

STATE DEPARTMENT OVERSIGHT
AND CONTRACTOR-EMPLOYEE CONDUCT

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MONDAY, SEPTEMBER 14, 2009

United States Senate,
Commission on Wartime Contracting in Iraq and Afghanistan,
Washington, D.C.

The Commission met, pursuant to notice, at 9:30 a.m., in Room 342, Rayburn House Office Building, Hon. Christopher S. Shays, Co-Chairman of the Commission, presiding.

Present: Commissioners Shays, Thibault, Ervin, Green, Gustitus, Henke and Zakheim.

OPENING STATEMENT OF CO-CHAIR SHAYS

Co-Chair Shays. Good morning. I would like to call this hearing to order. I am Christopher Shays, Co-Chairman of the Commission on Wartime Contracting in Iraq and Afghanistan.

Thank you for attending this hearing on State Department oversight and contractor employee conduct. Before we hear witness testimony, I will make an opening statement on behalf of Co-Chairman Michael Thibault, my fellow commissioners and myself.

One commissioner, Professor Charles Tiefer could not be with us today. The other commissioners at the dais are Clark Kent Ervin, Grant Green, Linda

Gustitus, Robert Henke, Dov Zakheim.

The catalyst for today's hearing is, of course, the widely reported allegations and photos of misconduct among members of the private security contractor guard force that protects the U.S. Embassy in Kabul, Afghanistan. We do not intend to describe those reports and photographs in any detail. Our primary interest is not in the sordid details of the drunken partying, the nudity and the groping, or the intimidation and abuse of foreign national members of the guard force. That specific series of events certainly got our attention, but what motivates this hearing is our interest in the disturbing questions these incidents raise about the subject of wartime contracting which Congress has mandated us to study, specifically who in the government or, in this case, the State Department is watching the contractors.

Today, we will explore the symptoms of broader issues in contract requirements, contract management and oversight, and contractor performance that may be revealed as we pose questions like these:

How did flagrant breaches of ArmorGroup's code of conduct and its contractual obligations go unobserved and unreported by senior management for months.

Why did ArmorGroup supervisors delay reporting news of misconduct and attempt to intimidate people who might report it?

With reports of misconduct among ArmorGroup personnel surfacing as early as December, 2008 and with 2 contracting officer representatives tasked

full-time to the Kabul contract, how could the State Department detect no signs of trouble until it received notice from ArmorGroup leaders in Washington, not Kabul, in late August, 2009?

Why did the State Department display no visible signs of outrage at the delayed notice of problems at the ArmorGroup encampment?

Has the State Department issued a new cure notice or reviewed the security contract for possible default termination?

Does the lowest cost technically acceptable standard for Department of State security contracts need to be replaced by a best value standard?

And, even more fundamental, in a wartime environment, is providing security for U.S. Embassies an appropriate function to be delegated to contractors?

We will have other questions, and more will emerge as testimony and colloquies develop. Those questions and answers should help us determine whether the policies and practices for overseeing security contracts, for managing contractor camps and responding to incidents of employee misconduct are adequate.

It is hard to exaggerate the importance of these issues. American foreign policy goals, mission objectives and lives depend in no small part on the behavior of the contractor employees who make up half of the contingency operation workforce in Iraq and Afghanistan.

Maintaining a reputation for honorable and decent treatment of foreign

nationals as well as our own countrymen is a key asset in the struggle against terrorists. It is just basic common sense. Gross misconduct by employees of U.S. contractors devalues that asset.

It is unfair, insulting and dangerous to the military, State Department, USAID and nongovernmental personnel working in the Southwest Asia theater to have America's image sullied and trampled by outrageous and revolting behavior of contract employees. That concern is even more salient in countries like Afghanistan that have strict views of sexual misconduct and use of alcohol.

To be sure, the incidents of immediate interest do not represent contractor employees as a group. In fact, the solid and respectable American and foreign citizens who constitute the contract workforce are outraged by the prospect of being tarred by the brush of misconduct by a few irresponsible workers.

The incidents reported near the Kabul Embassy undermine American efforts to build a stable, peaceful and democratic Afghanistan. To put it bluntly, they provide free recruiting material to the Taliban.

ArmorGroup officials acknowledge the problem. They certainly cannot claim they were unaware of their obligations. Their contract with the State Department explicitly describes not only conduct requirements but also the reason for them. I will quote just one of those provisions: Each contractor employee or subcontractor employee is expected to adhere to standards of conduct that reflect credit on themselves, their employee and the United States Government.

The disparity between the contract language and events on the ground speaks for itself. Fortunately, the misconduct appears to have been concentrated in a rogue band of ArmorGroup employees, some of who have belatedly been fired along with their supervisors and senior leaders; others have been allowed to resign. We have seen no evidence that State Department employees participated in the incidents or had any knowledge of them until recently. That leaves open, of course, questions about the levels of vigilance and diligence that ArmorGroup and State were exercising.

The scope and duration of misconduct are both greater than they first seemed. Initially, we thought the list of disturbing episodes comprised the parties of June 15th and August 1st and August 10th. We have since discovered that other incidents occurred during December, 2008 holiday parties and that cafeteria-catered bunker parties became a recurring event during off-duty hours.

Tough young guards cannot be expected to spend their leisure hours diagramming sentences or studying the etiquette of the local tea ceremony, but we can expect them to be mature and use good judgment, and we certainly can insist that their managers and the government's contract managers pay close attention to employee conduct on an important mission in a sensitive region. Obviously, we need a great deal of improvement on those points.

Improving contractor performance is essential and eliminating contractors on the battlefield is not easily done under our current policy choices. Contractors have provided critical support to American military operations since the

Revolutionary War. More than 250,000 contract employees are working in Iraq and Afghanistan and more than 1,000 have died in the line of duty. They bring special skills to bear, free up warfighters for combat missions and represent a vital resource for contingency needs.

Our focus today is therefore on understanding how we can improve the system and make it work.

Let me comment briefly on why we invited DynCorp International to testify. DynCorp is the largest State Department contractor in Iraq and Afghanistan with extensive experience in diplomatic security and narcotics and law enforcement work. Like any large organization, including the Federal Government and the military, DynCorp has been obliged to deal with employees' misconduct and related legal issues. We are interested in the standards and practices contractors use and in the speed and completeness of their reporting to the client, the United States Government. We will explore DynCorp's experiences and practices today including their expectations regarding alcohol and other substances.

Just a few days ago, DynCorp notified this Commission and the State Department about another tragic situation in Afghanistan where a DynCorp employee was found dead in his quarters. We will explore this incident as well, including the timeliness of State Department notification.

We will hear from three panels of witnesses. We will swear in all witnesses and any accompanying staff who may need to provide information for

the record during these proceedings.

The first panel will give us the State Department's view of the contractor oversight issue. Our witness is the Honorable Patrick F. Kennedy, Under Secretary of State for Management. We are also pleased to welcome the three State Department officials who accompany him as subject matter experts: Ambassador Eric Boswell, Assistant Secretary of State for Diplomatic Security; Mr. William McGlynn, Principal Deputy Assistant Secretary for International Narcotics and Law Enforcement; and Will Moser, Deputy Assistant Secretary, Logistics and Management.

The second panel will provide nongovernment viewpoints. The witnesses will be Ms. Danielle Brian, Executive Director of the Project on Government Oversight, referred to as POGO, and Mr. Terry Pearson, former Operations Supervisor in Kabul, Afghanistan for RA International, the largest subcontractor on the Kabul security contract. He comes to us from Great Britain.

Our third panel comprises officials from the contract security industry: Mr. Doug Brooks, President of the International Peace Operations Association; Mr. William Ballhaus, President and CEO of DynCorp International, and Mr. Samuel Brinkley, Vice President of Homeland Security and International Security Services, Wackenhut Services, Inc. Wackenhut Services is the parent company of ArmorGroup North America.

Our witnesses have been asked to summarize their testimony in five to seven minutes in order to ensure adequate time for a good flow of questions and

answers. The full text of any written statement they submit will be entered into the hearing record.

We ask that witnesses submit, within 15 business days, responses to any questions for the record and any additional information they may undertake to offer during this hearing.

In closing, we thank our witnesses for participating in what promises to be a very informative session.

[The prepared statement of Co-Chair Shays follows:]

Co-Chair Shays. Now we will turn to our first panel.

And, before swearing our first panel, I want to state for the record that the State Department could not have been more cooperative. It has been extremely cooperative. They have allowed us to speak to a number of staff in the United States and in Afghanistan. And so, I just want to thank the four of you for the cooperation we have received from all of you and from your leaders as well.

With that, let me ask you to rise, and we will swear you in.

Raising your right hand. Do you solemnly swear or affirm that the testimony you will give to this commission is the truth, the whole truth and nothing but the truth?

Mr. Moser. I do.

Mr. Kennedy. I do.

Mr. Boswell. I do.

Mr. McGlynn. I do.

Co-Chair Shays. Mr. Kennedy, Honorable Kennedy, my understanding is you will be providing the statement. You have graciously invited others to join if there is a specific question. I do not want to say you are the point of the spear, but you are the leader of the group, and we will look forward to your testimony.

TESTIMONY OF THE HONORABLE PATRICK F. KENNEDY,
UNDER SECRETARY OF STATE, ACCOMPANIED BY ERIC
BOSWEL, ASSISTANT SECRETARY OF STATE FOR
DIPLOMATIC SECURITY; WILIAM MOSER, DEPUTY ASSISTANT
SECRETARY, ADMINISTRATION - LOGISTICS MANAGEMENT;
AND WILIAM McGLYNN, PRINCIPAL DEUTY ASSISTANT
SECRETARY FOR INTERNATIONAL NARCOTICS AND LAW
ENFORCEMENT (INL)

Mr. Kennedy. Thank you, sir. Co-Chair Shays, Co-Chair Thibault, thank you for the opportunity to appear before the Commission today. I appreciate the Commission's ongoing review of these important contractual issues facing the U.S. Government and particularly the State Department in Iraq and Afghanistan.

First and foremost, the Secretary of State and the entire leadership of the State Department share your deep concern about the outrageous conduct by a small group of ArmorGroup North America employees in Kabul. We are also very concerned about ArmorGroup delay in reporting their knowledge of these actions to the State Department. The incidents of misconduct are repugnant and demanded swift and appropriate action. As the State Department's senior management officer, I take responsibility for having failed to prevent them and for not having uncovered them earlier.

As representatives of the United States Government, it is our obligation to adhere to the highest standards of individual behavior and conduct. The

behavior of the employees captured in graphic images dishonor their ArmorGroup colleagues and the State Department in a country where the success of U.S. objective depends on the cultural sensitivity of all mission personnel including employees under contract.

When these allegations came to light, the Secretary directed that corrective actions be taken immediately along with a thorough examination of the performance, management and oversight of the contract. The Secretary has charged me personally to take every necessary step to ensure that all personnel, including contractors, meet the highest standards for individual behavior and conduct.

Upon learning of the conduct of these rogue employees, we immediately initiated investigations by our Diplomatic Security Service and the Inspector General's Office. To date, 165 ArmorGroup personnel have been interviewed. The regional security officer is interviewing third-country national guard supervisors as well as all local national staff, and we have taken the following actions:

Eight ArmorGroup guards have been removed from the State Department contract, and four more have resigned. Each of these 12 individuals have departed Afghanistan.

ArmorGroup's entire management team in Kabul is being replaced. Two were removed from the contract, and two have resigned. Three of the managers have departed Afghanistan, and the final manager will depart on December 16th

after a handover to his replacement.

Since the guard housing at Camp Sullivan is located six kilometers from the embassy compound, an embassy assistant regional security officer now has been stationed at Camp Sullivan, and the consumption of alcoholic beverages has also been prohibited at Camp Sullivan.

While it was essential that we took these immediate actions, our paramount responsibility was and is to ensure the continued and uninterrupted provision of security services by a well-disciplined, well-supervised and professional guard force. Our top priority must always be to provide the most secure environment possible for the conduct of our foreign policy, especially in challenging operational environments such as in Afghanistan.

As the State Department deploys in new and expeditionary ways, security is critical. We are carving out a new road as we operate for the first time in zones of active conflict. Regional security officers and assistant regional security officers carry out their duties in a dedicated and competent manner to ensure that our security is not breached. The State Department has not lost, cannot lose and will not lose sight of the fact that the security of U.S. mission personnel in Afghanistan and elsewhere is our first priority.

Our security operations in Afghanistan and Iraq are unlike those at any of our other 263 posts around the world, and we are writing a new set of rules and policies as we go. In most cases where contractors provide static guard services at embassies throughout the world, personnel are almost exclusively local hires

with homes and families to which they return each night.

However, in Afghanistan and Iraq, third-country nationals have been required to staff our local guard force, and our contractor provides housing and meals at a camp. In both countries, the situations have called for rapid deployment of security contractors for an uncertain duration. For obvious reasons, our contractors have faced significant challenges retaining employees in both countries. Thus, it is not only difficult to find contractors that can meet our contractual requirements, but it brings with it unique logistical challenges. For these among other reasons, the provision of static guard services in Iraq and Afghanistan has been challenging for the Department.

Our initial operations in both countries benefitted enormously from the protective support provided by the U.S. Military, but, in 2004, the Department of Defense withdrew its personnel and the State Department had to take responsibility for ensuring provision of these services. Nearly 2,500 contractors are serving as static guards in Iraq and Afghanistan. They are engaged solely to protect our personnel on the ground. They do not participate in either combat activities or law enforcement.

Co-Chair Shays. Mr. Kennedy, we are going to allow you as much time as you need. So I just want you to not feel like you have to look at the clock.

Mr. Kennedy. Thank you, sir.

In Afghanistan, a major international security firm, was contracted to provide essential onsite control of the housing camp and the conduct of our static

guards who spend their off-duty hours there. However, these recent events make evident the need for stronger State Department oversight, including now when contractors are off duty. And, unless that oversight can be effectively provided by our contractors, closer management by government personnel will be necessary.

We have always had in place a rigorous regime of oversight for security operations by contractor personnel while they are on duty. Allegations of contractor misconduct are investigated, and, if substantiated, appropriate action is taken.

Over the life of this contract, when concerns were raised about the conduct of specific individuals, we asked for these individuals to be removed from the contract. When we identified deficiencies, we followed up. And, when the most recent allegations came to our attention, the Department demanded immediate action by the contractor, and the individuals involved were removed from the contract.

The many dedicated members of the Kabul Embassy security force have provided essential protection of the mission compound and adjoining facilities. They have maintained our security in this dangerous environment.

As the Department of State reduced its security support, the use of a contract guard force was the only way to meet the new requirements quickly. Globally, there are only some 1,700 diplomatic security special agents in the Department, posted domestically and overseas. This group of dedicated

employees safeguards 265 diplomatic and consular posts, protects senior and U.S. and foreign dignitaries, carries out critical investigations vital to protect our national security by ensuring that U.S. passports and visas do not fall into the hands of criminals and those who would do us even greater harm, and performs a myriad of other essential security responsibilities.

To fully staff both Afghanistan and Iraq requires nearly 2,500 static guards and triple that number when factoring in rotations. We cannot hire and train sufficient numbers of additional State Department personnel to meet these sharply increased demands in the short time frame.

The unpredictable duration of missions of this level of intensity present a real challenge in determining the appropriate level of the State Department's Diplomatic Security Service. It is difficult to scale up the size of our security force, and it is equally challenging to ratchet back--one of the primary reasons that contractors have been used to fill gaps that develop quickly with an unclear but limited duration.

The cost of using contractors also is often higher than it would be to hire and manage an internal workforce.

We need to explore alternative mechanisms to meet fluctuating levels of need for diplomatic security in the future. These events bring into focus a broader issue regarding the extensive dependence of the foreign affairs community on the use of contractors. Secretary Clinton has directed both State and USAID to develop options for effective and more efficient ways of advancing

our foreign policy objectives.

