' The only apparent sanction resulting from this incident was the termination of two of the employees." Blackwater Memorandum re: Termination of Independent Contractors (Nov. 28, 2005), cited in House, Blackwater Memorandum p. 8.
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- <sup>47</sup> Blackwater Worldwide (previously Blackwater USA) has four areas of competencies: Advanced Training, Logistics Mobility, which includes supply chain management, Technology/Innovation, which includes Blackwater's work with armored personnel vehicles and unmanned aerial vehicles, and Human/Material Resources. Blackwater Worldwide, "Company History," Blackwater Worldwide, [http://www.blackwaterusa.com/company\\_profile/comp\\_history.html](http://www.blackwaterusa.com/company_profile/comp_history.html) (accessed December 5, 2007). See also Robert O'Harrow and Dana Hedgpeth, "Building Blackwater," *Washington Post*, October 13, 2007, available at <http://www.washingtonpost.com/wp-dyn/content/article/2007/10/12/AR2007101202487.html> (accessed December 5, 2007). The article notes that "Blackwater has an airship and hangar filled with gleaming helicopters, a manufacturing plant for assembling armored cars, a pound filled with bomb-sniffing dogs and a lake with mock ships for training sailors. An armory is stacked to the ceiling with rifles. Throughout the place are outdoor ranges where military, intelligence and law enforcement authorities from around the country practice shooting."
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- <sup>53</sup> O'Harrow Jr. and Hedgpeth, "Building Blackwater."
- <sup>54</sup> House, Blackwater Memorandum, p. 5.
- <sup>55</sup> House, Blackwater Memorandum, p. 3.
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- <sup>59</sup> See Jeremy Scahill, *Blackwater: The Rise of the World's Most Powerful Mercenary Army* (New York: Nation Books, 2007), pp. 347—356, reviewing multiple occasions when Blackwater officials, and supporters, promoted the possibility of Blackwater being used in Darfur and other humanitarian and stabilization operations.
- <sup>60</sup> House, Blackwater Memorandum, p. 7. The report notes, "When Blackwater's performance is compared to that of the other two State Department contractors, DynCorp and Triple Canopy, the reports reveal that Blackwater participated in more shooting incidents than the other two companies combined. For the time period from January 1, 2005, through April 30, 2007, Blackwater fired weapons in 168 incidents, as compared to 102 incidents for DynCorp and 36 shooting incidents for Triple Canopy. Blackwater also fired first at a higher rate than its counterparts on the State Department contract, although the incidence of firing first was high for all three contractors."
- <sup>61</sup> At a press conference on October 25, 2007, U.S. Ambassador Ryan Crocker, who had praised Blackwater shortly before the September 16 incident, was asked if he still felt as confident in Blackwater. Crocker responded, "these guys guard my back. And I have to say, they do it extremely well. I continue to have high regard for the individuals who work in Blackwater, as I do for the other security contractors." Embassy of the United States, Baghdad, Iraq, "Ambassador Ryan Crocker Media Roundtable," press release, October 25, 2007, available at [http://iraq.usembassy.gov/iraq/20071025\\_crocker\\_roundtable.html](http://iraq.usembassy.gov/iraq/20071025_crocker_roundtable.html) (accessed December 6, 2007).
- <sup>62</sup> See, e.g. Robert Young Pelton, talking about Blackwater's presentation to Secretary of State Colin Powell on the possibility of deploying Blackwater personnel in Sudan, "If you look at the presentation, it includes not only men with guns. They're offering helicopter gunships, a fighter bomber that has the capacity to drop cluster

- bombs, and [satellite-guided weapons], armored vehicles. You say: 'Wait a minute. That's a lot of offensive force. What does that have to do with peacekeeping?'" quoted in Willis Witter, "Private Firms Eye Darfur," *Washington Times*, October 2, 2006, page A10.
- <sup>63</sup> Blackwater started an Airships division, Blackwater Airships LLC, in 2006 with the "mission to build a remotely piloted airship vehicle (RPAV). Although seemingly different from the traditional Blackwater mission, this new venture to provide a persistent surveillance capability is fully consistent with the Blackwater goal of offering solutions which help to protect our forces wherever they are deployed and support our homeland security." Blackwater USA, "Airships," Blackwater Worldwide, <http://www.blackwaterusa.com/airship/> (accessed December 5, 2007).
- <sup>64</sup> Joanne Kimberlin and Bill Sizemore, "Blackwater: Inside America's Private Army," *Virginian-Pilot*, July 23, 2007, available at <http://content.hamptonroads.com/story.cfm?story=107946&ran=29743>, (accessed September 27, 2007).
- <sup>65</sup> Kimberlin and Sizemore, "Blackwater: New Horizons."
- <sup>66</sup> Memorandum, Michael E. Bishop (Al Hillah RSO), to Mark J. Hunber (Baghdad), Subject: Pending claims filed against USREO Al-Hillah for incidents involving PSD, July 5, 2005, included as link in Ross, "Exclusive: State Dept. E-Mails Say Blackwater Hurting U.S. in Iraq." (Emphasis added.)
- <sup>67</sup> Iraqi police reportedly said the convoy went from the scene of the incident "to a base operated by the U.S. Agency for International Development that is guarded by DynCorp International, an American firm." A DynCorp spokesman denied its personnel in the area had left their compound that day. U.S. officials conducted an investigation but found that DynCorp contractors were not responsible for the incident, saying the Iraqis were shot from the rear by "an as yet unknown party and not from the front by DynCorp." Irbil police, however, say "Witnesses only saw a shot from the front. And we found his hair and blood towards the back window, which supports that. We are 1 million percent sure." Finer, "Security Contractors in Iraq Under Scrutiny After Shootings." One of the problems with private security contractors is the fact that because they do not wear uniforms and may not mark their vehicles it can be difficult or impossible for local civilians, local officials or U.S. government officials to determine specific contractor responsibility.
- <sup>68</sup> The CEO of Custer Battles, in turn, called the allegations "completely baseless and without merit," said there was "no evidence" to support them, and asserted that in one shooting incident the individual allegedly responsible had not been an "employee" but a "subcontractor." Lisa Meyers and the NBC News Investigative Unit, "U.S. Contractors in Iraq Allege Abuses," NBC News, February 17, 2005, available at <http://www.msnbc.msn.com/id/6947745/> (accessed October 22, 2007).
- <sup>69</sup> Ibid.
- <sup>70</sup> The company reportedly suspended operations in Iraq earlier this year "because of weapons violations," while denying any wrongdoing. Steve Fainaru, "Guards in Iraq Cite Frequent Shootings; Companies Seldom Report Incidents, U.S. Officials Say," *Washington Post*, October 3, 2007, available at [http://www.washingtonpost.com/wp-dyn/content/article/2007/10/02/AR2007100202456\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2007/10/02/AR2007100202456_pf.html) (accessed October 16, 2007).
- <sup>71</sup> Fainaru, "Where Military Rules Don't Apply: Blackwater's Security Force in Iraq Given Wide Latitude by State Dept."
- <sup>72</sup> "Horst declined to provide the name of the contractors whose employees were involved in the 12 shootings he documented in the Baghdad area. But he left no doubt that he believed the May 12 incident, in which three people were killed, led directly to the attack on his soldiers that came days later on the same block.... 'Do you think that's an insurgent action? Hell no,' Horst said. 'That's someone paying us back because their people got killed. And we had absolutely nothing to do with it.'" Finer, "Security Contractors in Iraq Under Scrutiny After Shootings."
- <sup>73</sup> Ibid.
- <sup>74</sup> Deborah Hastings, Associated Press, "Iraq Contractors Avoid Legal Restraints," *USA Today*, August 11, 2007, available at [http://www.usatoday.com/news/world/iraq/2007-08-11-contractors\\_n.htm](http://www.usatoday.com/news/world/iraq/2007-08-11-contractors_n.htm) (accessed October 15, 2007).
- <sup>75</sup> Aegis Defense Systems, "Aegis," Aegis Defense Systems, Ltd., <http://www.aegisworld.com/> (accessed November 2, 2007).
- <sup>76</sup> Ray O'Hanlan, "Botched Investigation?," *Irish Echo*, June 14-20, 2006, available at <http://www.irishecho.com/search/searchstory.cfm?id=17970&issueid=471> (accessed December 6, 2007); Charles M. Sennott, "Security Firm's \$293m Deal Under Scrutiny," *Boston Globe*, June 22, 2004, available at [http://www.boston.com/news/world/articles/2004/06/22/security\\_firms\\_293m\\_deal\\_under\\_scrutiny/](http://www.boston.com/news/world/articles/2004/06/22/security_firms_293m_deal_under_scrutiny/) (accessed December 6, 2007).
- <sup>77</sup> Fainaru and Klein, "In Iraq, a Private Realm of Intelligence Gathering."
- <sup>78</sup> Ibid.
- <sup>79</sup> Aegis Defense Systems, "Frequently Asked Questions," Aegis Defense Systems, Ltd., <http://www.aegisworld.com/aegis-faq.html> (accessed November 2, 2007).
- <sup>80</sup> Fainaru and Klein, "In Iraq, a Private Realm of Intelligence-Gathering."
- <sup>81</sup> Ibid.
- <sup>82</sup> Fainaru and Klein, "In Iraq, a Private Realm of Intelligence-Gathering;" GAO Report, July 2005, pp. 23-26.
- <sup>83</sup> Aegis Defense Systems, "Case Studies: Supporting Elections," Aegis Defense Systems, Ltd., [http://www.aegisworld.com/case\\_studies.html](http://www.aegisworld.com/case_studies.html) (accessed December 6, 2007).
- <sup>84</sup> Letter from Senators Hillary Rodham Clinton, Edward M. Kennedy, Christopher J. Dodd, Charles E. Schumer and John F. Kerry to Secretary of Defense Donald Rumsfeld, August 25, 2004, available at <http://www.senate.gov/~clinton/news/statements/record.cfm?id=254393> (accessed October 4, 2007).
- <sup>85</sup> Ray O'Hanlon, "Spicer speared in scathing U.S. report" *Irish Echo*, May 4-10, 2005, available at <http://www.serve.com/pfc/pmcbri/050504ie.html> (accessed November 2, 2007).
- <sup>86</sup> Special Inspector General for Iraq Reconstruction, Special Inspector General for Iraq Reconstruction Report to Congress, April 30, 2005, p. 5, available at [http://www.sigir.mil/reports/QuarterlyReports/Apr05/SIGIR\\_Report\\_April\\_30\\_2005.pdf](http://www.sigir.mil/reports/QuarterlyReports/Apr05/SIGIR_Report_April_30_2005.pdf) (accessed December 6, 2007).
- <sup>87</sup> Ibid. Aegis responded that it was too difficult to do police background checks on all Iraqi employees because past records had been destroyed. See Walter Pincus, "Security Contracts to Continue in Iraq," *The Washington Post*, February 4, 2007, available at <http://www.washingtonpost.com/wp-dyn/content/article/2007/02/03/AR2007020301372.html> (accessed December 6, 2007).
- <sup>88</sup> Pincus, "Security Contracts to Continue in Iraq."
- <sup>89</sup> Alec Klein, "U.S. Army Awards Iraq Security Work to British Firm," *Washington Post*, September 14, 2007, available at: <http://www.washingtonpost.com/wp-dyn/content/article/2007/09/13/AR2007091302237.html> (accessed December 6, 2007).
- <sup>90</sup> Finer, "Security Contractors in Iraq Under Scrutiny After Shootings." GAO discussions with the 3<sup>rd</sup> Infantry Division in Iraq in May 2006 revealed ongoing tensions between the military and security contractors:
- 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. ... 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. GAO Report, June 13, 2006, pp. 8–9.