While we continue our analysis of the best way forward, we look forward to discussing and considering the Commission's recommendations. In the interim, the State Department must use its extensive experience in procuring services to protect our overseas diplomats and facilities in order to continue to be able to advance our national security interests through our ongoing diplomatic activity in this ever-challenging world. We must also redouble our efforts to ensure that contractors are performing in accord both with our policies and our values at all times.

I would like to review in some detail the history of the Department's contracting for static guards in Kabul.

The Department first contracted with PAE Louis Berger as an interim measure ahead of full and open competition.

In July of 2005, an award was made to MVM. MVM made the transition phase, but it was unable to reach a point where it could begin contract performance and was ultimately terminated. The PAE Berger contract remained in place during that time.

On March 12th, 2007, a contract award was made to ArmorGroup North America after full and open competition involving a number of countries. This contract has required extensive oversight and management. Since award, we have issued seven deficiency notices addressing twenty-five deficiencies, one cure notice and one show cause notice. Each deficiency notice, cure letter and

show cause notice demanded separate corrective action plans to permanently resolve these issues.

I want to take a minute to outline the major steps already taken in managing this contract.

In June, 2007: Allegations of misconduct and inappropriate actions, including deceiving the government regarding its proposal. The Department pursued each allegation with ArmorGroup and requested immediate action plans. ArmorGroup addressed each allegation.

July 19th, 2007: Cure notice. The local guard contract allows for a 90-day transition period to ensure contractors have adequate time to stand up full performance. The Department issued a letter of warning to ArmorGroup to convey the Department's serious concerns with transition progress and our expectation of full contract compliance.

April 30th, 2008: Final deficiency letter. The Department issued a second letter of reprimand, issued due to ArmorGroup's inability to permanently correct previously identified deficiencies including sufficient guard relief, as well as newly identified deficiencies.

May, 2008: G4S, Wackenhut, acquired ArmorGroup and assigned corporate management for this contract to its U.S. subsidiary, Wackenhut Security Incorporated. Wackenhut's management team, with extensive experience in providing static guard service at other U.S. Embassies worldwide, committed to resolving all outstanding issues.

The Department, therefore, was confronted with a difficult decision, whether to continue the contract in light of ArmorGroup's deficiencies, which were being addressed, or to consider alternate vendors when there had been only one other qualified bidder for this contract and on the prior round of bidding a previous vendor was selected but failed to perform. On balance, the Department decided to exercise its option to extend the contract for one year.

September, 2008: Show cause notice. The State Department sent ArmorGroup a third letter of reprimand for failure to permanently correct staffing shortages despite the recommendations made by Wackenhut upon acquisition. The Department decided to take the first step forward towards contract termination.

Over the next five months, the Department conducted an extensive dialogue with ArmorGroup, and ArmorGroup sufficiently demonstrated its ability to resolve the remaining deficiency--contract staffing shortages.

On January 24th, 2009, the contracting officer and diplomatic security judged ArmorGroup to be compliant with the contract's staffing requirements.

Despite the administrative deficiencies discussed with ArmorGroup, the Department did not observe any breaches of the security of the mission. Through the constant oversight of the regional security office and the contracting officers, diplomatic security personnel on the ground in Kabul felt that the administrative contract deficiencies did not jeopardize the security and safety of the personnel assigned to our mission. Static security at Embassy Kabul, as well

as all our overseas missions, is based upon multiple layers of staffing to ensure appropriate security coverage and no single point of failure.

In February, 2008, unmanned hours reached a peak of 1,440 hours out of a total of 85,000 hours, which is 1.7 percent. As an example, a guard post at the embassy would have a contractual requirement for six static guards at all times with a roving guard available to take the place of an individual on break. On several occasions, during oversight reviews of the contractor, the regional security officer observed a six-guard post covered by only five guards.

The absence of one individual for an hour would represent an unmanned hour but would not raise security concerns given the redundant coverage in place. Thus, while the staffing shortages for ArmorGroup received deficiency notices and represented a failure to meet contract specifications, they did not represent a security risk, and based upon our reviews to date the safety and security of our diplomats has not been compromised, and the security of the embassy was not threatened.

As with all security contracts, there is constant communication with and collaborative efforts by the contracting officer and Diplomatic Security in Washington and the regional security officers on the ground in Kabul. For the ArmorGroup contract, weekly meetings and, at times, daily meetings are held on contract performance. The contracting officer's representative is a Diplomatic Security Federal agent who sits in Washington and works daily with the two contracting officer representatives on the ground in Kabul who are also both

Diplomatic Security Federal agents.

As the Commission recognizes from its extensive work, the U.S. Government is constantly confronting new challenges as we manage in a threat-laden environment. As we look ahead, we incorporate lessons learned to ensure that these issues are not repeated.

While we continue to undertake further investigation into these matters, several points are clear:

The safety and security of our personnel is and must always be our top priority. We must provide the most secure environment possible for our employees to conduct our foreign policy.

As representatives of the United States Government, it is our obligation to adhere to the highest standards for individual behavior. This is a single standard for all employees, U.S. Government and contractor alike.

We must ensure that contract oversight is direct and all reports of problems are fully investigated. We must have in place a rigorous regime of oversight for security operations.

We must find the right balance between U.S. Government employees and contractors in environments like Afghanistan and Iraq or pursue new alternatives for the provision of security.

Other actions will depend upon our ongoing investigation, and, as necessary and appropriate, we will reevaluate the continuation of this contract. Once the investigation is complete, we look forward to discussing the findings

with the Commission.

Thank you for providing me with this opportunity to appear before you today.

[The prepared statement of Mr. Kennedy follows:]

Co-Chair Shays. Thank you, Secretary Kennedy.

Just so you have a sense of what is going to happen now, we will be going to my Co-Chair to ask the first set of questions, then to Commissioners Ervin, Green, Gustitus, Henke, Zakheim, and then I will go last. Commissioners will do a seven-minute first round and three the second.

And, I think we are all set, Mr. Thibault.

Co-Chair Thibault. Thank you, Commissioner Shays.

I would like to make an observation and read a note from Secretary Clinton's response to Senator McCaskill. What I would read, and it complements, relates very closely to your statement, Secretary Kennedy, is that she wrote a personal note on the bottom of the letter to Senator McCaskill, and she said, "I hope to discuss the problems we have with you because of the excessive outsourcing of too many critical State and AID functions, with you at your convenience."

That is a powerful statement. The letter is on target in terms of generating a quick response and identifying accountability, which I personally and we as a Commission would support.

You talked in your testimony about closer management of contractors and a mandate to explore alternative issues that was made by Secretary Clinton. In your statement, you also talked about trying to determine the right balance and any and whether you need to go to new alternatives.

That is just a statement on my part that the Commission, as you have

outlined, looks forward to following those actions throughout the course of the next few months because it is really critical.

The first area I would like to explore with you is we have taken multiple trips to Afghanistan. I have had the opportunity to go in November of last year, April of this year, August of this year. On each trip, we stop by State Department, and we have gone out to where State Department accomplishes some of its work and the like. And, on each trip, we have been briefed by the contracting officer representatives and the individuals responsible to work with them. Those are the individuals that are the contracting officer's eyes on the ground.

As outlined in Commissioner Shays' opening statement, this has been going on, the behavior part of it has been going on, it appears, since December's holiday party at least. The contracting issues that require very close oversight have been going on for 27 months in terms of putting the company on record, both the company and the original company contractor and then the acquiring organization.

It is troubling, and I am going to ask for your comments, whether that continuous employee misconduct--and contracting problems but misconduct--has not been disclosed or revealed. When we met a few days ago, last week, we were told about daily trips into the compound. This morning, it was clarified that, well, maybe it is weekly trips.

And, in light of the problems that have occurred and the responsibility that

resides with contracting officer representatives, and we have been told shortages, and we have asked for more. In fact, we were told they asked for seven and were promised four directly by the individuals responsible for that.

I would appreciate your comments relative to whether you think your contracting officers on the ground, the eyes and ears, are doing the job as anticipated by State Department and, if not, why not?

Mr. Kennedy. Thank you, sir.

There is no question, Mr. Chairman, that we should have done more, and I make no brook for that. That is what I have told the Secretary, and that is what I said in my statement.

We had focused on ensuring that the contractor was delivering the contracted services during the duty hours, making sure that the posts that were specified in the contract for duty were covered. And, that is why you can see, as we have identified in both my statement and in a lot of other material, that we were pursuing regularly with the contractor every deficiency that they had and making them correct them for their performance.

We simply made a mistake. We assumed that the contractor was going to be managing its conduct at the guard camp in accordance with the standards in the contract as your fellow Co-Chair outlined.

On a regular basis, the contracting officers did visit the guard camp. The other representatives of Diplomatic Security were at the guard camp on a regular basis. During the performances by the on-duty personnel, the regional security

officers, both the contracting officers and other regional security personnel were talking on a daily basis to the supervisors, to the Gurkha guards while they were on duty and constantly engaging them in a dialogue.

At no time over the course of this period, to the best of our knowledge-- and we have already interviewed 165 people--did anyone say to us at any point, there is this misconduct going on.

It clearly proves that what we should have been doing is having more presence, a permanent presence, on the compound. That is why, having learned about these despicable incidents, that is why we have seven by twenty-four coverage now on the compound.

Co-Chair Thibault. Okay. Thank you, Secretary Kennedy, and I appreciate that.

I am not going to ask you to respond to it. The way you laid it out, at a minimum then, since this has been going on so long, conspiracy is a little bit of a strong word, but I will make the observation that if at no time this was disclosed, which I accept that statement. I have heard that. Commissioner Shays outlined what we have learned. Then conspiracy is a strong word, but someone in ArmorGroup must have worked real hard so that your State employees did not know about this.

Let me ask you a question. Given the testimony and the discussions and the results of your interviews, if you were to find out today or in the near term, and we have been told that your more senior managers may have stopped by the

party on June 15th but that then they left, and they apparently did not know the severity because these parties continued.

If you were to find out that there was instead a discussion by the most senior managers and ArmorGroup, that on June 15th at the party, that maybe this had gone over the edge and was inappropriate and that whether through collegial cooperation or just accepting someone's expressed in the past that it was stated early, well, you have to understand boys will be boys--that whatever it was, if you were to find out that that did occur and they made a decision then that, no, we will go ahead and let this party go on, and then they left, or at least one of them left and the other one stuck around, would that change your outlook entirely or how might that change your outlook in terms of the fact that maybe if they had that discussion and they had shut it down, maybe the instances on August 1st, August 10th or any other instances might not have occurred?

If you were to find that out, what would be your reaction?

Mr. Kennedy. Well, first of all, sir, it is absolutely clear to me that there was a failure on the part of the ArmorGroup North America representatives onsite. There is no doubt about that, and that is why when this came to attention we went to ArmorGroup headquarters, Wackenhut, and asked that all those supervisors be relieved.

It is clear that they should have stopped these. I have seen the pictures. You have seen the pictures. It is a no-brainer. That conduct is appalling and should have been stopped immediately. The failure of the management onsite to

do what they should have done, to adhere to the standards of the contract, caused us to ask for their removal which has been accomplished.

If it turns out that there was, as you used the word, and I realize you also put it in quotes, a conspiracy to keep this away from the State Department, if this turns out to be larger than that, I think I stand by the statement that I made in my testimony which is this: We are waiting for the results of the investigation, and then we will decide whether or not it is proper to continue this contract.

Co-Chair Thibault. Thank you, Secretary Kennedy, because that really is the ultimate decision, which is should the United States Government continue to contract with an organization that does not seem to be able to put its events contractually, as well as conduct-wise, in proper and acceptable order?

Commissioner Henke. May I ask a clarifying question?

Co-Chair Thibault. Please do.

Commissioner Henke. Ambassador Kennedy, did you ask Wackenhut to remove the managers or did you require it?

Mr. Kennedy. Well, we asked Wackenhut to remove the managers, and, if they had not removed the managers, we would have required it.

Commissioner Henke. Okay. And, was that at their first suggestion or did the State open the dialogue?

Mr. Kennedy. Our suggestion.

Commissioner Henke. Okay. Thank you.

Mr. Kennedy. Our strong suggestion.

Commissioner Henke. Okay.

Co-Chair Thibault. Commissioner Shays.

Co-Chair Shays. Thank you. We are going to go to Commissioner Ervin.

Thank you.

Commissioner Ervin. Secretary Kennedy, as you say, everyone who has seen these photographs of this June 15 incident are outraged by it. It truly shocks the conscience, and the same is true, I would argue, for the other behavior that we are aware of in August, August 1 and August 10. No one would disagree with that.

But I have to tell you, I am also very much troubled by the State Department's repeated characterization, not just of these incidents but this whole litany of problems over the course of two years with this contract. Both in Secretary Clinton's response to Senator McCaskill which the Co-Chairman referenced a second ago, in Mr. Moser's testimony before Senator McCaskill's subcommittee in June and the extensive colloquy he had with Senator McCaskill and Senator Collins, in your own statement today, the State Department draws a distinction, attempts to draw a distinction between contract compliance and the security of the embassy. In your statement, despite the administrative deficiencies, the Department did not observe any breaches of the security of the mission.

Your own letters, the State Department's own letters, there is a June, 2007 letter: AThe purpose of this letter is to advise you that I consider the

contract deficiencies addressed below to endanger performance of the contract to such a degree that the security of the embassy is in jeopardy.

There is an August 28 letter: ΔUpon review of the most recent corrective action plan, the government has serious concerns regarding ArmorGroup's ability to respond in the aftermath of a mass casualty incident or extreme loss of personnel due to mass resignation, hostile fire or loss of manpower due to illness, et cetera.

This June 15 incident, the August incidents, all of these, I would argue, have the potential so to inflame Afghan opinion in general and in particular the opinion of Afghan personnel on the embassy as to endanger the lives of our personnel.

In March, before that, we had 18 guards apparently who were off duty of their posts, some for as long as 3 hours.

And then, we learned in May of 2009 there was this Operation Snack Pack incident when some guards, on their own initiative, went into Kabul dressed as Afghans and pretended to undertake a reconnaissance mission. The potential for loss of life is huge there, and for a while the embassy was night-blind as a result of that.

All of these incidents, I would argue, are not administrative deficiencies. They directly, and your own correspondence, indicate that this behavior over the course of time jeopardizes the security of the embassy. I would just like your comment about that. How can you justify this distinction?

Mr. Kennedy. Commissioner, we are not attempting to justify anything. We are attempting to describe a set of facts on the ground.

I am not offering justification for ArmorGroup's performance. We are saying, drawing a distinction between the off-duty conduct of a certain number of ArmorGroup personnel which was reprehensible and totally inappropriate, to say the least.

In their on-duty performance in protecting the U.S. Embassy facilities, there were administrative deficiencies. We were the ones calling these administrative deficiencies to the attention of ArmorGroup by our constant monitoring of their performance on a daily basis and reporting back to Washington.

So the distinctions between on-duty and off-duty, the contracting language you quoted there is certainly, yes, we said that. We were attempting to convey to ArmorGroup our grave concern about their performance of their on-duty responsibilities, but all the evidence to date now--and I will ask my colleague if he would like to, Assistant Secretary Boswell, make any further any further comments from Diplomatic Security--indicate that there was never a breach of embassy security posture.

And, if I might, there have been two major bombings, vehicle-borne bombing attempts, one just up the street from the American Embassy compound and one just up the street from Camp Sullivan, where the reactions and the discipline and the process engaged in by the ArmorGroup personnel was

exemplary.

Commissioner Ervin. Explain to me then why this language was used in these letters in 2007 and 2008. If the course of conduct by ArmorGroup, even in those early years, did not endanger the security of the mission, why was that language used in these letters?

Mr. Kennedy. In an attempt to get ArmorGroup's attention. We wanted to shock ArmorGroup and tell them that they were endangering their continued contractual relationship with the State Department if they did not fail to correct these deficiencies.