- <sup>91</sup> Raghavan and Ricks, "Private Security Puts Diplomats, Military at Odds: Contractors in Iraq Fuel Debate." Peter Singer also describes the tensions between military personnel and private security contractors in Iraq. See P.W. Singer, "Can't Win With 'Em, Can't Go to War Without 'Em: Private Military Contractors and Counterinsurgency," Foreign Policy at Brookings Policy Paper, Number 4, September 2007, available at <http://www.brookings.edu/~media/Files/rc/papers/2007/0927militarycontractors/0927militarycontractors.pdf> (accessed December 3, 2007).
- <sup>92</sup> Fainaru, "Guards in Iraq Cite Frequent Shootings." A 2005 GAO report noted that "participation in the ROC...is open (at no cost) to all U.S. government agencies, contractors, and nongovernmental organizations operating in Iraq." United States Government Accountability Office, "Rebuilding Iraq: Actions Needed to Improve Use of Private Security Providers," Report to Congressional Committees, July 2005, GAO-05-737, p. 25. (Henceforth, GAO Report, July 2005.)
- <sup>93</sup> Fainaru, "Guards in Iraq Cite Frequent Shootings."
- <sup>94</sup> Hastings, "Iraq Contractors Avoid Legal Restraints."
- <sup>95</sup> "Blackwater said that its movements are tracked by the military under separate U.S. government contracts and that it thus does not need to participate. DynCorp said it also is monitored separately." Steve Fainaru and Alec Klein, "In Iraq, a Private Realm of Intelligence Gathering," *Washington Post*, July 1, 2007, available at <http://www.washingtonpost.com/wp-dyn/content/article/2007/06/30/AR2007063001075.html> (accessed December 2, 2007).
- <sup>96</sup> 610 declassified Serious Incident Reports (SIRs), filed from July 1, 2004 through April 6, 2005, were released by the Department of the Army in response to a Freedom of Information Act (FOIA) request. These reports were reviewed on Human Rights First's behalf by the law firm Linklaters LLP (Linklaters). The reports were heavily redacted, with the names of all companies and individuals redacted, but provide summary descriptions of incidents reported by the contractors themselves. The *Los Angeles Times* also reviewed almost 200 SIRs released under a FOIA request that were filed some time between November 2004 and December 2005. T. Christian Miller, "Private Security Guards in Iraq Operate With Little Supervision," *Los Angeles Times*, December 4, 2005, available at <http://www.corpwatch.org/article.php?id=12846> (accessed December 6, 2007). In addition, Linklaters interviewed Jay Price of the *News and Observer*, who received a set of some 400 SIRs under a FOIA request. Price first reported on the material in Jay Price, "Hired guns unaccountable," *News and Observer*, March 23, 2006, available at <http://www.newsobserver.com/505/story/421071.html>, (accessed October 6, 2007). His description of his material is in keeping with Linklaters' and Human Rights First's own analysis of the SIRs reviewed. Linklaters phone interview with Jay Price, *News and Observer*, July 25, 2007. Linklaters organized the reports chronologically and produced a breakdown by incident type, including the following: Attack on Contractors, Military on Contractor, Contractor on Contractor, Contractor Engagement, and Miscellaneous. Each entry further provided a summary description of the incident, based on the information available on the redacted copies.
- <sup>97</sup> Miller, "Private Security Guards Operate with Little Supervision;" Price, "Hired Guns Unaccountable."
- <sup>98</sup> The "other attacks" were comprised of 2 incidents involving contractors attacking civilians, 1 incident of contractors attacking military personnel, 1 incident of contractors firing at Coalition Forces, and 7 incidents involving contractors firing at other contractors. There were also 2 reported incidents of military engaging with other military personnel, 2 incidents of attacks on military.
- <sup>99</sup> Linklaters reviewed the SIRs on behalf of Human Rights First. The totals are not exact as some SIRs include reports of multiple incidents, while in other cases there were multiple SIRs for the same incident. Thus, while there were 610 SIRs examined, there were only 517 incidents reported. While the exact percentages may be slightly off, it is still clear that the majority of incidents involve attacks on contractors.
- <sup>100</sup> For similar reasons, in October 2004, the ROC adopted a new policy to encourage contractors to report incidents by not including the name of the security contractor involved.
- <sup>101</sup> To the extent the military does consider the ROC to perform a law enforcement purpose, it is used to monitor insurgent attacks against contractors and coalition forces.
- <sup>102</sup> "Successful Use of the Tapestry Transponder," Serious Incident Report, February 17, 2005. Another report filed regarding the same incident said: "While the PSD waited for the IED to be cleared the convoy was attacked by a local crowd of LN's who tried to set fire to one of the vehicles. Warning shots were fired and the convoy extracted to a local MNFI base. No casualties reported." "SIR 1196—PSD Convoy Attacked North of Taji," Serious Incident Report, February 17, 2005.
- <sup>103</sup> PSD Team, Serious Incident Report (not numbered), November 8, 2004.
- <sup>104</sup> Miller, "Private Security Guards in Iraq Operate with Little Supervision."
- <sup>105</sup> Price, "Hired Guns Unaccountable."
- <sup>106</sup> [Redacted] GRC TM 3, ID 11, Serious Incident Report, March 8, 2005. A second, more extensive, PCO SIR on the same incident (identifiable as the same primarily by the time, 4:45 p.m., and grid coordinates), identifies the principals being transported as U.S. Army Corps of Engineers officers, and elaborates upon the warnings given:
- The rear gunner waved hand signals, flashing lights and his weapon to try and wave the Iraqi driver back, but these signals were ignored. In addition, the driver ignored the Arabic sign affixed to the back of the vehicle that warns vehicle to stay 50m back. A short burst of 3 [Squad Automatic Weapon (SAW)—a light machine gun] rounds were fired by the rear gunner into the threatening vehicle.
- This level of reports includes an attached document setting out criteria for reporting, the Commander's Critical Information Requirements (CCIR). Categories of incidents include the "Change of Status/Attack/Sabotage/Looting on power grid"; "Specific Threat/Attack/Engagement/Capture/Missing GRD or Contractor Personnel of Facilities;" "Assassination/Attack/Kidnap or attempt on GRD or Contractor leadership" and "Loss of any GRD or Contractor personnel (any casualty)." Criteria 10 is "Infraction of ROE by GRD personnel or Contractors or any event that may illicit an adverse political, media or international reaction (cross border; General Order No.1)." GRC PSD Team, Serious Incident Report—FINAL, March 8, 2005, 16:45.
- <sup>107</sup> The report makes no reference to civilian casualties. Team Leader Team 3 GRC [redacted], "Interim SIR Disable Fire Incident GRC Set 3, Possible Deliberate Attempt at Charging and Ramming of Convoy with Possible Hostile Intent by Lone Iraqi Male National in a Sedan," March 12, 2005.
- <sup>108</sup> The report makes no reference to civilian casualties. GRC [redacted] Team 2, ID 15, Serious Incident Report, March 17, 2005.
- <sup>109</sup> [Redacted] Personnel Security Detail (PSD) Gulf Region Central Team #3, Serious Incident Report, April 1, 2005. The reference to possible casualties is included under the heading "What is Impact on GRD Operations (What is the So What?)."

- <sup>110</sup> Although no further detail is provided, under “Action required” the report calls for “Additional investigation.” GRC [redacted] TM 3, ID 20, “GRC Significant Incident Report,” April 5, 2005 (emphasis added).
- <sup>111</sup> There is no reference to casualties. “PSD Fire Warning Shots,” Escalation-of-Force Serious Incident Report, April 8, 2005 (emphasis added).
- <sup>112</sup> The initial engagement was also said to have caused no casualties. PSD 7 Vehicle Convoy, “12:23 Warning Shots Fired by PSD,” Serious Incident Report (Final), March 8, 2005. The initial engagement was also said to have caused no casualties.
- <sup>113</sup> PSD 7 Vehicle Convoy, “12:23 Warning Shots Fired by PSD,” Serious Incident Report (Final), March 8, 2005.
- <sup>114</sup> “1173 SIR—PSD Fire Warning Shots,” Serious Incident Report, February 6, 2005.
- <sup>115</sup> In a further note on “impact,” the report indicated that “There were no casualties or battle damage. The PSD was hindered by the heaviest civilian traffic the crews have yet encountered. The specific location of the attack has a recent history of SAF [small arms fire] attacks and [redacted] has a heavy concentration of recent IED attacks.” The initial incident occurred at 9:35 am, the second at 4:18 pm. [Redacted] PSD Team 2, ID 6, Serious Incident Report, February 21, 2005.
- <sup>116</sup> GRN [redacted] Security Team, GRN Serious Incident Report (First), March 20, 2005.
- <sup>117</sup> [Redacted] GRC Team #3, ID 4, GRC Significant Incident Report, February 20, 2005.
- <sup>118</sup> “Incident Report—Collision on BIAP road—12 Nov,” Serious Incident Report, November 12, 2004 (emphasis added).
- <sup>119</sup> (Contractor’s Name Withheld) GRD PSD Team, Serious Incident Report (First), March 2, 2005 (emphasis added).
- <sup>120</sup> “Incident Report 1259, Dangerous PSD Drills,” Serious Incident Report, March 25, 2005 (emphasis added). The Team Leader’s comment concludes with a warning that “Behaviour like this could also lead to Blue on Blue incidents. I hope that something can be done to alert ALL PSDs to this behavior which is also carried out by PSDs in SUVs.”
- <sup>121</sup> “1260 - PSD Shoot at Low Profile PSD,” Serious Incident Report, March 25, 2005 (emphasis added). The report is prefaced as follows “The following is another example of a PSC with overt security vehicles not taking into account that there are other PSC’s using a more low profile approach and vehicles.” It concludes with a comment: “PSC’s [Private Security Companies] must have regard for other PSC’s in the same theatre of operations, even if they are using different methods to achieve a similar aim.”
- <sup>122</sup> “Incident Report 1082 - Blue on Blue on Rte [redacted],” Serious Incident Report, December 23, 2004.
- <sup>123</sup> “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.” GAO Report, June 13, 2006, p. 27.
- <sup>124</sup> Jason Washbourne, the individual accused of firing that day did not file an incident report, but was interviewed by phone by Triple Canopy Country Manager, Kelvin Kai, shortly after the incidents. Fainaru, “Four Hired Guns.” Shane Schmidt and Charles Sheppard reported on all three incidents of the day, and said Washbourne was the one firing during the two questionable incidents. Shane Schmidt, Triple Canopy Incident Report, July 11, 2006, Plaintiff’s Exhibit 164D; Charles Sheppard, Triple Canopy Incident Report, July 10, 2006, Plaintiff’s Exhibit 89. Isireli Naucukidi, the fourth team member, reported on the two questionable shootings, and attributed the first of these to Schmidt, not Washbourne. Isireli Naucukidi, Triple Canopy Incident Report, July 8, 2006.
- <sup>125</sup> In his report, Kai excluded observations from Schmidt and Sheppard that there was an ambulance in the area shortly after the second incident of the day. In his description of the third incident that day, Kai mentioned excluded observations that Washbourne “engaged” a taxi, not that he shot at the taxi window. Kai also left out observations from the contractors that there was evidence that a bullet hit the windshield and that the taxi proceeded to stray off the road, implying that the driver had been killed or incapacitated. Kelvin Kai’s Incident Report, Plaintiff’s Exhibit 140, dated 12 July, 2006. See also Shane Schmidt, Triple Canopy Incident Report, July 11, 2006, Plaintiff’s Exhibit 164D; Charles Sheppard, Triple Canopy Incident Report, July 10, 2006, Plaintiff’s Exhibit 89. Isireli Naucukidi, Triple Canopy Incident Report, July 8, 2006. When later asked why he did not include that information, Kai simply responded that Triple Canopy could not confirm that there were any injuries. *Schmidt and Sheppard v. Triple Canopy Inc.*, Civil Action No. CL 2006-9565 (Circuit Court, Fairfax County, Virginia, July 30, 2007) Kelvin Kai Testimony.
- <sup>126</sup> Kelvin Kai, Triple Canopy Incident Report, July 12, 2006. Plaintiff’s Exhibit 140.
- <sup>127</sup> Fainaru, “Four Hired Guns.”
- <sup>128</sup> Ibid.
- <sup>129</sup> Ibid.
- <sup>130</sup> See Myers, “Did American Fire on Iraqis Unprovoked?,” Tom Jackman, “U.S. Contractors Fired on Iraqi Vehicles for Sport, Suit Alleges,” *The Washington Post*, November 17, 2006, available at <http://www.washingtonpost.com/wp-dyn/content/article/2006/11/16/AR2006111601615.html> (accessed December 6, 2007).
- <sup>131</sup> Myers, “Did American Fire on Iraqis Unprovoked?”
- <sup>132</sup> Fainaru, “Four Hired Guns.”
- <sup>133</sup> Myers, “Did American Fire on Iraqis Unprovoked?”
- <sup>134</sup> Fainaru, “Four Hired Guns.”
- <sup>135</sup> Jackman, “U.S. Contractors Fired on Iraqi Vehicles for Sport, Suit Alleges;” Myers, “Did an American Fire on Iraqis Unprovoked?”
- <sup>136</sup> Complaint, *Schmidt and Sheppard v. Triple Canopy, Inc.*, Civil Action No. CL 2006-9565 (Circuit Court, Fairfax County, Virginia, July 31, 2006).
- <sup>137</sup> “In my civilian life, if I were doing a process analysis on this thing, I would say, ‘You know what, these numbers are suspect in terms of which companies are having the most incidents and what type of incidents they are.’” Fainaru, “Guards in Iraq Cite Frequent Shootings.”
- <sup>138</sup> “Clapp said military officials became temporarily concerned last year that Aegis, which protects Corps of Engineers officials on reconstruction projects was “out of control” because the company reported so many incidents. But Clapp said the numbers were skewed because Aegis conducts many more missions than other companies and because other companies rarely or never report shooting incidents.” Fainaru, “Guards in Iraq Cite Frequent Shootings.”
- <sup>139</sup> Ibid.
- <sup>140</sup> Fainaru and Klein, “In Iraq, a Private Realm of Intelligence Gathering.”
- <sup>141</sup> Price, “Hired Guns Unaccountable.”
- <sup>142</sup> Andy Melville, Interview with Martin Smith, *Frontline: Private Warriors*, PBS Online, April 21, 2005, available at <http://www.pbs.org/wgbh/pages/frontline/shows/warriors/interviews/melville.html> (accessed October 15, 2007).
- <sup>143</sup> SIRs reviewed by Human Rights First and Linklaters LLP.

- <sup>144</sup> Email from Peter J. Mitchell, acting spokesman, U.S. Embassy Baghdad, Iraq, in regard to a request from T. Christian Miller dated August 8, 2005, in Ross, "Exclusive: State Dept. E-Mails Say Blackwater Hurting U.S."
- <sup>145</sup> Paul Bremer signed an order to the effect that Order no. 17 would remain in force "for the duration of the mandate authorizing the MNF...and shall not terminate under the departure of the final element of the MNF from Iraq, unless rescinded or amended by legislation duly enacted and having the force of law." In section 4 (3) the revised order restated the previous terms regarding contractor immunity from Iraqi law, "Contractors shall be immune from Iraqi legal process with respect to acts performed by them pursuant to the terms and conditions of a Contract or any sub-contract thereto." Coalition Provisional Authority Order Number 17 (revised), Status of the Coalition Provisional Authority, MNF-Iraq, Certain Missions and Personnel in Iraq, CPA/ORD/27, June 27, 2004, Section 20; Section 4(3), available at [http://www.iraqcoalition.org/regulations/20040627\\_CPAORD\\_17\\_Status\\_of\\_Coalition\\_Rev\\_with\\_Annex\\_A.pdf](http://www.iraqcoalition.org/regulations/20040627_CPAORD_17_Status_of_Coalition_Rev_with_Annex_A.pdf) (accessed October 1, 2007)
- <sup>146</sup> CPA Order 17, section 4(7).
- <sup>147</sup> Dan Eggen and Walter Pincus, "Ashcroft Says U.S. Can Prosecute Civilian Contractors for Prison Abuse," *Washington Post*, May 7, 2004, available at <http://www.washingtonpost.com/ac2/wp-dyn/A6875-2004May6?language=printer> (accessed December 8, 2007).
- <sup>148</sup> McNulty Confirmation Hearing, February 2, 2006, pp. 36—37.
- <sup>149</sup> *Ibid.*, p. 36.
- <sup>150</sup> *Ibid.*, p. 37.
- <sup>151</sup> Erik Prince quoted in Peter Spiegel, "Guards' Actions Defended; They Shoot Only When Threatened, Blackwater and U.S. Officials Say," *Los Angeles Times*, October 3, 2007, <http://www.lexis.com> (accessed December 7, 2007).
- <sup>152</sup> EOF incidents are by definition those in which civilians are targeted. "The numbers don't include civilians killed in raids resulting from bad intelligence or Iraqis killed in the crossfire of battles with insurgents." Greg Jaffe, "U.S. Curbs Iraqi Civilian Deaths In Checkpoint, Convoy Incidents," *Wall Street Journal*, June 6, 2006, available at [http://online.wsj.com/public/article/SB114955863297172189-V5MLu3USA\\_D5JEN5nvOxE\\_YwNgs\\_20070606.html?mod=fff\\_main\\_fff\\_top](http://online.wsj.com/public/article/SB114955863297172189-V5MLu3USA_D5JEN5nvOxE_YwNgs_20070606.html?mod=fff_main_fff_top) (accessed December 8, 2007). See also Hannah Fischer, *Iraqi Civilian Deaths Estimates*, CRS Report for Congress, Order Code RS22537, November 11, 2006, available at <http://www.fas.org/spp/crs/mideast/RS22537.pdf> (accessed September 28, 2007).
- <sup>153</sup> Nancy A. Youssef, "U.S. strives to curb Iraqi deaths" *Buffalo News (New York)*, June 22, 2006, p. A1, cited in Fischer, *Iraqi Civilian Deaths Estimates*, p. 3.
- <sup>154</sup> Jaffe, "U.S. Curbs Iraqi Civilian Deaths In Checkpoint, Convoy Incidents."
- <sup>155</sup> Not-for-attribution statement from a former senior official in Iraq, September, 2007.
- <sup>156</sup> Not-for-attribution statement from a former senior official in Iraq, September, 2007.
- <sup>157</sup> LTG Vines' concerns were consistent with implementation of counterinsurgency doctrine in the Iraq theatre, and a recognition that civilians harmed in EOF represented a major cause of antagonism between civil society and U.S. forces. At the same time, he had set in motion the investigation of the March 2005 killing at a U.S. Army checkpoint of Italian intelligence agent Nicola Calipari and the wounding of Andrea Carpani who were escorting journalist Giuliana Sgrena to the airport after she was freed from kidnappers (Sgrena was also wounded). The resulting inquiry included a review of checkpoint procedures and recommendations for improvement. For a facsimile of the investigative report see *Corriere de la Serra*, <http://www.corriere.it/Media/Documenti/Classified.pdf> (accessed October 2, 2007).
- <sup>158</sup> Jaffe, "U.S. Curbs Iraqi Civilian Deaths In Checkpoint, Convoy Incidents."
- <sup>159</sup> *Ibid.*
- <sup>160</sup> Major General James Thurman, Multi-National Division—Baghdad Commander, Pentagon Press Briefing, June 16, 2006, available at [http://www.mnf-iraq.com/index.php?option=com\\_content&task=view&id=1235&Itemid=128](http://www.mnf-iraq.com/index.php?option=com_content&task=view&id=1235&Itemid=128) (accessed October 2, 2007).
- <sup>161</sup> Combat Support Associates confirmed having hired Andrew Moonen, the Blackwater employee allegedly involved in this incident. Richard Lardner, Associated Press, "Fired Blackwater Guard Found More Work," *USA Today*, October 5, 2007, available at [http://www.usatoday.com/news/washington/2007-10-05-fired-guard\\_N.htm?csp=34](http://www.usatoday.com/news/washington/2007-10-05-fired-guard_N.htm?csp=34) (accessed December 6, 2007).
- <sup>162</sup> Email from T. Christian Miller, reporter for the Los Angeles Times, to Peter J. Mitchell, Acting Spokesman, U.S. Embassy Baghdad, Iraq, Subject: "LA Times Question on Blackwater Shooting", in Ross, "Exclusive: State Dept. E-Mails Say Blackwater Hurting U.S." See also T. Christian Miller, "Officials Balked on '05 Blackwater Inquiry," *Los Angeles Times*, October 26, 2007, available at [http://www.latimes.com/news/nationworld/nation/la-na-emails26oct26\\_1\\_2926422.story?coll=la-headlines-nation](http://www.latimes.com/news/nationworld/nation/la-na-emails26oct26_1_2926422.story?coll=la-headlines-nation), and <http://www.latimes.com/media/acrobat/2007-10/33479641.pdf> (accessed December 6, 2007).
- <sup>163</sup> Miller, "Officials Balked on '05 Blackwater Inquiry."
- <sup>164</sup> Email from Peter J. Mitchell, Acting Spokesman, U.S. Embassy Baghdad, Iraq, in response to a request from T. Christian Miller dated August 8, 2005, in Ross, "Exclusive: State Dept. E-Mails Say Blackwater Hurting U.S.," (emphasis added).
- <sup>165</sup> Memorandum, Michael E. Bishop (AI Hillah RSO [Regional Security Officer]), to Mark J. Hunber (Baghdad), Subject: Pending claims filed against USREO Al-Hillah for incidents involving PSD, July 5, 2005, included as link in Miller, "Officials balked on '05 Blackwater Inquiry," (emphases added).
- <sup>166</sup> DoD Memorandum from Deputy Secretary of Defense Gordon England to Secretaries of the Military Departments, SUBJECT: Management of DoD Contractors and Contractor Personnel Accompanying U.S. armed forces in Contingency Operations Outside the United States, September 25, 2007, available at [http://www.mcclatchydc.com/static/pdf/092507\\_contractors\\_memo.pdf](http://www.mcclatchydc.com/static/pdf/092507_contractors_memo.pdf) (accessed October 1, 2007). (Henceforth, England Memorandum.)
- <sup>167</sup> England Memorandum, p. 1.
- <sup>168</sup> According to the England directive, Commanders are to bring themselves up to speed on the status and standards applying to contractors by requiring all those who perform "security services" to provide to them "copies of their Standard Operating Procedures (SOPS) and guidance to their contractor personnel on escalation of the use of force, the use of deadly force, and on the rules for interaction with host country nationals who may be present and/or potentially involved in a situation perceived by contractor personnel as a potential threat to their mission or to themselves." These norms are to be reviewed by commanders to ensure they are consistent with the Rules on the Use of Force. England Memorandum, pp. 2-3.
- <sup>169</sup> England Memorandum, p. 2. (Emphases added.) Further, "Under the Military Extraterritorial Jurisdiction Act (MEJA), federal jurisdiction exists over felony offenses committed outside the U.S. by contractor personnel of any federal agency or provisional authority whose employment relates to supporting the DoD mission. Implementing guidance under this Act is included in DoD I 5525.11, "Criminal Jurisdiction Over Civilians Employed by or accompanying the armed forces Outside the United States, Certain Service Members, and Former Service Members," and military department regulations. This instruction requires DoD coordination with the Department of Justice for the return to the U.S. of contractor personnel subject to MEJA for prosecution."
- <sup>170</sup> *Ibid.*, p. 2.