Commissioner Ervin. It did not say that. It said it endangered the security of the mission.

But let's pursue that further. You could really get ArmorGroup's attention by terminating the contract, failing to exercise the option to continue, and you did not do that.

You know there is this old adage: If you want to reward something, you give it, you do more of it. If you want to penalize something, you do less of it.

The fact of the matter is you continued this contract. Why is it, under the circumstances that we have had for these two years?

Mr. Kennedy. Because, Commissioner, as I said in my testimony, operating in a zone of conflict is something new and different for the United States Government's civilian side.

We put into a place an open competition for a contractor. MVM was the

winner of that, and they failed to perform, and so we terminated them.

We then went out with another round of bids for full and open competition.

We had eight bidders on that contract, only two of which were technically qualified, and ArmorGroup was selected. The decision was made.

I believe, and I will ask Mr. Moser to comment further on it, that ArmorGroup was in the process of correcting these deficiencies. You compare that to having no contract in place and given the difficulties of operating as I outlined and the lack of responsive bidders previously.

We saw a ramping-up, a movement towards, by ArmorGroup, to full and complete compliance with every single one of the contract specifications-- something we never saw with the previous contractor awardee, MVM. They never made any progress. We saw extensive progress being made by ArmorGroup and, rightly, extensive deficiencies.

Commissioner Ervin. My time is limited. I wanted to give Mr. Moser an opportunity to respond, but just one follow-up question to that, and both of you can answer. Then I will reserve the rest of my questions for the second round.

Mr. Kennedy. Please.

Commissioner Ervin. That is given what you know now is it the intension of the State Department to terminate this contract? What do you have to do, essentially, in order to get the State Department to terminate a contract like this under these circumstances?

Mr. Moser. Well, as Mr. Kennedy has already pointed out, Mr. Ervin, we

do want to look and see the results of the investigation. We try not to take arbitrary action in any case, and we do want to go through that.

And, I will say this to you, a public hearing is not really necessarily the place we need to have a discussion about the future of contractual actions. But, as you know, the members, the Commissioners that met with me last week know that we are actively discussing what our alternatives are going to be in this situation, and it is not with a great deal of seriousness that we approach it.

In fact, one of my contracting officers, the head contracting officer that has this contract met with ArmorGroup, met with Mr. Brinkley in fact on Friday night. We are trying to engage with him constantly, to try to lay the basis for our decision-making process of what we are going to do in the near future.

Commissioner Ervin. Thank you.

Co-Chair Shays. Thank you.

Mr. Green.

Commissioner Green. It is more fun to be up here, Pat.

If you would, in your opening statement, you spoke very briefly about the uniqueness of Kabul and Baghdad and the way they are supported logistically, and I accept that fact, certainly in a conflict area.

There are a number of other posts, not a lot, but a number of other posts that also use third-country nationals in the guard force. Would you just briefly explain how they are supported logistically?

Mr. Kennedy. Thank you very much, Commissioner.

You are entirely correct: 265 diplomatic and consular posts around the world, only Kabul and Baghdad have compounds where the individuals live. At about 260 other ones, the individuals are local nationals and go home every night. In a couple of them, usually in the Gulf, they are third-country nationals.

Commissioner Green. The Gulf, right.

Mr. Kennedy. But they live on their own. They do not live in major compounds like we have in Afghanistan and Iraq. Also, they are not, in effect, forced to remain on those compounds by the security situation there. The life amenities, the ability to get out and go shopping, to go for a walk, to go to the beach, to do all those other things that one would normally describe as the course of activity that a human being does to get a break from their work are available in those locations, even when they are third-country nationals, and that are not available in Afghanistan and Iraq.

Commissioner Green. Thank you.

Who has the contract in Baghdad?

Mr. Kennedy. Triple Canopy has the contract for the static guards.

Commissioner Green. Have there been any similar sorts of incidents with Triple Canopy?

Mr. Kennedy. No, sir. We are not aware of any incidents of this nature.

Commissioner Green. How would you account for that difference between the two which are operating in similar environments?

Mr. Kennedy. I think it is probably there is a major and a minor reason . I

think the major reason is that the guard camp that Triple Canopy uses in Baghdad is literally adjacent to the United States Embassy. It is on part of the larger embassy compound. And, even when the embassy was in the Republican Palace, it was a very, very short distance away, and there was much more movement back and forth.

So I think there was, per force, a presence always around that compound, the local guard compound in Baghdad, because of geography, and that is something that we have taken very much to heart. That is why we have changed our policy and now have an assistant regional security officer in residence at the Kabul compound because it is six kilometers away from the embassy.

Commissioner Green. Is that going to be a permanent situation?

Mr. Kennedy. Yes, sir.

Commissioner Green. Okay. You have by far, I think, more experience in management than any other senior official in the Department, either past or present, including obviously the oversight of diplomatic security and the acquisition contracting activities of the Department.

As you know, there are always good contractors and contractors that are not so good. Have you ever in your long experience seen another contractor who has failed in so many areas, received so many chances to improve? And, I am talking not just about the technical and administrative deficiencies that we have all talked about and known about but the ethical and behavioral aspects of it.

I stress the ethics because I think, in my mind at least, that that is as important, if not more important, than some of the other issues such as whether or not the gym equipment is satisfactory or the guards are temporarily using government-furnished weapons. I think it is reflection on the company's culture at all levels, particularly the management of the company, and it is a reflection in the end on our Country at a very critical time when we are attempting to win the hearts and minds of the Afghan people.

So I would like your reflection, your comments on that.

Mr. Kennedy. Commissioner, there is no question that this does reflect very adversely on the management of ArmorGroup North America. There is no doubt about that.

You ask about drawing a comparison, and I really wish I could draw a clear comparison. The problem that I have is uniqueness, scale, context. The two contracts that we have--one in Kabul, one in Baghdad--for local guard services has no other comparison in the world.

We are engaged in a new era of protecting American Embassies in expeditionary ways, in zones of conflict, and we are learning as we are going. And, I take responsibility for the foibles that take place along the way.

If I might, ArmorGroup North America has operated in both Iraq and Afghanistan. It has managed guard contracts in both locations. It managed the guard contract at the British Embassy in Kabul.

Wackenhut North America is a partner with the State Department in

managing 51 local guard contracts at other locations in the world, which is why, and maybe this is also a partial answer to Commissioner Ervin's question, we felt that the expertise that Wackenhut, now part of the larger group, brought to this. And, when G4S assigned responsibility for the oversight recently to Wackenhut, WSI, because of their extensive experience in 51 locations--even ArmorGroup before I believe has 8 or 10 contracts with the State Department at other locations--we thought that they would have the discipline and the process to make this a successful contract, and as we watched the increasing delivery of ArmorGroup we thought that they were on the right track.

Commissioner Green. Thank you.

Mr. Kennedy. We were clearly wrong in terms of the context.

Co-Chair Shays. Commissioner Gustitus.

Commissioner Gustitus. Thank you.

I want to go to this issue of terminating contracts because that issue is not new. What you just told us today, both Mr. Moser and Mr. Kennedy, was we are going to wait for the results of this investigation and then decide whether to continue the contract.

That was the exact same situation after Nisour Square with Blackwater. The IG said that you were waiting for the outcome of that investigation, which ended up in a criminal indictment, in order to determine whether to continue that contract.

And, that contract was a situation where in Iraq you had lost the hearts

and minds of the Iraqi people with respect to Blackwater because it was overwhelming that the Iraqi people disliked Blackwater intensely. You continued to contract with Blackwater, and it was only until the Iraqi Government said we are kicking Blackwater out of Iraq that you actually took action.

You are shaking your head, but that is my understanding, and you can correct me in a minute.

But when you did not terminate your contract with Blackwater after Nisour Square and the problems in Iraq, that helped to send a message to other contractors that you can do a lot and not have your contract terminated, by Blackwater.

I asked the State Department for their documentation on that decision to continue their contract with Blackwater, to extend it. It was extended shortly after Nisour Square. We were told that there was one document relevant to that decision, which I thought would be a fairly complex decision: Are we accomplishing the major mission of winning the hearts and minds of the people versus the security?

There was only one document which just said: Re-up the contract with Blackwater. There was no analysis of the costs and benefits of doing so with respect to Iraq.

I raise this because it is in this same context you are giving us the exact same response as the Blackwater situation, that you are going to await the outcome of the investigation. But I do not know, given the history, that there is

any confidence that you would actually take action, regardless of the outcome of the investigation.

Mr. Kennedy. Well, first of all, Commissioner, we did not. The Blackwater contract had additional option years that we did not, we did not engage.

Commissioner Gustitus. No. There was an option year after Nisour Square that was re-upped.

Mr. Kennedy. Yes, but there were additional option years that we did not engage.

Commissioner Gustitus. Well, because you were kicked out. They were kicked out of Iraq by the Iraqi Government.

Mr. Kennedy. One of the terms of the contract was that a company must have a license to do business.

Commissioner Gustitus. Right.

Mr. Kennedy. That then defaulted, so to speak, the contract.

Commissioner Gustitus. Right, it was not your decision. It was that they did not have a license to operate in Iraq because you were contracting with them.

Mr. Kennedy. But that was our decision because we put that specification in the contract, that they would be permitted to operate by the host government.

Commissioner Gustitus. Go on.

Mr. Kennedy. On the question about we take very seriously. I mean we are there in Iraq. We are there in Afghanistan, not just to be there. We are there to deliver and support the foreign policy goals of the United States.

And, the situation of the incidents that took place in Kabul are absolutely appalling, and, as I have said in my testimony, those incidents are under review. We have the Inspector General and the Diplomatic Security Service looking at them, and we will make a decision on what we need to do about this matter.

Commissioner Gustitus. Well, I hope you do it in a thoughtful way where you weigh the costs and the benefits and have some documentation on it because there was no documentation, absolutely none, with the decision on the Blackwater contract to re-up it following Nisour Square. I can tell you that, and it was a surprise to me.

Is it common, what Commissioner Green said, to have a contract with seven deficiencies, one show cause and one cure notice? Is that a fairly routine contract or is that an exceptional contract?

Mr. Kennedy. There are only two contracts for guard services of this kind in the entire world, and that is the--

Commissioner Gustitus. I just mean in all of your contracting.

Mr. Kennedy. Ma'am, we have had cure notices issued. There are a variety of contracts. We have had cure notices issued on construction contracts.

Mr. Moser. A lot.

Mr. Kennedy. And so, having deficiencies and cure notices in some volume, absolutely. But, in comparison to this contract, as I said, there are these two specific, new, unique contracts that we are working our way through.

If the performance at ArmorGroup, excluding the recent events that are

not under review, if the performance at ArmorGroup had been on the same trajectory as that of the previous contract awardee, MVM, we would have terminated it. But with the ArmorGroup resolving the deficiencies, we saw that as a positive step.

Would we like it to have been faster? Absolutely.

On the other hand, we were comparing it to the degree of difficulty that we had experienced in Afghanistan in putting together a full-fledged local guard contract in that location, under those circumstances, and made the decision that the trajectory of the contract's performance was positive.

Commissioner Gustitus. Okay. I have a couple quick questions before my time is up.

You interviewed 165 ArmorGroup employees. I think you said something like that.

Mr. Kennedy. Yes.

Commissioner Gustitus. Have you interviewed the regional security officer who was on duty for the December party and the June 15th party?

Mr. Kennedy. There was no--

Commissioner Gustitus. I do not mean who was in charge there, the regional security officer who was in charge of the Camp Sullivan from the time of December, 2008 to July, 2008. We know a new person has come on board as of July 1st. But I am asking if, with respect to this incident, you have interviewed the former RSO?

Mr. Boswell. The answer is yes, ma'am.

Commissioner Gustitus. Okay. Was he completely unaware of the December party and the June 15th party?

Mr. Boswell. That is my understanding, yes, ma'am.

Commissioner Gustitus. Okay. My time is up.

Co-Chair Shays. We will go with Mr. Henke.

Commissioner Henke.

Commissioner Henke. I have four brief questions before I get into what I really want to talk about. There is so much here to get at.

Mr. Kennedy, at the point of award for this contract, March of 2007 time frame roughly, how many submissions did you receive?

Mr. Kennedy. There were eight, eight bids on this.

Commissioner Henke. Eight bids.

Mr. Kennedy. Eight, of which only two.

Commissioner Henke. Okay, eight bids. Did Wackenhut submit?

Mr. Moser. Yes, they did.

Mr. Kennedy. Yes, they did.

Commissioner Henke. Was Wackenhut judged to be technically acceptable?

Mr. Moser. Technically, unacceptable.

Commissioner Henke. Let me finish, please. Was Wackenhut judged to be technically acceptable?

Mr. Kennedy. No.

Commissioner Henke. What was Wackenhut's price?

Mr. Kennedy. I do not believe--we will have to get that for you.

Commissioner Henke. Mr. Moser, do you have it?

Mr. Moser. No, I do not.

Commissioner Henke. Was it \$272 million, plus or minus?

Mr. Moser. That sounds familiar, Mr. Henke, but I do not recall exactly.

Commissioner Henke. Okay, good. Okay, that is good. So they were technically unacceptable, but their price was \$272 million, okay.

What was AGNA's price on the bid, the contract you signed?

Mr. Moser. It was \$189 million.

Commissioner Henke. One hundred and eight-nine million dollars, okay.

Mr. Kennedy, your own IG, the State's IG, did an inspection of Embassy Kabul in January, 2006. I am sure you are now familiar with it. I am sure you were then.

Quoting from Page 2 of that report: "Afghanistan presents a dangerous and stressful operating environment. Stringent security requirements constrain work schedules, consume large amounts of human and other resources, restrict mobility and directly affect post morale.

"The conduct of the embassy's protective detail,--now we are not talking about the protective detail here. We are talking about the embassy security force, but the point is the same.

ΔThe conduct of the embassy's protective detail projects an overly aggressive image that has potential to generate negative opinions of the United States.

This is from January, 2006.

With that as background, Mr. Kennedy, where did these guys buy the booze?

Mr. Kennedy. We believe that they bought the booze from the U.S. Military commissary.

Commissioner Henke. From the U.S.? Where is that U.S. Military? From the U.S. Military commissary?

Mr. Kennedy. ISAF, the International, NATO.

Commissioner Henke. Let me ask you this.

Mr. Kennedy. And, there is also a commissary on the American Embassy compound as well. That is a two-part answer, Commissioner.

Mr. Kennedy. Okay. So to plainly state it, I think that they bought at two places. They bought the booze at the embassy, and they took it to their camp. Is that fair?

Mr. Kennedy. We understand that they bought it at two locations.

Commissioner Henke. Right.

Mr. Kennedy. The ISAF NATO commissary and at the embassy commissary and took it to their camp.

Commissioner Henke. Okay. If they buy it at the embassy, to get to the

camp, they have to get in armored vehicles in an armored convoy and drive three miles to the camp. Is that fair?

Mr. Kennedy. The guards move themselves.

Commissioner Henke. I understand.

Mr. Kennedy. They are in their own convoys, yes, sir.

Commissioner Henke. But it is an armed convoy. So the booze leaves the embassy in an armed convoy, goes to the camp where the pictures were taken, right?

Mr. Kennedy. Yes, sir.

Commissioner Henke. Okay. If the other place they bought booze was something called Camp KAIA. Is that the NATO compound?

Mr. Kennedy. I have never heard that term used.

Commissioner Henke. Okay. Well, the booze does not leave the compound. So, in other words, they can go drinking there, and they have, and it is documented in the testimony that they went drinking and had parties at that compound, came back to Camp Sullivan already drunk because they could not bring the booze off that compound. But they brought the booze off the embassy.

My question for you is why did you allow alcohol sales at the embassy in Kabul?

Mr. Kennedy. Because we believe that for, that if individuals behave responsibly, they should be able to drink. There are rules about when you can drink vis-à-vis the use of weapons. We have since ended the use of alcohol on

Camp Sullivan.