- <sup>171</sup> Secretary of Defense Robert M. Gates and Chairman of the Joint Chiefs of Staff Admiral Michael Mullen, DoD Press Conference, October 18, 2007, available at <http://www.defenselink.mil/transcripts/transcript.aspx?transcriptid=4064> (accessed December 8, 2007).
- <sup>172</sup> United States Department of State, Report of the Secretary of State's Panel on Personal Protective Services in Iraq, October 2007, p. 3, available at <http://www.state.gov/documents/organization/94122.pdf> (accessed November 20, 2007). The same document includes an Interim Report to the Secretary of State on Personal Protective Services in Iraq, October 4, 2007.
- <sup>173</sup> "The State Department has three prime security contractors hired under a Worldwide Personal Protective Services (WPPS) umbrella contract, dating from July 2005, according to information provided by the department... WPPS contracts are used to provide bodyguards and 'static' guards (i.e., guards for buildings and other infrastructure) in Baghdad and other areas throughout Iraq." As of July 2007, the State Department had not made public "the names of the subcontractors who perform security services for those carrying out reconstruction activities under State Department contracts." Elesa and Serafino, *Private Security Contractors in Iraq: Background, Legal Status, and Other Issues*, July 11, 2007, p. 6.
- <sup>174</sup> Department of State, Report of the Secretary of State's Panel on Personal Protective Services in Iraq, October 2007, p. 6.
- <sup>175</sup> Department of State, Report of the Secretary of State's Panel on Personal Protective Services in Iraq, October 2007, p. 6.
- <sup>176</sup> "Such a database would include:
1. Date and Time of incident
  2. Destination and GPS coordinates
  3. GPS coordinates of incident
  4. Mission identifier
  5. Vehicle identification numbers
  6. Incident type
  7. Names of all security personnel involved and their assignments in the motorcade.
  8. Such other details as would be useful."
- Department of State, Sean McCormack, "Implementation of Recommendations from the Secretary of State's Report on Personal Protective Service," press statement, October 23, 2007, available at <http://www.state.gov/r/pa/prs/ps/2007/oct/94013.htm> (accessed December 8, 2007). (Henceforth, DoS press statement, "Implementation of Recommendations from the Secretary of State's Report on Personal Protective Service.")
- <sup>177</sup> These include measures to improve the information flow between the RSO's Tactical Operations Center and the military. DoS press statement, "Implementation of Recommendations from the Secretary of State's Report on Personal Protective Service."
- <sup>178</sup> Department of State, Report of the Secretary of State's Panel on Personal Protective Services in Iraq, October 2007, p. 10.
- <sup>179</sup> Department of State, Report of the Secretary of State's Panel on Personal Protective Services in Iraq, October 2007, p. 5 (emphasis added).
- <sup>180</sup> In addition, Rice expressed regret "that we did not have the kind of oversight that I would have insisted upon." She said she had ordered the review panel because: "I did not think personally that I could say that oversight and follow-up was appropriate." Despite numerous reports of Iraqi deaths over the past three years, she had not acted sooner because she did not want to "second-guess people on the ground" who had handled the shootings in Baghdad, Rice said.
- House Committee on Oversight and Government Reform, *The State Department and the Iraq War*, 110<sup>th</sup> Cong., 1<sup>st</sup> sess., October 25, 2007, pp. 93 – 105. See also Karen DeYoung, "On Hill, Rice Talks About Blackwater Secretary Notes Regret but Defends Efforts," *Washington Post*, October 26, 2007, available at <http://www.washingtonpost.com/wp-dyn/content/article/2007/10/25/AR2007102502685.html> (accessed November 25, 2007). See video of the testimony at <http://oversight.house.gov/story.asp?ID=1572>.
- <sup>181</sup> Email from Peter J. Mitchell, Acting Spokesman, U.S. Embassy Baghdad, Iraq, in response to a request from T. Christian Miller dated August 8, 2005 (emphasis added), in Ross, "Exclusive: State Dept. E-Mails Say Blackwater Hurting U.S."
- <sup>182</sup> Department of State, Report of the Secretary of State's Panel on Personal Protective Services in Iraq, October 2007, p. 8.
- <sup>183</sup> Department of State convoys, they agreed, were to be under military control, and the DoD would play an increased role in coordinating DoS contractors in general. John M. Broder and David Johnston, "U.S. Military to Supervise Iraq Security Convoys," *New York Times*, October 31, 2007, available at <http://www.nytimes.com/2007/10/31/washington/31contractor.html?pagewanted=1&8br> (accessed October 30, 2007).
- <sup>184</sup> Memorandum of Agreement (MOA) between the Department of Defense and the Department of State on USG Private Security Contractors, December 5, 2007.
- <sup>185</sup> MOA, December 5, 2007 (emphases added).
- <sup>186</sup> Just over three weeks after Nisoor Square, contractors of the Australian private security company Unity Resource Group (URG) fired on and killed two young women as the women were driving in Baghdad with two young children. The women reportedly were hit by 19 bullets; the children in the back seat were unharmed. URG is the private security contractor to Research Triangle Institute (RTI) International, which holds the country-wide USAID Local Governance Program contract. "Australian Security Firm Involved in Shooting, Iraq Official Says," CNN.com, October 9, 2007, available at <http://www.cnn.com/2007/WORLD/meast/10/09/iraq.main/index.html> (accessed December 9, 2007).
- <sup>187</sup> Annex A: Deliverables to Memorandum of Agreement (MOA) between the Department of Defense and the Department of State on USG Private Security Contractors, December 5, 2007, pp. 5-6.
- <sup>188</sup> Annex A to MOA, December 5, 2007, p. 4 (emphasis added).
- <sup>189</sup> *Ibid.*, p. 7 (emphasis added).
- <sup>190</sup> *Ibid.*, p. 9.
- <sup>191</sup> Sudarsan Raghavan and Thomas E. Ricks, "Private Security Puts Diplomats, Military at Odds: Contractors in Iraq Fuel Debate," *Washington Post*, September 26, 2007, available at [http://www.washingtonpost.com/wp-dyn/content/article/2007/09/25/AR2007092502675\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2007/09/25/AR2007092502675_pf.html) (accessed October 2, 2007).
- <sup>192</sup> States, for example, have an obligation to respect, protect and to ensure human rights. The duty to ensure may be fulfilled by adoption of legislative, judicial, administrative, educative and other appropriate measures. See Human Rights Committee, General Comment 31, The Nature of the Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13, 29 March 2004, para. 7.
- <sup>193</sup> State responsibility is an accepted principle of international law. See International Law Commission, *Articles on the Responsibility of States for Internationally Wrongful Acts* (Annexed to U.N. GA Res. 56/83 of 12 December 2001), art. 8 (conduct under direction or control of state is considered an act of the state) and art 5 (conduct of a person empowered to exercise governmental authority is an act of state, even if person exceeds authority or contravenes instructions). The Commentary on the ILC Articles on State Responsibility cites the example of private security firms that run prisons and thus, have powers of detention or discipline. ILC, *Report on the Work of its 53rd Session* [2001], Ch. IV, U.N. Doc. A/56/10, Supp. 10, p. 92.