But, there is the ability to drink responsibly. It has never been an issue up until now.

Commissioner Henke. Have you stopped alcohol sales at the embassy in Kabul?

Mr. Kennedy. No, sir.

Commissioner Henke. Have you stopped the practice of having alcohol that is sold at the embassy be able to leave the embassy?

I can see where if a U.S. Government employee takes the alcohol to their house, to their apartment at the embassy compound. That is one thing. Have you stopped the practice of letting booze bought at the compound leave the compound?

Mr. Kennedy. I will confirm that to you, but I believe by banning the consumption of alcohol by the contractors at Camp Sullivan, the logical extension of that, and I have seen the ban on alcohol consumption at camp Sullivan. I am making the assumption that the two pieces are tied together, but I will confirm that, yes, sir.

Commissioner Henke. Would you just take that for the record?

Mr. Kennedy. Yes.

Commissioner Henke. I understand the ban is no alcohol at Camp Sullivan, a ban imposed by a contractor sometime over this summer. Is that accurate?

Mr. Boswell. The ban was imposed by the contractor in mid-August, as I understand it.

Commissioner Henke. Okay.

Mr. Boswell. After the contractor learned of the incidents, and I think before we did. As soon as we learned of the incidents, the Ambassador banned it himself.

Mr. Kennedy. That is my point. As well, the Ambassador has banned alcohol consumption at the embassy compound.

Mr. Boswell. No.

Commissioner Henke. No?

Mr. Boswell. No, at the guard camp.

Commissioner Henke. The Ambassador banned alcohol consumption at Camp Sullivan. I understand.

Mr. Boswell. I would like to clarify one other thing, Mr. Henke. The guards move back and forth between their camp on shift changes in armored convoys. That is large numbers of guards moving back and forth in armored vehicles.

Commissioner Henke. Right.

Mr. Boswell. I cannot tell you that the contractors who bought the alcohol went in these armored shift change vehicles. I cannot tell you that.

Commissioner Henke. That will be a matter for the investigation to determine, is that correct?

Mr. Boswell. I think so, yes, sir.

Commissioner Henke. Okay. The embassy RSO in September, 2008, issued a very short memo. The subject is alcohol consumption policy. September, 2008, a year ago and 9 months or so before the June parties started, he changed the policy on consumption of alcohol for all RSO employees, contractors and so on. He changed it.

He said, effective immediately, all American staff in the RSO chain of command, which includes contractors, are limited to two alcoholic drinks per day.

My question is why in September, 2008, did the RSO feel a need to change a policy to two alcoholic drinks per day?

What was the policy before that? Unlimited?

Mr. Boswell. Mr. Henke, my understanding is that before that they simply used the post policy on alcoholic consumption.

Commissioner Henke. What was that policy?

Mr. Boswell. There was not any limitation as far as I know.

Commissioner Henke. Okay. So, before the operational policy was--

Mr. Boswell. In the operational tempo, sir, of operations in Afghanistan, which was deteriorating as we know, the RSO made his own decision, as I understand it, to impose this limit of two drinks and certainly nothing within eight hours of going on a shift or anything like that, two drinks.

Commissioner Henke. That is the part that is in the contract, the no drinks before eight hours going on.

Mr. Kennedy. Correct, sir.

Commissioner Henke. My question to you is, and take this for the record if you must, was the RSO aware of partying, excessive partying, excessive alcohol consumption at the camp? Was that part of his decision to change the alcohol policy to two drinks per day in September, 2008?

Mr. Kennedy. The investigation is ongoing, Commissioner, but the investigation to date indicates, and I think one of the Co-Chairs himself made the statement that no one from the embassy or the U.S. Military were aware.

Commissioner Henke. His statement was we have seen no evidence to that fact.

Mr. Kennedy. That is right. We were not aware.

Commissioner Henke. What I am asking you is was the RSO aware of excessive alcohol consumption and was that a part of his decision to change the alcohol policy in September, 2008?

Co-Chair Shays. That will have to be the last question.

Mr. Kennedy. To get to the exact specific of your question, we will take that for the record.

Commissioner Henke. Thank you.

Co-Chair Shays. Okay, Mr. Zakheim. Commissioner Zakheim is going to be given 10 minutes because he is going to be leaving, on his way. So he will take both rounds right now.

Commissioner Zakheim. And, I apologize for leaving early. I have a commitment to be on the Coast.

A couple of points, first of all, you have my sympathies, Ambassador Kennedy. Part of the problem at your level, as I know and I think as Grant Green knows, is that we do not always hear everything that is going on, and then we have to clean up. I think that is the case here, and I think you are doing a terrific job at it, but there are some other things I think you could also do.

Let's be clear about this. This is the equivalent of Abu Ghraib for Afghanistan. Last night, I went on the web just to see how many web sites they had of these photos, and there were loads of them. And, some of them are linked to sex web sites which really is going to look really good with Muslims in Afghanistan.

So here we are, trying to help Stan McChrystal out, and we have this kind of garbage on the web. And so, you have my sympathies, Pat.

Another problem is that this is not really new for State. You say, this is relatively new, we are in a new situation. Actually, it is five years because my former boss, Don Rumsfeld, made that change five years ago.

Five years is an awful long time. Most wars do not even last five years. Some last less than a week. So to say we are in a learning situation, I mean this sounds like we have been in the first grade for five years--a problem there.

Finally, cure notices. I can tell you, having been in and out of the contracting world, cure notices scare the heck out of contractors. You did not just give them cure notices. You gave them deficiency letters. There were records of problems.

By the way, I have been in touch with a bunch of our folks in Kabul as recently as yesterday, and I want to read you some of the reactions that are coming out of our own embassy in Kabul about this:

ΔWe knew nothing of the contract problems until the story broke. An incredible breakdown of communications, problems stemming from 2007, and DS, Diplomatic Security, never passed this on to us. They have their own culture.

I think this is the biggest challenge for you, Ambassador Kennedy, dealing with a culture that fundamentally is out of whack with the interest of the United States of America in Afghanistan. And, I will tell you why, and I would like you to answer a couple of questions.

First of all, you talked about why the option was picked up with Wackenhut, but you picked up another option this year. There were other competitors. You acknowledge there were two. And, it says here right on the top: ΔContractor personnel should be expected to perform and conduct themselves with proper decorum, subject to the U.S. Chief of Mission.

Did anybody consult the U.S. Chief of Mission before you picked up this contract? This option, I mean.

Mr. Kennedy. The post is informed that we are picking up.

Commissioner Zakheim. I want to know did Ambassador Eikenberry know that you were picking up this particular option and was he given a bill of particulars or the DCM or, I do not know, whoever?

Anybody at the senior levels, were they given a bill of particulars, what has been going on since 2007, and told in spite of that we are picking up this option, and, oh, by the way, there were a couple of competitors out there? Did anybody brief them on that?

Mr. Kennedy. I will have to check with the post. The post is informed when we pick up options. I will have to find out if, how far up the chain of command.

Commissioner Zakheim. And, how far in advance they were informed so they could make an informed judgment as to whether the option should be picked up, I would like the answer for that for the record.

Another question, right now, we are talking about possibly sending 20,000 to 40,000 additional troops to Afghanistan. Has the State Department raised with the Defense Department or with the White House the notion that maybe part of those 20,000 to 40,000 ought to be 2,500 troops to replace these characters that we have out there right now?

Mr. Kennedy. On that question, sir, my only comment on that is to refer to a recent decision by the Department of Defense to reduce further the DoD's use of personnel for static guards, military personnel, and DoD is replacing its static guards, its military personnel with contractors.

Commissioner Zakheim. Okay.

Mr. Kennedy. We will invest. We will look into that, but I am not optimistic that when Department of Defense does not have enough personnel to protect its

own facilities it would be prepared to loan us. But we will look.

Commissioner Henke. Well, that is in Afghanistan, correct?

Mr. Kennedy. That is Afghanistan and Iraq, both.

Commissioner Zakheim. Okay. Well, two things. First, if they are adding troops, they could add some more. But leave that aside. Presumably then, the Department of Defense has some contractors other than this one that it could use as it de-scopes its own troop commitment to static guards, is that not correct? Would that not be a safe assumption?

Mr. Kennedy. That is correct, but the requirements in statute require us. We have a different contracting process than DoD in statute.

Commissioner Zakheim. The statute simply says go with the cheapest, which is ridiculous, and I am sure my colleagues will talk about that.

But, leaving that aside, you were picking up an option. You have now picked up an option. Is there any reason why you cannot de-scope the contract that you now have?

You are looking at me a little puzzled. Let me give you Contracting 101.

Mr. Kennedy. I understand what de-scoping means.

Commissioner Zakheim. Okay.

Mr. Kennedy. I was just wondering what are we de-scoping, sir?

Commissioner Zakheim. Oh, you would then basically cut back to a limited level, to the minimum. If you do not want to terminate for default and you do not want to terminate for convenience, you can de-scope.

Apparently, these guys are losing money. So you could de-scope the contract, reduce the number of people that they are contributing to a very, very small number of posts and then contract out the remainder of the requirement.

You can bridge for a certain period of time until you contract that out. Then when the option year comes up next year, you drop the option entirely, and you will have another contractor.

A, have you considered this? And, if you have and have rejected it, I would like to know why.

Mr. Kennedy. We have all options on the table, and that is why we--as I said in my earlier testimony and I believe in response to Commissioner Ervin's question, all options are under review.

Commissioner Zakheim. Well, again, given the situation we have got and, as you know very well, what could have been a crisis, I mean let's face it. When there were 18 guard posts vacant, you say there was no risk. Well, there was no risk because nothing happened. I guarantee you, if something had happened, there would have been a risk.

Again, what I am hearing from our people out in Kabul, our State Department people out in Kabul, is that guns and alcohol do not mix, even two. I mean could you drive the streets of Washington with two drinks and a gun in your car? Guns and alcohol do not mix.

We still have a problem. What we need to be doing is getting rid of these people. Whatever the investigation leads to, we need to get rid of them now

because that internet is killing us.

My question again is why do you think an investigation must be completed before you get rid of a contractor, before you de-scope a contractor?

Mr. Kennedy. Because of the specifications and the requirements in contract law.

Commissioner Zakheim. But contract law allows you to de-scope.

Mr. Kennedy. Commissioner, we will look at this again.

Commissioner Zakheim. Okay. One more question then, apparently, and correct me if I am wrong, some of the people involved in this, some of those humiliated were Afghans, correct?

Mr. Kennedy. No, sir.

Commissioner Zakheim. None at all. Were Afghans present?

Mr. Kennedy. The investigation is ongoing, but the information--

Co-Chair Thibault. Dov, can I clarify?

Commissioner Zakheim. Please.

Co-Chair Thibault. Thank you.

Ambassador, in the August 1st instance, that was an Afghan cafeteria worker, a local national.

Mr. Kennedy. I thought the Commissioner was referring to the parties. The incident at the cafeteria--

Co-Chair Thibault. Was an Afghan national.

Mr. Kennedy. --was a single Afghan worker, yes. Absolutely.

Co-Chair Thibault. That is right. That is the clarification.

Mr. Kennedy. Yes, sir. Our information to date, because the investigation is still ongoing, is that the parties took place among the members of the ArmorGroup expatriate American/Western community.

Co-Chair Thibault. We have interviewed, just as background, one of our witnesses who will come in the next panel. He was responsible for the 90 life support people that provided life support. He, personally, and it is in his statement, went out and retrieved Afghan nationals that were at the party, personally. That is a statement that is going to come out.

So, maybe your investigation needs to focus its questions a little better.

Mr. Kennedy. Well, as we are saying, we are in the process of interviewing all the national employees.

Co-Chair Shays. It is Mr. Zakheim's time, but I would be happy.

Commissioner Gustitus. If I could just to interject for the record. Mr. Pearson, who is a witness in the second panel, in his statement, says about these parties: AOne person who had apparently run out of urine took the fire hose from one of my staff and put it between his legs. It was at this stage I realized I had three Afghan nationals standing in the center of all the activity. I told them to get the hose and go back to the front gate.

AThis was the first time I had seen one of these parties, which had been going on since the morning. I was annoyed and disgusted by the way they were acting and the way they were dressed.

AI had 3 female third-country nationals who worked about 30 feet away from where this was going on, and during the day there were also about 60-plus Afghans present, 2 of whom were females.

Commissioner Zakheim. Okay. So, if you say that the investigation is ongoing, then I would strongly recommend that one of the first things you should already about, if you do not know about, is what you have just heard from my fellow Commissioners because it seems to me--and you know this far better than I do from your experience--that those Afghans who were there are going to tell their relatives, who are going to tell their tribes, who are going to be the latest recruits for the Taliban, who are going to shoot our kids in Afghanistan. That is the chain, and we all know it.

And, it seems to me that it should be top priority for the State Department to determine whether indeed Afghans were there, which it sure looks like, and then to use that, if nothing else, as a reason for bringing this miserable contract to an end, which you can do. You can terminate for default.

Now one other question, you have asserted that this firm, ArmorGroup, was improving. I find that difficult to see in light of all the letters and the notices and so on. At the time the option was granted, had they cured every single item that you had drawn to their attention and, if not, how could you justify giving them the option?

Improvement, being on the course of improvement is not the same thing as curing everything. Had they cured everything?

Mr. Kennedy. Let me try. You had several questions in a string here. Let me take them in reverse order, if I might.

Had they cured every option? Absolutely not. As I responded to both I believe Commissioner Ervin, Commissioner Henke and Commissioner Green, it was a trajectory.

We had attempted to do other contractors in advance, in prior and did not get sufficient responses. We saw the trajectory here.

Are we pleased with the separate results? Absolutely not, as I have said. But you are asking about that specific question of performance as opposed to conduct. The performance trajectory was positive, given our previous experience in Afghanistan with other attempts at contractors. That was the decision that was made.

As I said in my statement, Commissioner, we are interviewing everyone there--everyone. I think it was right in the earlier part of my statement.

The one thing I also do want to comment on is your remarks about the Diplomatic Security culture. I am just simply going to, as old friends, respectfully disagree with you. I do not find a separate Diplomatic Security culture. I do not find a separate culture of Diplomatic Security that rejects the U.S. national interest or rejects the goals of the U.S. mission in Afghanistan. I, fundamentally, disagree with you on that and simply reject it.

For 37 years, I have been in this business, and I have seen the Office of Security, now the Diplomatic Security Service, engage in difficult and sometimes

heroic efforts to advance U.S. national interest by keeping operations going in a diplomatic way, sir.

Commissioner Zakheim. I would say, again as an old friend, it was not me. I was the messenger. I am simply repeating what I got in an email, and that tells me because I know you are absolutely sincere and I know how dedicated you are and it was always a pleasure working with you.

That tells me we have a disconnect somewhere. I take you at your word, but I also take the person that I heard from in Kabul at his word, and that creates a massive disconnect that somehow needs to be fixed up because that is in our interest.

Co-Chair Shays. Thank you.

I yield myself seven minutes.

I would love, Secretary Kennedy, to have some fairly short answers because I have a lot I want to cover.

First off, it appears that what happens in Camp Sullivan stays in Camp Sullivan, and the fact is it did not, just like it did not stay in Abu Ghraib. In Abu Ghraib, we had a military unit run amok. In Camp Sullivan, we had a Charlie group run amok.

You basically made a very comment in the beginning. You basically said we did not pay any attention to Camp Sullivan, and some really bad things have happened, and we take responsibility, and now we are moving on.

I accept that part of the answer, but I want to then just ask you this. We

learned of these incidents from POGO, the lurid behavior, the intimidation by this rogue group, and the intimidation is something that is particularly distressful.

We did not learn it from State. We did not learn it from anyone else, and they learned it first from a lawyer who referred people to POGO.

Something is really off-base when people have to go through a real different direction. There was no one that they could go to in ArmorGroup and get their complaint heard honestly. They were punished. There appears to be no one in State Department they felt they could go to and not be punished. And, our witness from Great Britain will tell you that he basically was forced to go because he was trying to stick up for his Afghan employees. So this is what really concerns me.

I would like to ask each of you, are you aware of any State Department employee who had knowledge of ArmorGroup employee misconduct before 2008 or after? Is there any story out there that you are aware of that we are not aware of?

Mr. Moser, and I would like for you to go right now.

Mr. Moser. Well, there were examples of ArmorGroup misconduct, ones that the company actually discussed with them, and we asked for those employees to be removed from the contract.

Co-Chair Shays. What kind of conduct was that?

Mr. Moser. Well, there was one. One of the ones was the frequenting of brothels, and ArmorGroup identified the employees, and we asked for them to be

removed. They were, at the same time, removed from the contract.

There was other conduct by the person that was trafficking in the counterfeit goods, and that person was removed from the contract.

And, there were two others that were also removed.

Co-Chair Shays. For the same conduct or different?

Mr. Moser. Different behavioral infractions.

Co-Chair Shays. What type of conduct there?

Mr. Moser. The other two, I do not recall, but I can get back to you with those.

Co-Chair Shays. Secretary Kennedy?

Mr. Kennedy. Same thing, as information came to our ken, we immediately had that discussion with ArmorGroup, and the individuals were dismissed.

Co-Chair Shays. How did it come to your attention, from ArmorGroup or from someone else?

Mr. Moser. We get it both ways. We do get both things. One of the things is that you are going to see that there is a dialogue between us. As you know, there is a dialogue.

Co-Chair Shays. I do not want a long answer. I have so many questions.

Mr. Moser. Okay.

Co-Chair Thibault. Mr. Moser, you say you get it both ways. I know part of the way is ArmorGroup. What is the other half of both ways?

Mr. Moser. Well, it is from, the other half is actually from the RSOs on the ground, and they are going to talk.

Mr. Thibault Okay. So you had disclosure from State people concerned as well as ArmorGroup.

Mr. Moser. Yes.

Co-Chair Shays. I would like the Committee to be briefed on these other instances.

Mr. Boswell?

Mr. Boswell. Yes, beyond the human trafficking case that Mr. Moser mentioned, I was not aware.

Co-Chair Shays. No. He mentioned brothels.

Mr. Boswell. Brothels, brothels is--

Co-Chair Shays. No, no. Let me just clarify. Is there any allegation that people were involved in either sponsoring a prostitute and somehow being connected with a brothel or the women?

Mr. Boswell. There are allegations out there that are being investigated by the Office of the Inspector General.

Co-Chair Shays. Relating to people, employees potentially, doing more than frequenting a brothel but actually participating?

Mr. Boswell. I do not think I want to get into exactly what they are investigating.

Co-Chair Shays. Mr. McGlynn, do you have anything to add other than

these issues that we talked about?

Mr. McGlynn. Relating to?

Co-Chair Shays. Are you aware of any State Department employee who had knowledge of any events?

We have heard from Mr. Moser who has kind of set us off here. Thank you. But is there any indication of State employees who were aware of information and did not act on it?

Mr. McGlynn. No, sir.

Co-Chair Shays. Okay. Let me ask you these questions. How did flagrant breaches of ArmorGroup's code of conduct and its contractual obligations go unobserved and unreported by senior management for months? Is your testimony, Mr. Kennedy, that basically this conduct was in camp and you were not in camp, and is that your answer to the question?

Mr. Kennedy. That is the first half of the question, Mr. Chairman. We were not at camp. We should have been in camp. We are now in the camp.

Secondly, though, in the course -- that is 24 hours, 7 days in residence of the camp and off hours.

During the course, though, to the best of our knowledge, at this point in the investigation, we have not determined that any information was given by anyone to the State Department about these things.

Co-Chair Shays. I got your answer. I have your answer.

Mr. Kennedy. Also, if I could say, sir, we spent a great deal of time

interacting with the guards while they are duty at the U.S. Embassy, and, in the course of those interactions, we do not believe at this point that any information was passed to us then either.

Co-Chair Shays. Why did ArmorGroup supervisors delay reporting news of misconduct and attempt to intimidate people who might report it?

Mr. Kennedy. I have no idea, other than just to say that is totally inappropriate.

Co-Chair Shays. They gave you no reason, no justification for why it took them two weeks in this last circumstance?

Mr. Kennedy. No, they did not, sir.

Commissioner Gustitus. Did you ask them?

Mr. Kennedy. We have told them that is an unacceptable action on their part, yes.

Commissioner Gustitus. No. The question was did you ask them why they waited two weeks to give you the information?

Mr. Moser. Yes, we have asked. Yes, we have asked them.

Commissioner Gustitus. What was their answer?

Mr. Moser. We have yet to get a formal answer on that.

Co-Chair Shays. Well, I will just tell you the fact that you have to do research on why it took them two weeks, that they did not tell you, which leads to my next question. Why did the State Department display no signs of outrage at the delayed notice of problems at the ArmorGroup encampment? To me, that in

and of itself would be grounds for dismissal, and I want to know why no outrage?

Mr. Kennedy. We are outraged by their failure to notify us, Mr. Chairman.

It is among other things. It is in my statement that we are outraged by their failure to notify us, and we have asked in writing. We have asked in writing for an explanation--

Mr. Moser. A clarification.

Mr. Kennedy. --for why they failed.

Co-Chair Shays. I got your answer.

Does the lowest cost technically acceptable standard for Department of State security contracts need to be replaced by a best value standard?

Mr. Kennedy. I believe that, personally, sir, I believe that a best value standard is always the best in any contracting exercise.

Co-Chair Shays. Which raises the issue. You were basically told by DoD that they were out of camp and that you would have to provide your own security, and so you hired Louis Berger as the first contractor in place, to pay about, what, \$8 million a month.

Mr. Kennedy. Louis Berger was in partnership with PA&E, and they were engaging in construction activities on the camp.

Co-Chair Shays. Is the answer yes? Is the answer yes, that they are the first that you engaged?

Mr. Kennedy. We sole-source engaged them, yes, because they were already mobilized.

Co-Chair Shays. It is not a criticism. I just want a fact.

Mr. Kennedy. Yes, they were mobilized.

Co-Chair Shays. I am trying to demonstrate that, believe it or not, you are between a rock and a hard place.

Mr. Kennedy. Yes, sir.

Co-Chair Shays. And, you continued with them for a few years, correct?

Mr. Kennedy. While we attempted to execute the first.

Co-Chair Shays. Then you attempted to do the MVM award, and it was terminated because they were not satisfactory, did not meet?

Mr. Kennedy. They never actually started the contract because they failed to mobilize.

Co-Chair Shays. So then you hired ArmorGroup?

Mr. Kennedy. We competitively bid, yes, sir.

Co-Chair Shays. So you have, basically, DoD saying we are out of here. You hire a contractor with a sole source. You have to pay a premium. You know the Inspector General and Congress are going to be on your backs for paying a premium.

Mr. Kennedy. Right.

Co-Chair Shays. So then you go through the contract process, and then you have to deal with lowest cost technically acceptable.

Mr. Kennedy. Correct.

Co-Chair Shays. Now, in your own mind, was your attitude, my God,

where do we go from where, if you had to terminate them?

I guess what I am asking, do you, in your mind, feel that your choice was working with a group that was doing marginal at best and going out and what is the process if you went out?

We are trying to understand should there be a difference in contingency contracting that is different than when you have to hire somebody in a non-war environment?

Mr. Kennedy. Absolutely.

Co-Chair Shays. And, are you stuck with having to deal with a non-war environment in a war environment and does that make the job foolishly difficult?

And, I will have one last question.

Mr. Kennedy. I agree.

Co-Chair Shays. Okay. Then the last question is this, and this is more fundamental. In a wartime environment, is providing security for U.S. Embassies an appropriate function to be delegated to contractors?

Should it be military or should it be a combination of military and contractors? For instance, State oversees the security folks who take diplomats around. It is contractors who are the State employees in charge.

Should there either be all government or a combination of government or are you happy to continue to work things out if you could have a best value standard?

Mr. Kennedy. This is the question the Secretary has asked us to look into.

We are looking into it, Mr. Chairman.

We certainly, I personally, certainly, am very much in favor of the best value standard. In fact, Eric Boswell and I were on the review panel in Iraq that made the recommendation that there be a State Department Federal agent with every convoy moving in Iraq, which is why we have assigned a State Department Federal agent to be in residence at Camp Sullivan.

Co-Chair Shays. Mr. Thibault.

Thank you. Thank you all.

Co-Chair Thibault. Thank you, Commissioner.

A couple observations and one question, one, I agree with you on best value. Technically acceptable lowest price has been described to us several times as a rush to the bottom, and sometimes the bottom is not what you want, and that is an observation.

Secondly, I would like to reinforce Commissioner Green's teasing out properly that at the Baghdad Embassy you really do not have these issues with site security. You outlined it. We have not heard of any--essentially, different country, different war, different emphasis, high risk. We are not about putting a Good Housekeeping Seal of Approval on anyone, but, if Triple can get it right and another cannot, there is an awful big lesson in that by itself.

Last observation, and it ties into my question for you which is going to be about State Department employee performance, I wrote down on my notes: Wow. We have heard this morning about brothels. We have heard about human

trafficking with this company. We have heard about lurid parties.

I would suspect that Jimmy Buffett, they call it a Jimmy Buffett party. I guess they dress up like Caribbean or something, but I would suspect that Jimmy Buffett would take great issue of having his name put with those photographs as a party. I would, and I suspect he would.

We have had two others that we will get that are apparently out there, but we have so many of these things, that we will get it for the record.

And, last of all, I want to reemphasize the local-national issue. I visualize a cafeteria worker. Now we do not have pictures of this because apparently they did not have the camera with them. Otherwise, there might have been.

A cafeteria worker comes out. Five guys come into the cafeteria very, very late, liquor bottles in their hands. That has all been confirmed, accredited.

I like to visualize, visualizing he grabbed the individual like that. He touched his bottom. I guess that is a mundane way of saying of it.

And, he said in graphic words that certainly cannot be repeated--he used the word boy--you are the kind of boy that I would like to take back to my quarters.

To me, it is just totally out of control, and it has been going on for a long time.

My question is this. We are at the end of having gone through this personally for years and years in my career, 11 of which as the number two guy in a Federal organization with 4,000 or 5,000 people. We held regional directors

and audit managers and auditors responsible if for extended periods of time there were not, under their watch, whether you want to call it asleep at the switch or not doing their job or whatever.

We are in the performance cycle, and we have issues with Armor, and we are going to hear and explore them more. But accountability is critical to any organization.

My question is as you finish your documentation, it is going to fill a flow chart, everything that happened. We are at the end of the performance year right now, 30 September. Are you going to hold the State Department employee?

You know it is bonus time. It is the equivalent. I know you have different pay grades of SES performance bonuses. Some of those are very, very high. There were people in charge. There were contracting officer representatives, that, gee, this has been going on almost a year. Are you going to hold those individuals accountable?

Mr. Kennedy. If we discover, sir, that there was failure, absolutely, we will hold them responsible. Absolutely.

Co-Chair Thibault. It is just critical. I say that because it does not go both ways.

Thank you.

Co-Chair Shays. Commissioner Ervin.

Commissioner Ervin. Mr. Kennedy, Secretary Kennedy, I want to get back to this whole issue of the reason for exercising the first option and the second

option and what you said in response. The first round, basically, is that the trajectory was up, that before you exercised the first one there had apparently been a record to your satisfaction, to the State Department satisfaction that ArmorGroup was performing.

There is a time line that our staff has put together of various problems with the contract, and feel free to take issue with any one of these instances. But, according to our time line, just take the year 2008:

In January, the State Department learned that ArmorGroup had been using government-issued weapons when the contract required them to use their own weapons.

January 24, the State Department asked that the logistics manager be taken off the contract.

March was when that unannounced inspection found 18 vacant guard posts, as I said, some for as long as 3 hours.

April, I think it was the second of April, two former ArmorGroup employees sue the company, alleging that they had been fired after raising concerns about embassy security.

On April 30, the State Department sends a letter to ArmorGroup, identifying other problems including a lack of language proficiency. There were 15 recurring deficiencies and 4 new ones, and the State Department said that ArmorGroup had failed to correct many of the deficiencies from 2007.

On June 12, Wackenhut submits a corrective action plan, does not

implement it but submits it.

And then, in July, you renew the contract.

Again, if you have an issue with any of the instances that I just raised with you, then tell me. But, if this time line is accurate to the best of your knowledge, is that the upward trajectory that in your judgment justified exercising the first option?

Mr. Kennedy. If you take those incidents in conjunction with the staffing all the posts and then that is the combination of events, Commissioner.

Commissioner Ervin. I am not sure I understand that answer, but let's take this year, 2009:

In the spring, there was that reconnaissance mission that we talked about earlier, Operation Snack Pack.

In March, the State Department tells ArmorGroup that it has grave concerns about the sufficient number of guards.

On April 1st, the State Department denies ArmorGroup's request for a waiver to meet language proficiency requirements. A huge number of the Gurkha guards apparently cannot speak English well enough to understand instructions.

And then, of course, there was this June 15 party, which our understanding is the State Department was not aware of at the time.

But all of these incidents happened this year, leading up to the renewal, the exercising of the option for the second year. Was this an upward trajectory in

your judgment that justified exercising the option the second time?

Mr. Kennedy. Commissioner, two of the three things you cited, the reconnaissance and the totally inappropriate parties were unknown to us when we made the award. For example, on the language training, the language capability, the trajectory was up on language training. Language proficiency, excuse me.

Commissioner Ervin. What do you base that on? Is there some document that establishes that the language proficiency was up at that time?

Mr. Moser. Well, yes, there was. ArmorGroup presented us with a plan which was followed up on by the RSOs at post, and also my understanding is by the program management reviews that Diplomatic Security conducts quarterly, that we had pointed out to them that we were disturbed by the language inadequacies and that they gave us a credible enough plan that we followed up on. They gave us a plan in March. We followed up on it, and by July we were satisfied that this was sufficient.

Commissioner Ervin. All right. I would like to see all of the documents that substantiate that. Would you supply those for the record?

Mr. Moser. Sure.

Commissioner Ervin. Now I want to ask about this investigation that is ongoing. Of course, I am not going to ask about the details of it, but you said that you are not going to make a determination as to whether to terminate this contract or at least to pledge that you are not going to exercise further options,

which is essentially the same thing, until the investigation is done. That is reasonable, I think it is fair to say.

But let me ask this. If the investigation, and I hope it proceeds at pace, and I assume that it is. If the investigation establishes that all of these allegations that we have been talking about and the allegations that bring us here today are true, will you pledge to terminate the contract?

Mr. Kennedy. Commissioner, it is very, very hard for me to state a hypothetical. We do not know what the investigation will say.

I can say this. I can imagine facts unearthed in the investigation that would cause us to immediately terminate the contract.

Commissioner Ervin. So you are saying that the facts that have already been alleged, if substantiated, would not be sufficient in your judgment?

Mr. Kennedy. No.

Commissioner Ervin. There would have to be additional facts, is that what you are saying?

Mr. Kennedy. No. No, sir. I just wanted to see the material on a piece of paper, and then I would, I will act.

Commissioner Ervin. But, again, if the investigation substantiates the allegations that we are aware of now, would that be sufficient in your judgment for the State Department to terminate the contract?

Mr. Kennedy. So far, the only facts that are totally in evidence I guess are the three parties. Is that what you--I want to make sure, Commissioner, that I am

responding to the exact question you are posing.

Commissioner Ervin. Yes, yes, the three parties against the backdrop of everything else we have been talking about in 2007, 2008 and 2009.

Co-Chair Shays. If I could just inject, add to that, that it took them two weeks to notify you. That, I think, goes with it.