- <sup>194</sup> See, e.g., Common Article 1 of the Geneva Conventions (GCs) (responsibility to respect and ensure respect); GC III, art. 12(1) (“[p]risoners of war are in the hands of the enemy Power, but not of the individuals or military units who have captured them. Irrespective of the individual responsibilities that may exist, the Detaining Power is responsible for the treatment given them.”); GC III, arts. 39 & 127 (re training for persons responsible for PoWs); GC IV, arts. 99 & 144 (re training for persons responsible for protected civilians); GC III, art. 129 (requiring states to search for and bring before their courts persons who have committed grave breaches against PoWs); GC IV, art. 146 (requiring states to search for and bring before their courts persons who have committed grave breaches against protected civilians). See also ICRC Customary IHL Study, Rule 139 (“Each party to the conflict must respect and ensure respect for international humanitarian law by its armed forces and other persons or groups acting in fact on its instructions, or under its direction or control.”).
- <sup>195</sup> CPA Order 17.
- <sup>196</sup> CPA Order 17, Section 5.
- <sup>197</sup> CPA Order 17, Section 4(7).
- <sup>198</sup> Scahill, p. 122.
- <sup>199</sup> David Barstow, “The Struggle for Iraq: The Contractors; Security Firm Says Its Workers Were Lured Into Iraqi Ambush,” *The New York Times*, April 9, 2004, available at <http://select.nytimes.com/search/restricted/article?res=F30715FA395C0C7A8CDDAD0894DC404482> (accessed December 8, 2007).
- <sup>200</sup> Dana Priest, “Private Guards Repel Attack on U.S. Headquarters,” *Washington Post*, April 6, 2004, available at [http://www.sandline.com/hotlinks/Wash\\_Post-Private\\_guards.html](http://www.sandline.com/hotlinks/Wash_Post-Private_guards.html) (accessed December 8, 2007).
- <sup>201</sup> Marine Corporal Lonnie Young, the first uniformed soldier to reach the roof of the CPA building, said, “But I realized real quick that [the Blackwater] guys knew what they were doing. So, instead of telling them what to do, I started working with them.” “Contractors in Combat: Firefight from a rooftop in Iraq,” *The Virginian Pilot*, July 25, 2006. Available at <http://content.hamptonroads.com/story.cfm?story=108061&ran=120812>. At one point, Young allegedly asked for permission from a Blackwater contractor to engage a target in his sights. Scahill, p. 123.
- <sup>202</sup> Barstow, “The Struggle for Iraq: The Contractors; Security Firm Says Its Workers Were Lured Into Iraqi Ambush.”
- <sup>203</sup> *Ibid.*
- <sup>204</sup> Priest, “Private Guards Repel Attack on U.S. Headquarters.”
- <sup>205</sup> Major General Martin Dempsey, Commander, First Armored Division quoted in Melina Liu, “Mean Streets: Inside the Brutal Battle of Sadr City. As a Venue for Urban Warfare, This is as Bad as it Gets,” *Newsweek.com*, April 27, 2004, available at <http://www.newsweek.com/id/53546> (accessed December 8, 2007).
- <sup>206</sup> Scahill, p. 131.
- <sup>207</sup> House, Blackwater Memorandum, p. 8.
- <sup>208</sup> Blackwater Internal E-Mail re: Najaf (April 10, 2004), cited in House, Blackwater Memorandum, p. 8.
- <sup>209</sup> David Barstow, James Glanz, Richard A. Oppel, Jr., and Kate Zernike, “Security Companies: Shadow Soldiers in Iraq,” *New York Times*, April 19, 2004, available at <http://query.nytimes.com/gst/fullpage.html?res=9A06E4DA113BF93AA25757COA9629C8B63> (accessed December 8, 2007).
- <sup>210</sup> *Ibid.*
- <sup>211</sup> Barstow, “The Struggle for Iraq: The Contractors; Security Firm Says Its Workers Were Lured Into Iraqi Ambush.”
- <sup>212</sup> See *United States v. Bowman*, 260 U.S. 94 (1922) for the principal that there is a presumption against extraterritoriality.
- <sup>213</sup> *Reid v. Covert*, 354 U.S. 1 (1957).
- <sup>214</sup> Comptroller General of the United States, *Some Criminal Offenses Committed overseas by DoD Civilians are Not Being Prosecuted: Legislation is Needed*, Report to Congress, Report No. FPCD 79-45, September 11, 1979, available at <http://archive.gao.gov/f0302/110369.pdf> (accessed December 10, 2007).
- <sup>215</sup> Lt. Col. E.A. Gates & Maj. Gary V. Casida, *Report to the Judge Advocate General by the Wartime Legislation Team*, 104 Mil.L. Rev. 139, 148-49 (1984).
- <sup>216</sup> National Defense Authorization Act for FY 1996, Pub. L. No. 104-106, §1151, 110 Stat. 186 (1996).
- <sup>217</sup> Report of the Advisory Committee on Criminal Law Jurisdiction Over Civilians Accompanying the Armed Forces in Time of Armed Conflict, April 18, 1997, available at <http://www.fas.org/irp/doddir/dod/ojac.pdf> (accessed December 10, 2007).
- <sup>218</sup> Subcommittee on Crime of the House Committee on the Judiciary, *Military Extritorial Jurisdiction Act of 1999: Hearings on H.R. 3380*, 106<sup>th</sup> Cong., 2<sup>nd</sup> sess., 2000.
- <sup>219</sup> Military Extritorial Jurisdiction Act of 2000, Pub. L. No. 106-523, §3261(a), 114 Stat. 2488 (codified at 18 U.S.C. §3261).
- <sup>220</sup> U.S.C. §3261(d)(1) (2000), U.S.C. §3261(a)(2) (2000).
- <sup>221</sup> *Ibid.*, §3267(a)(1).
- <sup>222</sup> *Ibid.*, §§3267(1), (2).
- <sup>223</sup> Fay Report, pp. 48-50; Benjamin and Scherer, “Big Steve’ and Abu Ghraib.”
- <sup>224</sup> Scott Shane, “Some U.S. Prison Contractors May Avoid Charges: Interior Department Hired Abu Ghraib Interrogators; Loophole Tangles Prosecution; Army Chain of Command Blurred in Civilian Abuses,” *Baltimore Sun*, May 24, 2004. <http://www.lexis.com>; Benjamin and Scherer, “Big Steve’ and Abu Ghraib.”
- <sup>225</sup> Shane, “Some U.S. Prison Contractors May Avoid Charges: Interior Department Hired Abu Ghraib Interrogators; Loophole Tangles Prosecution; Army Chain of Command Blurred in Civilian Abuses.”
- <sup>226</sup> Ronald W. Reagan National Defense Authorization Act for FY 2005, Pub. L. No. 108-375, §1081, 118 Stat. 1811(2004); amended by 18 U.S.C. §3267 (Supp.IV 2004).
- <sup>227</sup> 18 U.S.C. §3267(1)(A).
- <sup>228</sup> Dreazen, “New Scrutiny for Iraq Contractors.”
- <sup>229</sup> U.S. Department of Justice, U.S. Attorney for the District of Arizona, “Military Man Charged with Assaulting Woman on U.S. Military Base in Iraq,” press release, March 1, 2007, available at [http://www.usdoj.gov/usao/az/press\\_releases/2007/2007-060\(Langston\).pdf](http://www.usdoj.gov/usao/az/press_releases/2007/2007-060(Langston).pdf) (accessed December 4, 2007). (Henceforth, DOJ Press Release, “Military Man Charged with Assaulting Woman on U.S. Military Base in Iraq.”)
- <sup>230</sup> Indictment, *United States v. Aaron Bridges Langston*, CR-07-210-PHX (U.S. District Court, District of Arizona, February 27, 2007).
- <sup>231</sup> The LOGCAP contract provides for contractors to perform military logistics, which includes feeding the troops, transporting military supplies, constructing military housing and offices, maintaining laundry facilities, and other logistical services. See *LOGAP: Who and Where We Are*, undated, available at

- <http://www.amc.army.mil/LOGCAP/WhoWhere1.html> (accessed December 7, 2007); *Logistics Civil Augmentation Program (LOGCAP)*, Global Security (undated), available at <http://www.globalsecurity.org/military/agency/army/logcap.htm> (accessed December 7, 2007).
- <sup>232</sup> DoJ press release, "Military Man Charged with Assaulting Woman on U.S. Military Base in Iraq."
- <sup>233</sup> DOJ press release, "Military Man Charged with Assaulting Woman on U.S. Military Base in Iraq."
- <sup>234</sup> 18 U.S.C. §§ 3261, 3267(1) (2000).
- <sup>235</sup> Dreazen, "New Scrutiny for Iraq Contractors."
- <sup>236</sup> U.S. Department of Justice, U.S. Attorney for the Eastern District of Virginia, "Military Contractor Sentenced for Possession of Child Pornography in Baghdad," press release, May 25, 2007, available at <http://www.usdoj.gov/usao/vae/Pressreleases/05-MayPDFArchive/07/20070525khanr.html> (accessed December 7, 2007).
- <sup>237</sup> See Michael R. Gordon, "U.S. Is Seen in Iraq Until at Least '09," *New York Times*, July 24, 2007, available at <http://www.nytimes.com/2007/07/24/world/middleeast/24military.html?sq=joint%20campaign%20plan&scp=2&pagewanted=all> (accessed January 10, 2008) for a description of the new Joint Campaign Plan.
- <sup>238</sup> John Broder, "Ex-Paratrooper is Suspect in a Blackwater Killing," *New York Times*, October 4, 2007, available at <http://www.nytimes.com/2007/10/04/world/middleeast/04contractor.html?ex=1192248000&en=572151d7c0db76fc&ei=5070&emc=eta1> (accessed December 9, 2007).
- <sup>239</sup> House, Blackwater Memorandum, p. 10.
- <sup>240</sup> Criminal Investigative Division (CID) Report of Investigation, December 25, 2006; Blackwater Memorandum to State Department re: Termination of Independent Contractor (Dec. 25, 2006); Blackwater Developmental Counseling Form (December 25, 2006); and Diplomatic Security Service Incident Report, January 12, 2007, cited in House, Blackwater Memorandum, pp. 9-10. See also Dreazen, "New Scrutiny for Iraq Contractors."
- <sup>241</sup> Blackwater Memorandum to State Department re: Termination of Independent Contractor (Dec. 25, 2006), cited in House, Blackwater Memorandum, p. 10. Erik Prince also told the House Committee for Oversight and Government Reform that Blackwater fined Moonen, making him pay his own airfare and give up his \$3,000 Christmas bonus. Broder, "Ex-Paratrooper is Suspect in a Blackwater Killing."
- <sup>242</sup> Diplomatic Security Service Incident Report, (January 12, 2007); Blackwater Incident Report (January 12, 2007); E-Mail from Blackwater to State Department Regional Security Office (Dec. 28, 2006), cited in House, Blackwater Memorandum, pp. 11-12.
- <sup>243</sup> E-Mail from Blackwater to Diplomatic Security Service (Dec. 6, 2006), cited in House, Blackwater Memorandum, p. 11. Erik Prince told the House Committee for Oversight and Government Reform that Blackwater paid the family \$20,000, not \$15,000. Broder, "Ex-Paratrooper is Suspect in a Blackwater Killing."
- <sup>244</sup> Sizemore "Blackwater supports inquiry into fatal shooting;" Redacted copy of memo received by Bill Sizemore, pursuant to FOIA request. Memo from the U.S. Embassy Baghdad to the Secretary of State, "Ambassador and Abdul Mahdi Discuss New Strategy, Iran and the Moderate Front," January 8, 2007.
- <sup>245</sup> Sizemore, "Blackwater supports inquiry into fatal shooting." Memo from U.S. Embassy Baghdad to Secretary of State.
- <sup>246</sup> Criminal Investigative Division (CID) Report of Investigation (December 25, 2006), cited in House, Blackwater Memorandum, p. 10.
- <sup>247</sup> Dreazen "New Scrutiny for Iraq Contractors;" Tina Susman & Raheem Salman, "Iraqi Guard's Widow Reports No Compensation," *Los Angeles Times* (October 8, 2007), available at [http://www.latimes.com/news/printedition/asection/la-fg-iraq8oct08,1,6704558.story?coll=la-news-a\\_section](http://www.latimes.com/news/printedition/asection/la-fg-iraq8oct08,1,6704558.story?coll=la-news-a_section) (accessed October 8, 2007).
- <sup>248</sup> Dreazen "New Scrutiny for Iraq Contractors;" Andrew Howell, Blackwater General Counsel, in House Committee on Oversight and Government Reform, *Iraqi Reconstruction: Reliance on Private Military Contractors and Status Report*, 110<sup>th</sup> Congress, 1<sup>st</sup> sess., February 7, 2007, p. 188. (Henceforth, Howell Testimony.)
- <sup>249</sup> House Committee on Oversight and Government Reform, *The State Department and the Iraq War*, 110<sup>th</sup> Cong., 1<sup>st</sup> sess., October 25, 2007. See also John Broder, "Rice Says 'Hole' in U.S. Law Shields Contractors in Iraq," *New York Times*, October 26, 2007, available at [http://www.nytimes.com/2007/10/26/washington/26contractor.html?\\_r=1&ref=middleeast&oref=slogin](http://www.nytimes.com/2007/10/26/washington/26contractor.html?_r=1&ref=middleeast&oref=slogin) (accessed December 9, 2007).
- <sup>250</sup> Condoleezza Rice during *The State Department and the Iraq War*, p. 105. See also Johanna Neuman, "Rice Faces House's Questions About Iraq," *Los Angeles Times*, October 26, 2007, available at <http://www.latimes.com/news/nationworld/nation/la-na-blackwater26oct26,1,4855776.story?coll=la-headlines-nation> (accessed December 9, 2007).
- <sup>251</sup> David Johnston & John M. Broder. "FBI Says Guards Killed 14 Iraqis Without Cause," *New York Times*, November 14, 2007, available at <http://www.nytimes.com/2007/11/14/world/middleeast/14blackwater.html?pagewanted=2> (accessed December 9, 2007).
- <sup>252</sup> Karen DeYoung and Ann Scott Tyson, "Blackwater Faces New Monitoring From State Dept.: Pentagon Reports Poor Coordination With Security Contractors in Iraq," *Washington Post*, October 6, 2007 (available at <http://www.washingtonpost.com/wp-dyn/content/article/2007/10/05/AR2007100500865.html?wpisrc=newsletter> (accessed October 6, 2007).
- <sup>253</sup> *MEJA Expansion and Enforcement Act of 2007*, H.R. 2740, 110<sup>th</sup> Cong., 1<sup>st</sup> sess., (June 15, 2007); *Security Contractor Accountability Act of 2007*, S. 2147, 110<sup>th</sup> Cong., 1<sup>st</sup> sess., (October 4, 2007).
- <sup>254</sup> *United States v. Corey* 232 F.3d 1169 (9th Cir., 2000), at 1171.
- <sup>255</sup> 18 U.S.C. §7(9)(a) (2001)
- <sup>256</sup> Prior to the USA Patriot Act, the SMTJ statute included U.S. vessels on the high seas and on certain international waterways, land formally acquired for the use of the United States such as military bases and embassies, and U.S. aircrafts in flight. 18 U.S.C. §7 (1994).
- <sup>257</sup> *United States v. Passaro*, No. 5:04-CR-211-1 (E.D.N.C. June 17, 2004).
- <sup>258</sup> John White and Dafna Linzer, "Ex-Contractor Guilty of Assaulting Detainee," *Washington Post*, August 18, 2006, available at [http://www.washingtonpost.com/wp-dyn/content/article/2006/08/17/AR2006081700163\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2006/08/17/AR2006081700163_pf.html) (accessed November 30, 2007).
- <sup>259</sup> 18 U.S.C. §2441(a) (2006).
- <sup>260</sup> The United States is a party to the four Geneva Conventions of 1949. See Geneva Convention [I] for the Amelioration of the Condition of the Wounded and Sick in the Armed Forces in the Field, Aug. 12, 1949, 6 U.S.T. 3114, 75 U.N.T.S. 31; Geneva Convention [II] for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea, Aug. 12, 1949, 6 U.S.T. 3217, 7 U.N.T.S. 85; Geneva Convention [III] Relative to the Treatment of Prisoners of War, Aug. 12, 1949, 6 U.S.T. 3116, 75 U.N.T.S. 135; and Geneva Convention [IV] Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949 6 U.S.T. 3516, 75 U.N.T.S. 287. The Geneva Conventions outline requirements and prohibitions (war crimes) relating to the treatment of persons that do not participate, or are no longer participating, in hostilities in armed conflict between two or more states. The persons protected are sick and injured soldiers and sailors (First and Second Conventions), prisoners of war (Third Convention) and civilians (Fourth Convention). Common Article 3 of the Geneva Conventions (so-called because

it is common to all four Geneva Conventions) provides a minimum standard of care during armed conflicts that are not otherwise covered by the Conventions because they are not between two or more states. This includes armed conflict between a state and a rebel group, or between rebel groups within a state or spilling over state boundaries, or between a state and a transnational armed group. Common Article 3 prohibits actions that are universally condemned such as "murder of all kinds, mutilation, cruel treatment and torture," and also prohibits other violations such as "outrages upon personal dignity, in particular humiliating and degrading treatment."

<sup>261</sup> The text of the War Crimes Act before the Military Commissions Act:

18 U.S.C. § 2441. War crimes.

(a) Offense.--Whoever, whether inside or outside the United States, commits a war crime, in any of the circumstances described in subsection (b), shall be fined under this title or imprisoned for life or any term of years, or both, and if death results to the victim, shall also be subject to the penalty of death.

(b) Circumstances.--The circumstances referred to in subsection (a) are that the person committing such breach or the victim of such war crime is a member of the Armed Forces of the United States or a national of the United States (as defined in section 101 of the Immigration and Nationality Act).

(c) Definition.--As used in this section the term 'war crime' means any conduct--

(1) defined as a grave breach in any of the international conventions signed at Geneva 12 August 1949, or any protocol to such convention to which the United States is a party;

(2) prohibited by Article 23, 25, 27, or 28 of the Annex to the Hague Convention IV, Respecting the Laws and Customs of War on Land, signed 18 October 1907;

(3) which constitutes a violation of common Article 3 of the international conventions signed at Geneva, 12 August 1949, or any protocol to such convention to which the United States is a party and which deals with non- international armed conflict; or

(4) 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.

<sup>262</sup> Military Commissions Act of 2006, Pub. L. No. 109-336, §6, 120 Stat. 2636 (2006).

<sup>263</sup> A prosecution of this kind would rest upon the War Crimes Act's implementation of Common Article 3 of the Geneva Conventions of 1949. While the legal applicability of Common Article 3 was clearly established by the Supreme Court, the Justice Department argued at the time of the crimes in question that it did not apply. Elizabeth Holtzman, "Torture and Accountability," *Nation*, July 18, 2005, available at <http://www.thenation.com/doc/20050718/holtzman> (accessed December 10, 2007).

<sup>264</sup> 18 U.S.C. § 2340(1) (2001) (emphases added).

<sup>265</sup> *Ibid.*, § 2340(3).

<sup>266</sup> *Ibid.*, § 2340A.

<sup>267</sup> See *U.S. v. Emmanuel*, 207 WL 2002452 (S.D. Fla. July 5, 2007); United States Department of Justice, "Roy Belfast, Jr., aka Chuckie Taylor Indicted on Torture Charges," press release, December 6, 2006, available at [http://www.usdoj.gov/opa/pr/2006/December/06\\_crm\\_813.html](http://www.usdoj.gov/opa/pr/2006/December/06_crm_813.html) (accessed December 8, 2007).

<sup>268</sup> U.S. Const., Art. I, § 8, cl. 14.

<sup>269</sup> U.S. Const., Art. I, § 8, cl. 18.

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<sup>271</sup> 10 U.S.C. § 802(a) (2006).

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<sup>273</sup> John Warner National Defense Authorization Act for FY 2007, Pub. L. No. 109-364, §552, 120 Stat. 2083 (2006).

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<sup>279</sup> R. Jeffrey Smith, "Interrogator Says U.S. Approved Handling of Detainee Who Died," *Washington Post*, April 13, 2005, available at <http://www.washingtonpost.com/ac2/wp-dyn/A48239-2005Apr12?language=printer> (accessed November 30, 2007).

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- <sup>474</sup> Marine spokesman Lt. Col. David Lapan says that "no phone calls were allowed in accordance with standard procedures. Phinney, "Marines Jail Contractors in Iraq."
- <sup>475</sup> Liza Porteus, "'How Do you Like Your Contractor Money?'" *FOX News.com*, June 30, 2005, available at <http://www.foxnews.com/sotry/0,2933,161261,00.html> (accessed October 3, 2007). Another account described the acknowledged shooting incident. Problems began for the contractors when, on the return trip through Fallujah later that afternoon, they spotted a front-end loader approaching from the right side. Fearing an ambush, [Darrell] Cleland [one of the Zapata contractors], armed with an M-4, leaned out his window and tried to wave off the truck. When he could not get the driver's attention, he fired three shots into the ground. "I made sure the ricochets didn't even hit his truck," Cleland said. "It was just to let him know that we were there." White and Witte, "Tension, Confusion Between Troops, Contractors in Iraq."
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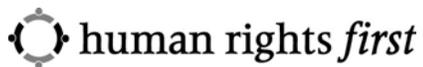
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- <sup>489</sup> "Another company, Triple Canopy, which claims to have more elite ex-military special operations professionals than any other private security company, has also had several friendly fire incidents with military personnel in Iraq, says Joe Mayo, spokesman for the Illinois-based company. He adds that incidents have often been averted in as little as 30 seconds." Phinney, "Marines Jail Contractors in Iraq."
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- <sup>491</sup> A recent report from the Congressional Budget Office, argues that the pay gap may not be as big as these numbers would suggest, if there is a pay gap at all, because the military salary often used in these comparisons only includes basic pay, and leaves out things like tax-free food and housing allowances, deferred compensation, child care, or other community services. When these features are included, enlisted personnel salaries are 21% higher than basic pay. Rick Maze, "Pay gap' report may affect raises," *Army Times*, July 5, 2007. Available at [http://www.armytimes.com/news/2007/06/military\\_cbostudy\\_militarypay\\_070629w/](http://www.armytimes.com/news/2007/06/military_cbostudy_militarypay_070629w/) (accessed December 9, 2007).
- <sup>492</sup> Wilson, "Marines 'Beat U.S. Workers' in Iraq."
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- <sup>494</sup> His three fellow guards all report this comment, although one specifies he believed it to be an offhand remark, and that he said something of the sort during every mission. Fainaru, "Four Hired Guns."
- <sup>495</sup> Fainaru, "Four Hired Guns."
- <sup>496</sup> Jackman, "U.S. Contractors Fired on Iraqi Vehicles for Sport, Suit Alleges."
- <sup>497</sup> Shane Schmidt, Triple Canopy Incident Report, July 11, 2006, Plaintiff's Exhibit 164D; Charles Sheppard, Triple Canopy Incident Report, July 10, 2006, Plaintiff's Exhibit 89; Isireli Naucukidi, Triple Canopy Incident Report, July 8, 2006; Fainaru, "Four Hired Guns."
- <sup>498</sup> Kelvin Kai, Triple Canopy Incident Report, July 12, 2006, Plaintiff's Exhibit 140.
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- <sup>511</sup> Kelvin Kai Testimony, *Schmidt and Sheppard v. Triple Canopy Inc.*, Civil Action No. CL 2006-9565 (Circuit Court, Fairfax County, Virginia, July 30, 2007).
- <sup>512</sup> Kelvin Kai, Triple Canopy Incident Report, July 12, 2006. Plaintiff's Exhibit 140.
- <sup>513</sup> Fainaru, "Four Hired Guns."
- <sup>514</sup> *Ibid.*
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- <sup>523</sup> Rod Stoner, interview by Nima Elbagir, "Road Wars," *More4 News* April 6, 2006, available at <http://www.channel4.com/more4/news/news-opinion-feature.jsp?id=212> (accessed December 6, 2007). All references and quotes taken from More4 news reports come from video of the reports that originally aired, now available on its website, and not from transcripts.
- <sup>524</sup> "Clip 2—The Taxi Crash," *More4 News: Aegis Close Down Website*, April 7, 2006, available at <http://www.channel4.com/more4/news/news-opinion-feature.jsp?id=214> (accessed December 6, 2007).
- <sup>525</sup> "Clip 5—Coalition Right," *More4 News: Aegis Close Down Website*, April 7, 2006, available at <http://www.channel4.com/more4/news/news-opinion-feature.jsp?id=214> (accessed December 6, 2007).
- <sup>526</sup> "Under the Aegis," *More4 News*, March 31, 2006, available at <http://www.channel4.com/more4/news/news-opinion-feature.jsp?id=204> (accessed December 6, 2007). In this interview, Stoner is not identified and only his blacked-out figure appears on camera, not his face. In a More4 report on April 6, 2006, however, Stoner does formally come forward and More4 confirms that Stoner was the former Aegis employee interviewed in the March 31 report. See also Rod Stoner, "Road Wars."
- <sup>527</sup> *Ibid.*
- <sup>528</sup> "Under the Aegis;" Rod Stoner, "Road Wars."
- <sup>529</sup> Jonathan Finer and Ellen Knickmeyer, "U.S. Military Probing Video of Road Violence," *Washington Post*, December 9, 2005, available at <http://www.washingtonpost.com/wp-dyn/content/article/2005/12/08/AR2005120802356.html> (accessed December 6, 2007); Posts from [www.aegisiraq.co.uk](http://www.aegisiraq.co.uk) on file.
- <sup>530</sup> Finer and Knickmeyer, "U.S. Military Probing Video of Road Violence."
- <sup>531</sup> Aegis Defense Services, "Trophy Video Allegation" news release, undated, available at <http://www.aegisworld.com/article.aspx?artID=5> (accessed December 6, 2007).
- <sup>532</sup> *Ibid.*
- <sup>533</sup> "Under the Aegis."
- <sup>534</sup> Jonathan Finer, "Contractors Cleared in Videolaped Attacks," *Washington Post*, June 11, 2006, available at: [http://www.washingtonpost.com/wp-dyn/content/article/2006/06/10/AR2006061001011\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2006/06/10/AR2006061001011_pf.html) (accessed December 6, 2007).
- <sup>535</sup> Stoner, "Road Wars;" "Under the Aegis;" Stoner also maintained that he had repeatedly asked Aegis to put him in touch with Pentagon officials conducting the CID investigation, but that this was not done. O'Hanlon, "Botched Investigation?"
- <sup>536</sup> Paul O'Connor of the Pat Finucane Center notes that "if [Stoner's story] is true this would suggest that a cover-up has taken place of matters concerning serious criminal wrongdoing, including murder." O'Hanlon, "Botched Investigation?"
- <sup>537</sup> Stoner, "Road Wars;" and "Aegis Close Down Website," *More4 News*, April 6, 2006, available at <http://www.channel4.com/more4/news/news-opinion-feature.jsp?id=212> (accessed December 6, 2007).
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- <sup>539</sup> See e.g. Brian Bennett, "Victims of an Outsourced War," *Time*, March 15, 2007, available at <http://www.time.com/time/magazine/article/0,9171,1599682,00.html> (accessed December 8, 2007); Sean Flynn, "The Day the War Turned," *GQ*, February 2006, available at [http://men.style.com/gq/features/full?id=content\\_5159](http://men.style.com/gq/features/full?id=content_5159) (accessed December 8, 2007); Bill Sizemore and Joanne Kimberlin, "Blackwater: When Things Go Wrong," *Virginian-Pilot*, July 26, 2007, available at <http://content.hamptonroads.com/story.cfm?story=108113&ran=186344> (accessed December 8, 2007); Jeremy Scahill, "Blood is Thicker than Blackwater," *The Nation*, May 8, 2006, available at <http://www.thenation.com/doc/20060508/scahill> (accessed December 8, 2007).
- <sup>540</sup> Scahill, pp.212-213.
- <sup>541</sup> *Ibid.*, p. 232.
- <sup>542</sup> Scahill, p. 220.
- <sup>543</sup> Flynn, "The Day the War Turned."
- <sup>544</sup> "Testimony of Kathryn Helvenston-Wettengel, Rhonda Teague, Donna Zovko and Kristal Batalona" House Committee on Oversight and Government Reform, *Iraqi Reconstruction: Reliance on Private Military Contractors and Status Report*, 110<sup>th</sup> Cong., 1st sess., February 7, 2007, p. 71. See also Scahill, p. 221.
- <sup>545</sup> House Committee on Oversight and Government Reform Majority Staff, "Private Military Contractors in Iraq: An Examination of Blackwater's Actions in Fallujah," September 2007, p. 15, available at <http://oversight.house.gov/documents/20070927104643.pdf> (accessed December 8, 2007). (Henceforth, "Majority Staff Report").
- <sup>546</sup> Complaint, *Nordan v. Blackwater Security Consulting, LLC.*, Case No. 05-cv-00173 (Wake Co. Superior Court, Jan. 5, 2005).
- <sup>547</sup> Complaint, *Nordan v. Blackwater*, p. 5
- <sup>548</sup> Joseph Neff, McClatchy Newspapers, "Memos Blame Blackwater Ambush on Orders to Leave Unprepared," *Virginian-Pilot*, July 8, 2007, available at <http://content.hamptonroads.com/story.cfm?story=128054&ran=151153> (accessed December 8, 2007).
- <sup>549</sup> Bennett, "Victims of an Outsourced War."
- <sup>550</sup> Neff, "Memos Blame Blackwater Ambush on Orders to Leave Unprepared." Blackwater supervisor, *Fallujah Incident Internal Report* (April 27, 2004) (name of individual redacted for security purposes), Statement of William K. Bailey, II (Apr. 8, 2004) and Statement of Jason M. Shupe (April 4, 2004), cited in Majority Staff Report, p. 10.