Mr. Kennedy. Agreed. If you add that in, Mr. Co-Chair, I think that we are seeing a very, very serious case being made for termination.

Co-Chair Thibault. And, if I might, if you find out that in fact it was longer than two weeks that very senior management knew, that would just compound your concern.

Mr. Kennedy. It would. When we hire a contractor, we are hiring them to provide a service or a good and to manage the delivery of that service or good. And, the failure on the part of management is a serious, absolutely serious in my mind, and I will use the word as a non-lawyer and as non-contracting officer, a breach of their responsibility to us.

Commissioner Ervin. I have three or four other short ones, and I will be done, Mr. Chairman.

What is your understanding? I will start with you, Ambassador. What is your understanding, Ambassador Boswell, as to the time line, the expected completion date of DS's part of this investigation?

And, any one of you, starting with Secretary Kennedy, what is your understanding of the time by which the State Department Inspector General's

investigation will be done?

Is this going to be weeks long? Is it months long? When do we expect to have this investigation completed?

Mr. Boswell. Without pinning down, sir, a precise time, we have a very senior DS officer that is out there now, looking at the work that the embassy has done, and I will have a better idea when he comes back and tells me.

Commissioner Ervin. Okay. The IG one?

Mr. Kennedy. As you know, Commissioner, there is no State Department officer not from the IG who is going to sit here and tell you when the Inspector General is going to be done. I simply do not know, sir. That is a question you would have to ask the Inspector General.

Commissioner Ervin. All right, two or three other quick questions.

Co-Chair Shays. They need to be fairly quick.

Commissioner Ervin. All right, then one final quick question. On this issue of the technically acceptable lowest price, has the State Department sought statutory relief?

You acknowledge that it is a problem and that it was a key problem here. Have you tried to work with Congress to get legal relief?

Mr. Kennedy. There have been discussions, yes.

Co-Chair Shays. Thank you.

Commissioner Green.

Commissioner Green. Do all security contractors live at Sullivan or just

the static guards?

Mr. Kennedy. Just the static guards.

Commissioner Green. Where do the others reside?

Mr. Boswell. There is a separate camp for the body guards, sir.

Commissioner Green. Okay. Is that nearby?

Mr. Boswell. About a mile from the embassy, sir.

Commissioner Green. Okay. We have heard from several folks that weapons and alcohol do not mix. Would the Department give consideration to looking at whether or not alcohol sales to employees or contractors who carry weapons should be authorized or not authorized?

Mr. Kennedy. That is one of the issues that we are dealing with now, yes.

Commissioner Green. Okay. As you know, within every contract, there are certain administrative and technical requirements. There are also requirements within those contracts for certain conduct by a contractor. We are very quick to bring to the attention of a contractor, the technical and administrative deficiencies. My question to you is when does conduct kick in, in evaluating a contractor?

Mr. Kennedy. I would say, Commissioner, immediately when information is brought to our attention. As Mr. Moser outlined, there were several earlier incidents brought in, like we had heard that an employee of ArmorGroup North America was buying counterfeit clothing that was marked inappropriately. As soon as that was brought to our attention, we said that had to end. So conduct

and delivery of services are both incredibly important in evaluating whether or not a contractor is fit to continue to provide the service.

Commissioner Green. I just want to make sure that actions by the contractor receive the same amount of scrutiny and weight, despicable actions by a contractor receive the same weight as do inadequate gym equipment.

Mr. Kennedy. I would say, sir, that it receives more weight.

Commissioner Green. I hope so.

Mr. Kennedy. Significantly more weight.

Commissioner Green. Thank you.

Co-Chair Shays. Thank you.

Ms. Gustitus.

Commissioner Gustitus. Thank you.

We received a document from the Department of State that listed various allegations regarding the embassy contract. It refers to allegations that were brought to the government's attention by a former AGNA employees who alleged that they were wrongfully dismissed by ArmorGroup, and all of the allegations allegedly were addressed at this June 27th, 2007 meeting with the contractor.

So these were two kind of whistleblowers from ArmorGroup who brought these allegations. When you read through these allegations, it looks like a lot of these allegations were legitimate, from what these two whistleblowers said.

Allegation Number 6 says AGNA or ArmorGroup's training program for new hires was plagued, and that is the word, plagued with hazing and

intimidation of students. The response to that says that ArmorGroup acknowledged that there was a report of this type of behavior but that allegations could not be substantiated, and then the State closed that issue. So you accepted ArmorGroup's statement that they could not substantiate those allegations.

Well, this looks like an indication of the kind of attitude and culture that was in ArmorGroup, if they are talking about being plagued by hazing and intimidation of students. And, I want to know what State did, if anything, to follow up on ArmorGroup's claim that they could not substantiate those allegations?

Mr. Kennedy. We actually conduct reviews at their training facilities.

Mr. Moser. There have been five done.

Mr. Kennedy. And so, we have seen no, we saw no evidence of hazing in the visits that we made to their training centers.

Commissioner Gustitus. Those were visits that they knew you were going to make, I assume, but they are not going to do that.

I mean did you talk to trainees or reach out to some of the employees to see if they were aware of those hazing incidents?

Mr. Kennedy. The regional security officers and the assistant regional security officers in Kabul engage in discussions on post with the employees at all times, ma'am.

Commissioner Gustitus. Well, this would not be on post. This would be at the training center.

Mr. Kennedy. I think when you get the person away from that environment, they are more, and they are away from--

Commissioner Gustitus. So you were satisfied that there was not hazing-- you, personally. I mean State did its own analysis and decided that hazing was not there.

Mr. Kennedy. State came up with no evidence of that.

Commissioner Gustitus. Okay. I want to ask you when State knew about the Snack Pack reconnaissance mission.

Mr. Kennedy. In the--

Commissioner Gustitus. This occurred apparently in May of 2009, when the Section C or whatever group it was of ArmorGroup went out and dressed like Afghans and went into this building to watch traffic on the highway or something like that, which was deemed to be a very dangerous situation and possibly life-threatening to some people.

Mr. Kennedy. We found that out in the POGO letter.

Commissioner Gustitus. So that was the first you had heard about it?

Mr. Kennedy. To the best of--

Commissioner Gustitus. Did you ask your RSO who was on the ground at the time whether he had heard of or knew about that reconnaissance mission?

Mr. Boswell. Yes, we did, and I would like to point out that during that period, when that reconnaissance mission took place, all posts were staffed. This apparently was done by ArmorGroup people who were off duty.

Commissioner Gustitus. Why? I was assuming it was.

Co-Chair Thibault. Linda?

Commissioner Gustitus. Yes.

Co-Chair Thibault. Can I?

Commissioner Gustitus. Yes. I had a question.

Co-Chair Thibault. On this, do you condone that?

Mr. Kennedy. Absolutely not.

Co-Chair Thibault. Off-duty or not, dressing up?

Mr. Kennedy. Absolutely not.

Co-Chair Thibault. I mean we talked about safety.

Thank you.

Commissioner Gustitus. I am just so curious about how this RSO does not know what is going on, on the ground.

The party on June 15th was a bonfire. They got in costumes. It was fairly elaborate. It was something that if you went into that camp the day after, two days after, you would think people would still be talking about it. They would know about it. It was not a hidden thing in one of these bunker parties or something. It was outside in the open.

Similarly, if a group goes out and dresses up as Afghan nationals, that is a pretty exceptional circumstance, I hope, and people would be talking about it or knowing it had happened. Yet, this RSO who was on the ground and the assistant RSOs did not have a clue about the June 15th party or the

reconnaissance mission. Does that not surprise you?

Mr. Kennedy. It clearly establishes, Commissioner, what I said earlier, that we failed to assign an officer to live on that compound, to monitor what was going on, 7 by 24.

Commissioner Gustitus. Yes, but they talked to the embassy guards when they were at the embassy. Could they not have talked? Could it not have come out in that context even?

Mr. Kennedy. All the interviews that we have done to date, none, no one, no one of the one hundred and sixty-five contract employees who we have interviewed reported that they ever mentioned anything about any of these incidents to anyone from the embassy.

Commissioner Gustitus. Well, it is probably because of posters like the rat poster that was going on, subsequently.

Co-Chair Shays. Are you all set?

Commissioner Gustitus. I am.

Co-Chair Shays. I am going to follow up on some of her questions because I think they are right on target here.

Commissioner Henke. Would you like to now?

Co-Chair Shays. I just need, thank you, one little point. It is not a little point.

If you had indications of hazing, that says you have got a problem, and, Secretary Kennedy, you are basically saying you found no evidence. Yet, you

did not really have anybody on base. So finding no evidence seems to me like maybe you were not looking for it. That is what I wrestle with.

So I will go to you, Mr. Henke.

Mr. Kennedy. If I could, Mr. Co-Chair, the hazing accusations that are outlined in Commissioner Gustitus's statement were hazing that was taking place at the training camp, not at Camp Sullivan.

Co-Chair Shays. By whom? What was the hazing? Who was it being done by?

Mr. Kennedy. The accusation is it was being done by the training program for new hires.

Co-Chair Shays. By ArmorGroup?

Mr. Kennedy. Yes, by ArmorGroup.

Co-Chair Shays. Well, okay.

Mr. Kennedy. In a camp in Texas.

Co-Chair Shays. Okay. Thank you.

Mr. Kennedy. Not defending it. Just saying, to give the context.

Co-Chair Shays. It was not on base?

Mr. Kennedy. It was not at Camp Sullivan. It was not at the embassy. It was not in Afghanistan.

Co-Chair Shays. Thank you.

Mr. Kennedy. It was at a camp in Texas.

Co-Chair Shays. Okay.

Commissioner Henke, you have the floor.

Commissioner Henke. I would ask all of our State witnesses to stay for the other two panels, and their supporting staff. I know you are busy. I know you have a lot of things to do, but I think it is important that you hear what our other witnesses have to say. And, as a courtesy to the Commission, I would ask you to stay for the duration of the hearing.

Mr. Kennedy or Mr. Moser, I understand that the contractor, Wackenhut here, is losing money on the contract. Is that right? They say they are losing money.

Mr. Kennedy. They have submitted no documentation to the State Department for equitable adjustment. In fact,--

Commissioner Henke. Let me, my other question, though, is they say they are losing money. It is a public record. In the June hearing, they say they are losing money, right?

Mr. Moser. Mr. Henke, it is true that in the public record they did. They have been in to talk to me about it. I told them what I told, I told them what the contracting officer has: We are awaiting your formal documentation.

Commissioner Henke. Okay. If they submit what is known as a Request for Equitable Adjustment, an REA, that means it is really their way of saying: I am up against the wall. I am losing money. I need some help.

What that means is they are asking you, State, to pay them more. Are you going to entertain from Wackenhut, AGNA here, a request for more money

on this contract?

Mr. Moser. What we would do in most instances when this happens in other guard contracts, and it does, the usual course, we tell them: You bid on it. You have to. You bid on it. This was your correct amount. This is what you said you could do this for.

Unless there is a change in circumstances, a material change, we do not adjust the amount that is paid. So, usually, the alternative to do is we do this. Like I say, in the other guard contracts we handle, it is to let the current option year expire and then go out for new competitive bids. That has actually happened simultaneously, Mr. Henke.

Commissioner Henke. So, if they submit an REA, you are required to and have to adjudicate it.

Mr. Moser. We have to look at it, but our--but what our attorney would say, and when we went through this with the contracting officer and the attorney is actually do the price analysis and then see that under the terms that they bid on it, under the contract proposal that they made, whether these would be allowable.

It rarely is allowable. In the most cases, it is usually because locally-mandated wage adjustments which do not apply in this contract.

Commissioner Henke. Okay. I want to get at this issue of low price technically acceptable. In non-Beltway terms, I guess you would call--

Co-Chair Shays. I think this needs to be the last area.

Commissioner Henke. Okay. I would ask for two more minutes.

Co-Chair Shays. That is fine.

Commissioner Henke. In non-Beltway terms, I think that would be called a low-bid contract. Fair? I mean in a colloquial term.

Mr. Kennedy. Mr. Commissioner, all contracts are low bid. There is always a low bidder. In any contract where there are bids put out, there is somebody who bids lower than the other bidders.

Commissioner Henke. But I am not trying to characterize. I am actually trying to help you. I think your hands are bound by law.

Mr. Kennedy. Correct.

Commissioner Henke. By law, State has an authorization to accept the low price technically acceptable contractor, but I think it is important that we understand this. Technically acceptable means that the contractor is just pass. Pass-fail? They pass.

It does not allow you to exercise judgment that this vendor came in with a Grade A proposal and this vendor came in with a Grade C or D proposal, right? They are just acceptable. They both pass.

Mr. Kennedy. That is correct. They both deliver on the contract specifications.

Commissioner Henke. Right.

Mr. Kennedy. One may have proposed a better way of doing it, but if their price is higher we are unable to accept their better way of doing it.

Commissioner Henke. Right. If Company A comes in with a Grade A proposal and they propose \$1.1 million, and company D comes in a with Grade D proposal, but it is still technically acceptable, at \$1.0 million, you have to pick Company D.

Mr. Kennedy. That is correct.

Commissioner Henke. You have to, by the law.

Mr. Kennedy. Provided that they both meet the technically acceptable definition, yes, sir.

Commissioner Henke. You cannot decide, even in a wartime environment. In a war, let's be plain. In a war, you cannot decide to pay a little more for a lot more quality.

Mr. Kennedy. That is correct.

Commissioner Henke. Have you submitted a legislative proposal to the House and Senate to change that law?

Mr. Kennedy. We are in discussions within the Executive Branch on this, sir.

Commissioner Henke. So you have not submitted to the Congress a legislative change?

Mr. Kennedy. We are still. We have been. We are in discussions within the Executive Branch.

Commissioner Henke. Okay. So you are thinking about it, but it has not gotten up to Congress yet, fair?

Mr. Kennedy. There has been. There is no bill at the moment for a State Department authorization for the next cycle.

Commissioner Henke. I am going to end with a statement. I think the law makes no sense in peacetime. In war, I think it is egregious that you have no flexibility, you have no ability to apply your judgment and pick who you think is the best vendor, even at a little more price.

What do you think, Mr. Kennedy?

Mr. Kennedy. My personal opinion is you are absolutely right, Commissioner.

Commissioner Henke. Okay. Thank you.

Co-Chair Shays. Thank you.

I want to just close up. I just would like to put on the record some points and ask for response.

To me, what is so outrageous besides the lurid behavior is, number one, the intimidation of people on camp--the intimidation of people on camp both in terms of just enjoying intimidating them and then intimidating those who might speak out.

There appears to be no one the aggrieved felt they could speak to who could hear their grievance, no one in the company, no one in State. So what do they do?

Well, they may have some knowledge that they can turn to an outside private group. So they turn to private lawyers who refer them to Danielle Brian.

She is the Executive Director of the Project on Government Oversight.

That, clearly, is a breakdown. We are here today because people had to go outside of channel because they could not go through the company, they could not go through State. So they had to go outside the channel.

And, I am struck by the fact if there were not pictures all of this stuff would be continuing. It would be like, well, we do not see any problem. There is none. To me, that is what is so outrageous.

I try to put myself, Secretary Kennedy, in your position. I think that State learns to just express everything in diplomatic ways, but there are some times that the diplomatic ways just do not cut it. This is such an outrage.

I think the Secretary, Secretary Clinton, made it very clear. Whoever is involved in this is fired, out. I think that is the tone that needs to seep all the way down

I want to say that I am troubled that the regional security officer who was there in December of 2008, June of 2009, August 1st and 10th of 2009 left. And, I want to ask for the record, did this individual have any knowledge of any of this activity?

Mr. Kennedy. He was asked, Mr. Chairman, and he did not, and he left at the normal end of his rotation, at the normal end of his assignment.

Co-Chair Shays. So he was not asked to leave because he knew something that you do not want.