- <sup>551</sup> *Time* obtained a 194-page sworn deposition filed with the Department of Labor in a separate legal proceeding. In his testimony, Berman describes training procedures and promises made on the part of Blackwater. Bennett, "Victims of an Outsourced War."
- <sup>552</sup> Berman testimony, Bennett, "Victims of an Outsourced War."
- <sup>553</sup> Berman testimony in Bennett, "Victims of an Outsourced War."
- <sup>554</sup> Neff, "Memos Blame Blackwater Ambush on Orders to Leave Unprepared."
- <sup>555</sup> Neff, "Memos Blame Blackwater Ambush on Orders to Leave Unprepared"; Majority Staff Report, p. 10.
- <sup>556</sup> Neff, "Memos Blame Blackwater Ambush on Orders to Leave Unprepared"; Statement of Jason M. Shupe (April 8, 2004), cited in Majority Staff Report, p. 10.
- <sup>557</sup> Neff, "Memos Blame Blackwater Ambush on Orders to Leave Unprepared"; Statement of Daniel A. Browne (undated), cited in Majority Staff Report, p. 10.
- <sup>558</sup> Bennett, "Victims of an Outsourced War."
- <sup>559</sup> Complaint, *Nordan v. Blackwater* pp. 7-13.
- <sup>560</sup> Scahill, p. 227; Flynn, "The Day the War Turned."
- <sup>561</sup> Scahill, p. 227; Flynn, "The Day the War Turned."
- <sup>562</sup> Flynn, "The Day the War Turned."
- <sup>563</sup> Scahill, p. 227; Flynn, "The Day the War Turned."
- <sup>564</sup> Flynn, "The Day the War Turned." See also Complaint, *Nordan v. Blackwater*, p. 9.
- <sup>565</sup> Complaint, *Nordan v. Blackwater*, p. 8.
- <sup>566</sup> Complaint, *Nordan v. Blackwater*, pp 12—13.
- <sup>567</sup> Blackwater Worldwide, "Blackwater Response to 'Majority Staff Report' on 'Private Military Contractors in Iraq: An Examination of Blackwater's Actions in Fallujah,'" news release, October 23, 2007, p. 8, available at [http://www.blackwaterusa.com/press\\_releases/Blackwater%20Response%20to%20Majority%20Staff%20Report.pdf](http://www.blackwaterusa.com/press_releases/Blackwater%20Response%20to%20Majority%20Staff%20Report.pdf) (accessed December 8, 2007). (Henceforth, "Blackwater Response.")
- <sup>568</sup> Blackwater Response, p. 7.
- <sup>569</sup> "Cost was irrelevant to Blackwater as a matter of contract, which provided that Regency was to supply vehicles with protection kits at Regency's expense." Blackwater Response, p. 5. It should be noted that this comment addresses vehicles with protection kits as opposed to armored vehicles.
- <sup>570</sup> Blackwater Response, p. 6.
- <sup>571</sup> Email from Tom Powell to Justin McQuown, Mike Rush and Brian Berrey (March 30, 2004), quoted in Majority Staff Report, p. 8.
- <sup>572</sup> "Blackwater did not conduct a Risk Assessment prior to the March 30, 2004 security mission and...did not provide [the team] with the opportunity to gather intelligence concerning the travel route, do a pre-route inspection, and even refused to give them maps of the area." Complaint, *Nordan v. Blackwater*, p. 6.
- <sup>573</sup> Bennett, "Victims of an Outsourced War."
- <sup>574</sup> Neff, "Memos blame Blackwater Ambush on Orders to Leave Unprepared."
- <sup>575</sup> Blackwater Response, p. 7.
- <sup>576</sup> Blackwater Response, p. 8.
- <sup>577</sup> Tom Powell, Blackwater Security Consulting, *Final Report Killing of 4 Blackwater Personnel March 31, 2004*, cited in Blackwater Response, p. 2.
- <sup>578</sup> Colin Freeman, Chronicle Foreign Service, "12 Troops Die in Iraq; Spain Leaving; Fallujah: Brutal Ambush Might Have Been Avoided," *San Francisco Chronicle*, April 19, 2004, available at <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2004/04/19/MNGKU67AHP1.DTL&hw=fallujah+brutal+ambush+might+have+been+avoided&sn=001&sc=1000> (accessed December 8, 2007).
- <sup>579</sup> "[T]his task had been previously requested on two occasions and was rejected on security and safety issues by CRG ops in Iraq... Blackwater were informed that we had turned this task down and the reasons why were given." Project Director, Control Risks Group, *Incident Report 31<sup>st</sup> March 2004* (April 2004), quoted in Majority Staff Report, p. 9.
- <sup>580</sup> Blackwater Response, p. 6.
- <sup>581</sup> Patrick Graham, "Why an SUV is Now the Most Dangerous Vehicle in Iraq," *Observer (London)*, April 4, 2004, available at <http://observer.guardian.co.uk/international/story/0,,1185307,00.html> (accessed December 8, 2007).
- <sup>582</sup> Naval Criminal Investigative Service, *Report of Investigation: Al Fallujah, Iraq/Murder of Blackwater Inc. Civilian Contractors* (April 20, 2004), cited in Majority Staff Report, p. 11.
- <sup>583</sup> *Ibid.*
- <sup>584</sup> Blackwater Response, pp. 2-3.
- <sup>585</sup> Blackwater engineer, *Blackwater USA, Post-Incident Investigation: Ambush of BSC Team 31 Mar 04 in Fallujah* (undated) (name of individual redacted for security purposes), cited in House Report, p. 12; Blackwater Engineer, *Post-Incident Internal Investigation: Ambush of BSC Team 31 Mar 04 in Fallujah* (name of individual redacted for security purposes), cited in Blackwater Response, p. 3.
- <sup>586</sup> Blackwater Engineer, *Post-Incident Internal Investigation: Ambush of BSC Team 31 Mar 04 in Fallujah* (name of individual redacted for security purposes), cited in Blackwater Response, p. 3.
- <sup>587</sup> Coalition Provisional Authority, Counterintelligence Analysis and Requirements Cell, *Consolidated Report: The 31 March 2004 Fallujah Ambush* (Apr. 2004), cited in Majority Staff Report, p. 12.
- <sup>588</sup> Complaint, *Nordan v. Blackwater*, p. 4.
- <sup>589</sup> Blackwater Appellate Brief, October 31, 2005; Blackwater Petition, filed December 19, 2005, quoted in Scahill, pp. 231-233.
- <sup>590</sup> Blackwater argued that the four contractors "were performing a classic military function." Blackwater Appellate Brief, October 31, 2005, cited in Scahill, p. 233. "Blackwater moved to dismiss the case, arguing that the district court lacked subject matter jurisdiction because the DBA [Defense Base Act] covered Nordan's

- claims and, therefore, that Nordan could litigate his claims only before the Department of Labor, which decides DBA claims in the first instance." *In re Blackwater Security Consulting, LLC*, 460 F. 3d 576 (4<sup>th</sup> Circuit, August 24, 2006), p. 6.
- <sup>591</sup> Blackwater Appellate Brief, October 31, 2005, quoted in Scahill, pp. 232–233.
- <sup>592</sup> Petition for the Order Direction Arbitration Pursuant to the Federal Arbitration Act, *Blackwater Security Consulting, LLC, v. Nordan* (U.S. District Court, Easter District of North Carolina, December 20, 2006), p. 6.
- <sup>593</sup> KBR Amicus Curiae, filed September 22, 2006, quoted in Scahill, p. 234.
- <sup>594</sup> Scahill, p. 230.
- <sup>595</sup> Scahill, p. 230.
- <sup>596</sup> Order Upon Reconsideration, *Nordan v. Blackwater Security Consulting, LLC.*, Case No. 05-cv-00073 (Wake Co. Superior Court, Jan. 4, 2007); Scahill, p. 230.
- <sup>597</sup> Demand for Arbitration, *Blackwater Security Consulting, LLC v. Nordan*, 50 181 T 00524 06 AAA-ICDR (Dec. 14, 2006).
- <sup>598</sup> Bill Sizemore, "Suit Against Blackwater Over Contractor Deaths Moves to Arbitration," *Virginian-Pilot*, July 20, 2007, available at <http://hamptonroads.com/node/269051> (accessed December 8, 2007).
- <sup>599</sup> Neff, "Memos Blame Blackwater Ambush on Orders to Leave Unprepared."
- <sup>600</sup> Sizemore, "Suit Against Blackwater Over Contractor Deaths Moves to Arbitration:" Associated Press, "Blackwater Lawsuit Over U.S. Security Contractors Killed in Iraq Headed for Private Arbitration," *International Herald Tribune*, May 25, 2007, available at <http://www.ihf.com/articles/ap/2007/05/26/america/NA-GEN-US-Iraq-Contractor-Deaths.php> (accessed December 8, 2007).
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- <sup>605</sup> Fay Report, pp. 81–82.
- <sup>606</sup> Fay Report, pp. 130–134; Benjamin and Scherer, "Big Steve' and Abu Ghraib."
- <sup>607</sup> Fay Report, pp. 72-73; 79; 82; 84; 86-87; 89. In addition, an unknown civilian, possibly a Titan contractor, is alleged to have raped a juvenile detainee. Fay Report, pp. 81-82.
- <sup>608</sup> Benjamin and Scherer, "Big Steve and Abu Ghraib."
- <sup>609</sup> Ibid.
- <sup>610</sup> Taguba Report, p. 48; Fay Report, p. 134. General Fay lists allegations against an un-named CACI interrogator, Civilian-21. Army officials later informed Stefanowicz's attorney that his client is indeed Civilian-21. See Ellen McCarthy, "Charges Behind the Barbed Wire," *Washington Post*, December 13, 2004, available at <http://www.washingtonpost.com/wp-dyn/articles/A59673-2004Dec12.html> (accessed December 4, 2007).
- <sup>611</sup> Taguba Report, p. 48.
- <sup>612</sup> Fay Report, pp. 130-134.
- <sup>613</sup> Benjamin and Scherer, "Big Steve' and Abu Ghraib."
- <sup>614</sup> Benjamin, "No Justice For All." General Fay gives a description of a photo that matches the description of the one of Johnson and Mheisen. He writes that Civilian - 11, CACI interrogator, Civilian -16, a Titan linguist, are depicted with an unidentified detainee "squatting on a chair which is an unauthorized stress position. Having the detainee on a chair which is a potentially unsafe situation and....violat[es] the ICRP [Interrogation and Counter-Resistance Policies]." Fay Report, p. 82.
- <sup>615</sup> Fay Report, p. 82.
- <sup>616</sup> Benjamin, "No Justice For All."
- <sup>617</sup> Center for Human Rights and Global Law, Human Rights First, and Human Rights Watch, *By the Numbers Findings of the Detainee Abuse and Accountability Project*, (New York: Center for Human Rights and Global Law, Human Rights First and Human Rights Watch, 2006), pp. 19–20, available at <http://www.humanrightsfirst.info/pdf/06425-etn-by-the-numbers.pdf> (accessed September 30, 2007), citing the Taguba Report, annex 26; and records of Army criminal investigators released under FOIA litigation, retrieved April 17, 2006, at <http://www.aclu.org/torturefoia/released/FBI.121504.4311.pdf> and [http://www.aclu.org/torturefoia/released/294\\_334.pdf](http://www.aclu.org/torturefoia/released/294_334.pdf).
- <sup>618</sup> Ibid, p. 19.
- <sup>619</sup> Ibid, p. 20, citing an E-Mail message from FBI official Chris Swecker to FBI Director Robert Mueller, retrieved April 17, 2006, at [http://www.aclu.org/torturefoia/released/FBI\\_4882\\_4885.pdf](http://www.aclu.org/torturefoia/released/FBI_4882_4885.pdf).
- <sup>620</sup> CACI International Inc., "Truth and Error in the Media Portrayal of CACI in Iraq," CACI International, undated, available at [http://www.caci.com/iraq/truth\\_error.shtml](http://www.caci.com/iraq/truth_error.shtml) (accessed December 7, 2007). CACI announced it conducted its own internal investigation, and found the allegations against its contractors unwarranted. CACI International, Inc., "CACI Reports Preliminary Findings of Internal Investigation: Company Provides Information About Its Interrogator Support Personnel in Iraq, No Evidence of Abusive Wrongdoing Uncovered," press release, August 12, 2004, available at [http://www.caci.com/about/news/news2004/08\\_12\\_04\\_NR.html](http://www.caci.com/about/news/news2004/08_12_04_NR.html) (accessed December 7, 2007).
- <sup>621</sup> "In his report, Maj. Gen. Taguba urged that CACI employee Steven Stefanowicz be removed from his job, reprimanded, and denied his security clearance for allegedly lying to the investigating team and allegedly allowing or ordering MPs, who were not trained in interrogation techniques, to facilitate interrogations by setting conditions that Maj. Gen. Taguba said were neither authorized nor in accordance with Army regulations. All of Maj. Gen. Taguba's allegations regarding this employee remain unsupported based on all of the evidence made available to date." CACI, "Truth and Error in the Media Portrayal of CACI in Iraq." In a July 2004 press release, CACI similarly rejects the accusations in similar terms: "The illegally released ("leaked") (SECRET/NO FOREIGN) report of Major General Antonio M. Taguba, USA makes vague allegations against one CACI employee, Mr. Stephan Stefanowicz, who vigorously and adamantly denies the unfounded allegations. No material supporting the Taguba allegations has been made available to date." CACI International, Inc., "CACI Corrects Public Information About Its Services Contract

- for U.S. Army Interrogation Support in Iraq," press release, July 20, 2004, available at [http://www.caci.com/about/news/news2004/07\\_20\\_04\\_NR.html](http://www.caci.com/about/news/news2004/07_20_04_NR.html) (accessed October 13, 2007). CACI subsequently announced that it conducted its own internal investigation, and found the charges unwarranted. CACI, "CACI Reports Preliminary Findings of Internal Investigation."
- <sup>622</sup> CACI International, Inc., "CACI Says the Fay Report Clearly Shifts Focus of Blame Away From Its Employee Named in a Previous Report Company Notes Employees Were Not Involved in Any Horrendous Acts," press release, August 20, 2004, available at [http://www.caci.com/about/news/news2004/08\\_26\\_04\\_NR.html](http://www.caci.com/about/news/news2004/08_26_04_NR.html) (accessed December 7, 2007).
- <sup>623</sup> A CACI spokeswoman told *The Washington Post* in December 2004 that Stefanowicz was "no longer with the company." McCarthy, "Charges Behind the Barbed Wire."
- <sup>624</sup> CBS News, "Suspected Civilian Abuser Fired, But Wife Says Interpreter Adel Nakhla Still In Iraq," May 22, 2004, available at <http://www.cbsnews.com/stories/2004/05/23/iraq/main619098.shtml> (accessed October 13, 2007).
- <sup>625</sup> Joel Brinkley, "U.S. Civilian Working at Abu Ghraib Disputes Army's Version of His Role in Abuses," *New York Times*, May 26, 2004, available at <http://www.nytimes.com/2004/05/26/politics/26CONT.html?ex=1400904000&en=3d20d9ad3b3c2f4a&ei=5007&partner=USERLAND> (October 13, 2007).
- <sup>626</sup> "Titan recently informed us that they will adjust previously billed costs for the Titan employee and the subcontractor employee named in connection with potential abuses at Abu Ghraib prison," William Reed, director of the Defense Contract Audit Agency, said in testimony Tuesday to the House Committee on Government Reform. Reed said Titan will shave \$178,000 off of its previous billings by the end of the week." Leon Worden, "Titan Won't Bill Army for Implicated Linguists' Time," *Signal*, June 17, 2004, available at <http://www.scvhistory.com/scvhistory/signal/iraq/sg061704.htm> (accessed October 13, 2007).
- <sup>627</sup> Benjamin, "No Justice for All."
- <sup>628</sup> Adam Zagorin, "The Abu Ghraib Cases: Not Yet Over," *Time*, August 29, 2007, available at <http://www.time.com/time/politics/article/0,8599,1656906,00.html> (accessed October 13, 2007).
- <sup>629</sup> *Ibid.* Lieutenant Colonel Jordan was acquitted on prisoner mistreatment charges, but convicted for disobeying an order.
- <sup>630</sup> "Pappas... received nonjudicial punishment by the Army in May 2005." He also received an immunity deal in exchange for his testimony on other courts-martial. Benjamin and Scherer, "Big Steve and Abu Ghraib."
- <sup>631</sup> "Janis Karpinski faced administrative action and was demoted from the rank of general but faced no criminal charges." Zagorin, "The Abu Ghraib Cases: Not Yet Over."
- <sup>632</sup> Associated Press, "Officer to Face Court-Martial on 8 Charges in Abu Ghraib Abuse," *New York Times*, January 27, 2007, available at <http://www.nytimes.com/2007/01/27/us/27prison.html> (accessed December 4, 2007). See Center for Human Rights and Global Law, Human Rights First, and Human Rights Watch, *By The Numbers: Human Rights First, Command's Responsibility: Detainee Deaths in U.S. Custody in Iraq and Afghanistan* (New York: Human Rights First, 2006) for a critique of the failure to pursue criminal actions against senior officers in the chain of command for torture and other forms of ill-treatment in Iraq.
- <sup>633</sup> During Paul J. McNulty's confirmation hearing for Deputy Attorney General on February 2, 2006, he said that 19 detainee abuse cases from Iraq and Afghanistan were referred to his office "about 18 months ago." McNulty Confirmation Hearing, February 2, 2006, p. 36. See also Benjamin, "No Justice For All."
- <sup>634</sup> McNulty Confirmation Hearing, February 2, 2006, p. 36.
- <sup>635</sup> Second Amended Complaint, *Ibrahim, et al. v. Titan Corp. et al.*, Civ. No 04-01248(JR), pending U.S. District Court, District of Columbia; Third Amended Complaint, *Saleh, et al. v. Titan Corp. et al.*, Civ. No. 1:05-1165, pending U.S. District Court, District of Columbia.
- <sup>636</sup> Statement of Jonathan H. Pyle, Attorney, Burke Pyle LLC, Philadelphia, May 23, 2006, from Amnesty International, 2006 Annual Report, available at: [http://www.amnestyusa.org/2006/Statement\\_Jonathan\\_H\\_Pyle\\_Attorney\\_Burke\\_Pyle\\_LLC\\_Philadelphia/\\_\\_\\_\\_May\\_23\\_2006/page.do?id=1101440&n1=2&n2=18&n3=782](http://www.amnestyusa.org/2006/Statement_Jonathan_H_Pyle_Attorney_Burke_Pyle_LLC_Philadelphia/____May_23_2006/page.do?id=1101440&n1=2&n2=18&n3=782) (accessed October 4, 2007).
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- <sup>638</sup> Lara Jakes Jordan, Associated Press, "Judge Allows Abuse Lawsuit Against Firm," *Washington Post*, November 6, 2007, available at [http://www.washingtonpost.com/wp-dyn/content/article/2007/11/06/AR2007110601407\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2007/11/06/AR2007110601407_pf.html) (accessed November 16, 2007).
- <sup>639</sup> For the months November 2004—April 2005, there were two types of documents: 1) printouts from the database all the SIRs were entered into (arranged here in order of when they were reported, not in order of when the incidents occurred), and 2) additional SIRs in other formats. For these months these two types of documents are separated, giving two chronological sets. The incidents listed at the end of the chart are undated.



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