Mr. Kennedy. His assignment, his rotation, you are assigned--

Co-Chair Shays. Okay. I am going to note for the record that all of you agreed with that statement, but I would just like you to say it.

Mr. Moser?

Mr. Moser. Well, I actually had a discussion with the regional security officer in Kabul in June, and I discussed with him the performance of the contract, and he did not mention any of these conduct issues.

Co-Chair Shays. And, you are not aware that he had any knowledge.

Mr. Boswell?

Mr. Boswell. I am not aware that he had any knowledge, sir.

Can I clarify?

Co-Chair Shays. Yes.

Mr. Boswell. He left in, I think it was July before the guard--

Co-Chair Shays. Before the August parties.

Mr. Boswell. Before the parties had happened.

Co-Chair Shays. Okay. The record needs to be clear.

Commissioner Gustitus. He left. The party was June 15th.

Mr. Boswell. Right. He left in July, before the August parties.

Commissioner Gustitus. So he was there for June 15th party.

Mr. Boswell. Yes, he was.

Commissioner Gustitus. And, he was there for the December party.

Mr. Boswell. Yes, he was.

Commissioner Gustitus. He was there for the May reconnaissance mission.

Co-Chair Shays. Okay. But I had misstated August 1st and August 10th, and you are correcting me on that part, but my colleague is right there.

Well, it is important that someone stay.

Yes?

Mr. Kennedy. It is our plan, Commissioners, that we will remain.

Co-Chair Shays. Thank you.

Commissioner Henke. Thank you.

Co-Chair Shays. Thank you very much.

Again, I am going to state for the record that you have been incredibly cooperative in giving us the opportunity. I know they are tough questions to ask you. So you fed some of the questions directly or indirectly by giving us the opportunity.

We all know we have got some work to do here, and we will look forward to working together with all of you.

And, I do want to say that no one questions your patriotism, your hard work, your absolute love and devotion for our Country, and we realize that some of the challenges you have faced are not of your own doing. That is part of the reason why we are here, to suggest changes, and we look forward to doing that.

So, thank you all very, very much.

Mr. Kennedy. Thank you.

Commissioner Henke. Thank you.

Co-Chair Shays. May we have our next panel: Danielle Brian, Executive Director of the Project on Government Oversight.

We will have a four-minute, five-minute recess, but they can come up to the dais.

[Recess.]

Co-Chair Shays. I would like to call this hearing to order.

Before acknowledging our witnesses, I want to put on the record our gratitude to the House Oversight and Government Reform Committee--as you know, we are a legislative committee of Congress--to Chairman Ed Towns and Darrell Issa, the Ranking Member, of the House Oversight and Government Reform Committee and also Chairman John Tierney and to Jeff Flake, the Ranking Member of the Subcommittee on National Security and Foreign Affairs. They have not only provided us the space, but they have been very interested in the work of this Commission.

And, obviously, to Senator Claire McCaskill, she initiated this hearing, and she has just been absolutely integral in the work of this Commission, and we thank her as well as the Ranking Member of the full Committee on Oversight, Senator Collins.

So, with that, we have as our second panel Danielle Brian, Executive Director of the Project on Government Oversight, referred to as POGO, and Mr. Terry Pearson, former Operations Supervisor, Kabul, Afghanistan, for RA

International, the largest subcontractor on the Kabul security contract.

With that, if I could ask both of you to stand, we will swear you in.

Raising you right hand. Do you solemnly swear or affirm that the testimony you will give before this committee is the truth, the whole truth and nothing but the truth?

Mr. Pearson. I do.

Ms. Brian. I do.

Co-Chair Shays. Note for the record, our witnesses have responded in the affirmative.

Notwithstanding the request of the Committee, I gave the option to our first panel, if they needed to, that they could leave. I feel a little guilty having all four stay. They said this is such an important issue to them, that they intend to stay and hear the second and third panels. So I want that to be on the record, and it is very appreciated that they would take the time to do this.

We are going to start, I think, with you, Ms. Brian.

TESTIMONY OF DANIELLE BRIAN, EXECUTIVE DIRECTOR,
PROJECT ON GOVERNMENT OVERSIGHT

Ms. Brian. Thank you very much, Chairman, and thank you to the Commission for so quickly taking up this matter.

The issue here is really not about obscene pictures and drunken men. It is about a contractor that has been entrusted with a profoundly important mission--protecting our diplomats and embassy in an increasingly violent war zone--and a Federal agency that has utterly failed to oversee that contractor.

What is truly obscene is that ArmorGroup knowingly underperformed in its mission in order to maximize its profits, endangering the diplomats and its own employees in the process, and the Department of State knew about it.

We now know that as far back as 2007 an earlier generation of ArmorGroup whistleblowers vigorously pressed management to address all the concerns that have been raised today. When these concerns were dismissed by ArmorGroup, the whistleblowers reported the misconduct to a State Department official. They were fired the next day.

This may answer some of the questions you have about why other whistleblowers later did not go to the State Department. Not only were those people fired, but the State Department never followed up to interview any of those claims that were being made back in 2007.

Fast forward to August, 2009, when POGO started hearing from ArmorGroup guards. We discovered a demoralized workforce in crisis because

they feared they were incapable of properly carrying out their mission. Because ArmorGroup failed to hire an adequate number of guards, leave was often revoked and the guards were on 14-hour day work cycles for as many as 8 weeks in a row. The guard force commander himself described the entire guard force as sleep-deprived.

In another contract violation, most of the Gurkhas, who make up two-thirds of the guard force, required translators when communicating with their English-speaking colleagues.

Then we have the deviant behavior and the hazing of the new recruits, many straight out of our own military but who also drew Afghan national employees into behavior forbidden to Muslims.

All this in a conservative Muslim country, creating exactly the kind of Sodom and Gomorrah the Taliban depicts America to be.

I have to say I am disturbed that so far in this hearing, as Commissioner Ervin, State Department kept trying to limit the issue to two or three parties. The downside to having those photos is it makes it easy to focus just on those parties, overshadowing what we think are equally significant issues. But I also find it amusing because we actually have photos of other parties of other dates, and we are happy to share whatever is of interest to the Commission.

But, for the past two years, the State Department's response has consisted mainly of written reprimands and the renewal of ArmorGroup's contract. Weak government oversight creates festering sores. That breeds

misconduct as we see in this case.

Frankly, infuriatingly, in response to the recent revelations, the State Department continues to repeat baseless statements that at no time was security jeopardized. Based on what facts can they possibly make those assurances?

As some of the Commissioners have noted, four times between June 7th and March 29th, the State Department itself told ArmorGroup that the inadequate number of guards put security in jeopardy, negatively impacted the security posture, caused serious and grave concerns, and gravely endangers the performance of guard services.

Nothing has changed since those statements were made. Yet, the State Department is now assuring the Congress and the Wartime Commission that security at the embassy is sound?

I have last week's shift schedule. I know they are still operating on a schedule that their own commander described as unsustainable.

These public assurance by State are not supported in fact and make clear the Department does not yet recognize its own role in this public policy failure.

The ongoing failure of two-thirds of the guard force to speak English adequately and the deviant hazing also directly affect the security of the embassy. Inability to communicate with each other renders the guard force in an impossible situation if they are called on to respond to an attack.

And, with regards to the hazing, let me quote one of the guards himself. He wrote to us: I am convinced the greatest threat to the security of the

embassy is the erosion of the guard force's trust in its leadership and, ultimately, the Department of State.

The drain on morale along with the systemic retaliation against guards who did not participate in the unprofessional activities has resulted in a near 100 percent annual turnover rate. This turnover rate feeds back into the guard shortage that causes the excessive overtime. So these other issues do in fact have a direct impact on security.

Furthermore, Under Secretary Kennedy's statement to the media that most of these problems were identified in State Department correspondence with ArmorGroup and, therefore, there was oversight present makes a mockery of oversight, unless what he meant was the other meaning of oversight which is meaning to overlook. Simply documenting a problem, and even imposing a fine, is not effective oversight if the problems continue to occur.

The failed oversight also extends to the State Department's Inspector General whose office, we now know, was contacted two years ago by Senator Lieberman's staff. Yet, they never interviewed the whistleblowers to determine the extent of the problems.

Additionally, in testimony before the Senate in June, ArmorGroup's parent group Wackenhut's Vice President, Sam Brinkley, provided testimony that was also inconsistent with the facts. He asserted that the guard force for the U.S. Embassy had been fully staffed since January. However, that March, nearly 50 guards stood before him at Camp Sullivan to point out the guard shortages that

required them to be overworked and have their leave revoked. And now, Wackenhut is taking some of their guards from our U.S. nuclear weapons facilities to try to patch up this guard shortage.

At that hearing, State Department Deputy Assistant Secretary Moser echoed Wackenhut's false assurances.

Who will hold these officials accountable?

Even if, as POGO has learned, the State Department is planning to transition security of the U.S. Embassy, Kabul, from ArmorGroup to trained Afghan nationals over the next three years, that does not solve the problem, nor does simply cancelling the ArmorGroup contract which we believe should be done, or even debarring ArmorGroup or their parent company, Wackenhut, from future government contracts which we also believe should be done.

No matter what, there needs to be an enormous culture shift in the State Department. At least three problems need to be fixed:

First, the State Department's regional security officers must rotate less frequently, and we are glad to know they are now having a presence on Camp Sullivan.

Second, the State Department must stop taking contractors' reports of compliance at face value and independently verify contractors' compliance.

Third, the culture at the State Department must change to one that prioritizes accountability by disciplining the State Department, as Mr. Thibault was questioning, who are responsible for the failed oversight of the ArmorGroup

contract.

And, finally, it may be necessary to bring the military in to oversee the performance of the security.

The largest question is whether or not the security of the U.S. Embassy in a combat zone should be identified as an inherently governmental function and therefore ineligible to be contracted out, and we, frankly, do not know the answer to that. On the one hand, the use of private contractors for security in a combat zone poses several dilemmas, but primarily the inherent tension between the effective performance of a mission and the financial interest of the contractor. On the other hand, the U.S. Military is tied up fighting two wars.

On a final note, I would like to thank the more than 20 whistleblowers who came forward at great personal risk. The risk they took and continue to take is breathtaking. In return for their bravery, they have been called rats by some of their colleagues, woken up to posters on their doors with threats to their jobs and families, all while working 14-hour shifts and literally have bombs explode outside the gates of their compound.

In response to the scandal, the State Department did ask ArmorGroup to remove all the supervisors on this contract. However, incredibly, those supervisors, after being fired, were not actually removed for days and continued to act in their official capacity, creating an untenable work environment for the many whistleblowers still on the guard force.

As of today, not all the bad actors have been removed, and retaliation

continues. State has issued warnings that retaliation will not be tolerated. But what will they actually do to protect the whistleblowers?

I continue to lose sleep, worrying about them. But from their public comments, however, I sense the State Department is perhaps losing sleep, focusing more on their own reputation.

Another step towards healing this wound would be for the State Department to rehire the whistleblowers who were forced to resign or fired in retaliation simply for raising concerns or refusing to participate in the misconduct.

Thank you again for looking into this matter, and I look forward to answering any of your questions.

[The prepared statement of Ms. Brian follows:]

Co-Chair Shays. Thank you, Ms. Brian.

Mr. Pearson, I just want to say before I recognize you that I view you as a real hero.

I have had two now extensive conversations with you, and the staff has as well. I appreciate your candor, your straightforwardness, your concern about the men and women who worked for you.

I am sorry you have had to go through what you have gone through, and, if I could just say this, any company that is looking for a good man should hire you.

Mr. Pearson. Thank you, sir. Thank you.

Co-Chair Shays. Mr. Pearson, you have the floor.

TESTIMONY OF TERRY PEARSON, FORMER OPERATIONS
SUPERVISOR, RA INTERNATIONAL

Mr. Pearson. Well, first of all, sir, I would like to thank you and the rest of the Commission for inviting me here to speak.

And, I do apologize to anyone that finds my accent hard to understand. I will try to speak slowly.

I am a 50-year-old man, and I spent 23 years in the British Army and retired in July, 1999, as a Warrant Officer, Class II.

Since January, 2004, I have worked in Iraq and Afghanistan in various management roles. I started work at Camp Sullivan in June, 2008. I was a project manager for RA International, a subcontractor for ArmorGroup North America. I managed a staff of 90 and the vast majority of which were local nationals, and this was in support of dining facilities, maintenance, housekeeping and the cleanliness of the camp.

Almost immediately after I took over this post, I was warned: Never go to any party that Charlie shift has.

As you know from the pictures that have been prominently displayed around the world, both as a military officer and a contractor, I have never seen anything as disgusting and humiliating as these photographs.

AGNA and RA had a distorted honor code: Keep your mouth shut.

One night, and I now know it to be June the 15th from the photographs, in 2009, about 2100 hours, I was approached by a member of Charlie shift to see if

they could use the fire hoses that we had at the front gate. We were using them at the time to build the new gatehouse that was top priority for security. They needed them to fill up the swimming pools that they had at the shift party.

I called up one of my staff on the radio and told him to come up, get the hoses, and, along with two other personnel, go down, fill up the pools and then bring the hoses back.

It was about 10 minutes later I decided I would go down myself because I knew that these hoses would probably never come back.

This was the first time I had ever seen a Charlie shift party, and the first thing that struck me was they had a metal container in the middle of the road which they were burning wooden pallets. The second thought that went through my mind was alcohol and fire this size were very unsafe.

Most of the people were wearing underwear, but many were also wearing coconut shell brassieres and coconut shells over the groin, and some, for the best part, were naked.

Some were standing there, urinating on the ground and, unfortunately and sickly, on each other. One person who had apparently run out of urine took the fire hose off one of my staff and put it between his legs.

It was at this stage I realized that I had three local nationals standing in amongst this. I immediately told the supervisor to get him and the other two men out of there, get the hoses and get them back up to the front.

Now this party had been going on since early hours a.m., and I had three

female third-country nationals that worked approximately 30 feet away from this, in the PX and a coffee shop. Also, during the day, with an Afghan staff of about 60, 2 of them were females, and they could not help but see the actions going on by the staff.

I arrived back from vacation on the 14th of August.

On the 15th of August, one of my staff told me of an incident that had happened unreported on the 1st of August. From what I understood at the time, it was five ex pats that came into the dining room about 5:00 at night, dressed in only their underwear and carrying bottles or cans of beer.

The Afghan who was standing in at the time for the dining room manager informed the people that they could not come in. They were not dressed properly. He told me on the 15th that they then started to abuse him. At that stage, I thought it was just verbal abuse, profanity.

I was informed that the proper dining room manager, who was on a day off--he was in the gymnasium right opposite--had seen these people enter and had gone into the dining room and asked the waiter why he had let them in. And, the waiter replied that they had shouted at him, they were abusing him, and he was too scared to do anything else.

The dining room supervisor then went down to AGNA headquarters and reported to one of the senior managers that were down there, of what had happened. He was told that they would look into it and deal with it.

I later took a brief statement from the Afghan national. It was at this stage,

when showing him photographs to identify the individuals, that it came to light exactly what was said, not only done but said by a certain individual, and I quote from his statement. I left it in his own way of putting it into English so it did not look like anyone had encouraged him.

Sir, I would like to inform you that two weeks ago, on the 1st of August, after 1700 hours, I was sitting on the dining hall computer desk due to my supervisor was off. Five ex pats come to dining hall for having dinner, which they only wear short underwear, with bottles of alcohol on their hands. Just one of them signed, the others did not sign, and had dinner.

After that start, going out on the way, I was by dining room entrance. One, and he mentions the name, started swearing and pulling my face. While pulling my face, he was telling me that you are very good for f-ing and used some other bad words. As I was too afraid of them, not to tell them anything, and after that all the time I was facing them I am frightened.

It was at that stage I then took it to the senior management of ArmorGroup and said there was more now than just profanity. This was actually assault and sexual harassment and it had to be looked into.

At the same time, I passed this information on to my temporary country manager from RA International but heard nothing back from him.

I also, at the same time, sent an email to the country manager explaining that I fully expected AGNA to ask for my removal from Camp Sullivan because I had put in a complaint against this certain shift and these certain people. Again,

no answer came back.

On August the 20th, I had still not heard what the outcome was from the complaint that I had made about this certain individual. I also found out that ArmorGroup North America had sent one of their local nationals to interrogate the said waiter, basically asking him why he had made the statement, did anyone force him to make the statement and was he going to remove the statement.

At that stage, when I was told that night by the waiter, I immediately went down to ArmorGroup North America's head office and asked who it was that gave one of their staff permission to interrogate my member of staff. The answer, obviously, was we do not know. And, it was at this stage I said that I was pushing this further because it looked and sounded like someone was trying to cover this incident up.

On the following day, on the 21st of August, I was told that one of Charlie shift's ringleaders had been removed from contract. I took it this time for granted that he had been sacked. It was only a few hours later that I found out he had not been sacked. He had resigned. And, that night, to celebrate his dismissal, three of the senior managers from ArmorGroup North America actually went across to KAIA, which was a camp that was mentioned before, and a celebratory goodbye dinner for this man.

On September the 2nd, I started to get emails from my main office in Dubai, quizzing me to see if I had spoken to anyone about the incident with the waiter. In the final email, I was told such an action was very serious, and this left

me in no doubt I was going to lose my job for doing what I thought and what I still consider was the right thing to do.

I sent an email straight away in reply, giving them my 30 days notice, only to retract that notice or try to retract that notice five hours later. It took RAI 11 hours to answer that email, at which stage they gave me 6 hours to pack my stuff and get out of Sullivan. My 30 days notice turned into 30 hours, and within 30 hours I was on my way back to the U.K.

I should not have been surprised by the attitude of RAI. It seemed that anything that ArmorGroup North America asked, we would do. This was highlighted on one occasion when something they were asking us to do, not only did I inform RAI that, one, it was not in the contract but, two, it sounded illegal. The answer came back: Just do it.

Please remember that RAI is a subcontractor to AGNA.

And, that is, sir. Thank you.

[The prepared statement of Mr. Pearson follows:]

Co-Chair Shays. Thank you very much, Mr. Pearson.

We are going to go to our Co-Chair, Mr. Thibault. He will start the questions.

Co-Chair Thibault. Well, first of all, Ms. Brian and Project for Oversight, thank you.

I note in your statement that you said you had approaching over 20 individuals, 20 unique, separate individuals from the company, ArmorGroup, that had contacted POGO.

Ms. Brian. That is true, and that does not include the individuals that were referenced earlier who have filed litigation. They are not.

Co-Chair Thibault. So it is 20 for POGO and multiple for litigation.

Ms. Brian. There are additional sources of information. That is right.

Co-Chair Thibault. The reason that is so important is so often in whistleblower cases there will be one or two individuals that bring the whistle and allege wrongdoing, and the history says sometimes they are summarily dismissed as disgruntled employees or about ready to be fired employees. In this case, it is not everyone.

Have you experienced that kind of referral in your past?

Ms. Brian. That is a great question. I have been doing this for 20 years, and there has not been a circumstance that I can point to where such an enormous percentage of individuals have come forward, essentially as whistleblowers. It is out of 150 English-speaking guards, we are speaking to 20

of them. I mean it is really quite extraordinarily. So it is unlike anything I have ever experienced, and it is a testament to the magnitude of the problem.

Co-Chair Thibault. Thank you. You know it is kind of hard. It is not a noteworthy accomplishment to be able to say we are number one in referrals. So that is not a good thing.

And, I, like my Co-Chairman, would like to thank you for coming forward, not easy, Mr. Pearson. I would like to thank you. We thank Americans for their service to the military. We will thank you for the service to the British Army.

I will note for the record that I think you are from Scotland.

Mr. Pearson. That is right, sir, yes.

Co-Chair Thibault. But you all work together. So, thank you.

Mr. Pearson. We try. We try.

Co-Chair Thibault. There you go. I appreciate that.

I would like to talk about where you were at and what was occurring on June 15th. That is the so-called Jimmy Buffett party. What were you doing then?

Mr. Pearson. What was I doing on that day?

Co-Chair Thibault. From a job, where were you at?

Mr. Pearson. For most of the day, we had a big project going on, the whole front gate. The local nationals had taken most of the road back. So we had to demolish the front gate, and for 13 days we were working 18-hour days to try and build this new gatehouse.

Co-Chair Thibault. So you were working on this special project that put you in the compound, near where the party was but not directly next to it.

Mr. Pearson. No. I was actually right at the front of the gate. So I could hear what was going on. I could not see it.

Co-Chair Thibault. Okay. Then you said in your statement that you went around and pulled your local nationals out of the party, told them to get on back to either work or their quarters.

Mr. Pearson. To work. To work, yes.

Co-Chair Thibault. So they obviously had been told, come in and have a little fun also.

Did you personally see or observe any of the very senior leaders? We understand that the project manager, the number one person, was on leave or R&R or vacation but that in charge was the number two person, the deputy project manager, and the number three person, the chief administrative officers. Did you see either one of those individuals at this party?

Mr. Pearson. I seen the two. I see he came up to the front gate to see how I was getting on. And, in a conversation with him, he actually mentioned that the number three had been there as well and spoke to him, but I never see them. When I went down, they were not there.

Co-Chair Thibault. You did not see him at the party, but he came up and talked to you.

Mr. Pearson. Yes.

Co-Chair Thibault. Did he talk about the nature of the party or any concerns about the party or activity that was going on at the time or any that had been relayed to him?

Mr. Pearson. He did mention that a certain other member of staff had mentioned to him, are you going to let this go on? And, his reply to it was: They are just letting off steam. Leave them alone.

Co-Chair Thibault. So he had been told that, by certain members, this is the top guy, are you going to let this on, and he let it go.

We have been told by both State and in briefings and interviews, in fact, that he went and the number three person. Number one was not there. The chief administrative officer went, but that they both, I think the word was used, likely retired before there were any problems. Yet, he told you there had been complaints about problems already.

If I heard you right, he said they were just blowing off a little steam?

Mr. Pearson. Yes, letting off a little steam and to leave them alone. It was the number three that spoke to the number two, who was standing in as number one.

Co-Chair Thibault. So this chief administrative officer talked to the deputy program manager and said: Wait a minute. You need maybe to enforce some deportment, to use a big word, some better behavior. Shut the party down. Are you going to let it go on?

And, he told you he was going to let it go on.

Mr. Pearson. Yes, he basically says that, yes, they are letting off steam, leave it.

And, I had not seen the party at this stage because this was before I went down. So I had no idea what she was talking about.

Co-Chair Thibault. So you went down, obviously, to be sure that this party did not end up doing something with your hose disappearing as well as you ultimately had the opportunity to take six of your local nationals away from that scene.

Mr. Pearson. Three, three left.

Co-Chair Thibault. Three, and then the other three were observing from their PX or whatever.

Mr. Pearson. No, no. The party, this was about 9:00 at night, and this party had been going on since late a.m. that day, so, 11:00. By this time, my female staff had finished in the coffee shop, and the local females had gone home by 4:00, but this was going on all day.

Co-Chair Thibault. I appreciate this because this was not disclosed. What they disclosed was they likely went back to their quarters, but this behavior obviously had raised an issue that they were discussing. So you cannot just say they went out and had a couple beers and observed some people almost naked and said, okay, I am leaving. There actually was an issue raised and a decision made not to do anything about it.

Mr. Pearson. I do not know what the issue was she was raising, whether

it was the fire, whether it was people jumping around naked, but he just mentioned that she did raise an issue, asking are you going to let this go on?

Co-Chair Thibault. Okay, the fire, jumping around.

Co-Chair Shays. Can you clarify he and she?

Mr. Pearson. One is the number two who was standing in as number one because number one was on vacation, and number three was the chief admin officer.

Commissioner Gustitus. Do you know their names? Can we just use their names?

Co-Chair Thibault. Sure, go ahead.

Mr. Pearson. Can I use their names?

Commissioner Gustitus. Sure.

Co-Chair Thibault. Yes, sure. Number two's name was?

Mr. Pearson. Am I not going to be sued for this?

Co-Chair Thibault. You are not going to be sued for this. You are under oath.

Mr. Pearson. Number two's name was Jimmy Lemon.

Co-Chair Thibault. Yes.

Mr. Pearson. And, the number three was Susan Danielson.

Co-Chair Thibault. Thank you.

All right, a quick question and then I will turn it over and pick up later on.

We keep hearing about English-speaking problems from the guards, the

Gurkhas. My understanding of Gurkhas is that Gurkhas, and you were for 23 years a member of the British Military, retired as a Warrant Officer II.

My understanding of Gurkhas is that they have exceptional service and are very well qualified because they are members of the British Military. They have to be able to speak English. They have to be able to literally do anything a British Military person does. Is that correct?

Mr. Pearson. That is correct. That is correct.

Co-Chair Thibault. So all of these 100 or 200 guards were ex-British Military Gurkhas because they are all called Gurkhas.

Mr. Pearson. No.

Co-Chair Thibault. No?

Mr. Pearson. No. There is only about eight that are actually Gurkhas. What people fell into the trap of is it is an honor to be called a Gurkha, and these ones that are not Gurkhas have to fight their way to become a Gurkha.

The policy in Afghanistan and Iraq is to call anyone from Nepal a Gurkha.

Co-Chair Thibault. But the point is, and I think it is an important point to make, we have heard over and over and over corrective action plans, English, difficulty talking to, having to use sign language and the like.

If you are truly a Gurkha, and I guess if I was one of those eight Gurkhas, it is kind of like being a paratrooper. You know if you are in a company and everybody is calling themselves a paratrooper and there are only eight paratroopers that have jumped out of planes in those situations.

If you are a Gurkha, and you are trained by the British Military and there are a couple hundred running around: I am from Nepal, and I am a Gurkha. I do not speak English very well, and it is a contract problem, and corrective action plans have been introduced.

That is troubling, and I might have a bit of a morale problem if I was a Gurkha and everybody else became a Gurkha because they were kind of like a paratrooper. They are from the United States, so we can all call ourselves paratroopers.

Mr. Pearson. Well, that is it exactly, sir. Yes. You know these guys have earned the right to be called a Gurkha and just to call your fellow countryman a Gurkha because he comes from your country. I am not saying it did not upset them because I was not that close to them, but I am sure it would.

Co-Chair Thibault. Well, thank you, both of you.

Commissioner Shays.

Co-Chair Shays. Thank you very much.

Mr Ervin.

Commissioner Ervin. Thank you, Mr. Chairman.

I will start with you, Ms. Brian. I want to, for my own part, thank you and thank POGO for your work here. But for your work, we really would not be here today.

Ms. Brian. Thank you.

Commissioner Ervin. It is appalling to me that the State Department

learned about these latest incidents from POGO.

Ms. Brian. Me too.

Commissioner Ervin. This really is, I guess, more of a statement than a question. But what does it say that the State Department had to learn these things not from the contractor, not from its own personnel on the ground, but instead from POGO?

And, as a result of your work, we now have a 24-7 coverage of Camp Sullivan by the RSO. We now have an alcohol ban. There appears to be a serious Inspector General and DS, Diplomatic Security, investigation going on.

I will be shocked if the State Department exercises the option with this contract a third time. Frankly, I am shocked that it was exercised the first and second times. But, after this, if it is exercised a third time, I will be shocked. So we have you and POGO to thank for that. But what does it say that it took POGO to bring us here today?

Ms. Brian. I do think it all comes back to the fact that allegations were made, very serious allegations were made back in 2007, and not only were they not followed up on, but those people were very prominent people. They were the top two people at the camp, and they were fired.

So everyone saw that this is what happens when you report to the State Department--not only does nothing happen, but you lose your job, and that is why ultimately they had to come to outside channels, I believe.

Co-Chair Shays. Could we just clarify and not off your time?

Ms. Brian. Yes.

Co-Chair Shays. They made a complaint through their own company and were fired then and then went to State, or they went to State before they were fired?

Ms. Brian. They went to State before they were fired. They were fired the next day.

Co-Chair Shays. Thank you.

Commissioner Ervin. In your statement, you say the ARSO, the assistant regional security officer, was informed verbally and in writing on June 12th, 2007.

Ms. Brian. That is right.

Commissioner Ervin. Who was that? Who was the ARSO at the time, if you have that?

Ms. Brian. I have the name but not with me.

Commissioner Ervin. All right, that is fine. You can get it for the record.

You mention also that the State Department received an email on September 6th, this whole banana peel email, that if one slips.

Ms. Brian. Right.

Commissioner Ervin. The response was, well, then keep the banana supply locked up.

Ms. Brian. Right.

Commissioner Ervin. We do not have a copy of that email yet. We are seeking those documents from the State Department.

Ms. Brian. We can get those. We can get those to you.

Commissioner Ervin. All right, we would like to have that for the record.

To me, this suggests, this whole litany of problems in 2007, 2008, these recent problems over the course of the summer that were learned about by the State Department only through the efforts of POGO suggests to me that the State Department is incapable of overseeing this contract.

And, you raise the possibility in your statement of whether, as was the case before 2004, the Department of Defense should be tasked with providing security. Now that is a policy issue that obviously POGO cannot do anything about, but I would like for you to talk a little bit more about that.

Ms. Brian. We have struggled with that question. In fact, initially, I have to admit that my almost kneejerk reaction was this is obviously something the military just needs to come in and take over because of the urgency of the problem but also because of their obvious capacity to do so. But, as I spent more time talking to people in the military at DoD, there seems less of a willingness to do so.

So it is easy for us to say it, but if you cannot get them to do it then it goes back to the fact that we cannot give up on the State Department. We have to make them do better than they have been doing, and that is where I think all of us will have to be working.

Commissioner Ervin. Thank you.

Mr. Pearson, I want to add my own kudos to you, to those that have

already been expressed. Your courage and your willingness to come forward at great cost to yourself, both literally and figuratively, is really exceptional, and I commend you on my own behalf and on behalf of the Commission.

I have just a couple of questions to ask you. Largely, I had that statement to make to you, but a couple of things.

One, just a factual question that struck me during the course of your statement, you mentioned toward the end of your statement that you sent an email giving them, RAI, 30 days notice. You had decided to resign at that point.

Mr. Pearson. Yes.

Commissioner Ervin. Then you go on to say that you retracted your notice five hours later. Why did you retract it?

Mr. Pearson. I just thought I would stand up and take what was coming towards me.

Commissioner Ervin. I am sorry. Say that one more time.

Mr. Pearson. I thought I would just stand up and take what was coming towards me. So, if they wanted to terminate me, then let them terminate me. I was not going to give them the opportunity to go on my own.

Commissioner Ervin. Okay.

Commissioner Henke. Just to clarify, they did terminate you, correct? They did not accept your resignation, then shuffled you out six hours later?

Mr. Pearson. They got me off. They did not accept my retraction, of the withdrawal of my resignation, and gave me six hours to get off Camp Sullivan

and shipped me out the next day.

Commissioner Henke. Did they accept your resignation or did they terminate you?

Mr. Pearson. No, no. That is one question I asked because I was getting instead of 30 days, I was getting shipped out in 30 days. I asked them, are you terminating me? And, they sent back four hours later and said, no, no, no, we are just getting you out because we have got a new manager coming in.

Commissioner Henke. Okay. Have you received your final paycheck?

Mr. Pearson. No.

Commissioner Henke. Thanks.

Co-Chair Thibault. Is it a normal practice? I am asking an obvious question, but is it a normal practice that when someone resigns, that they blast them out in 30 hours?

Mr. Pearson. No. The person I took over was actually still in, after giving his resignation, still in the job two weeks later before I got told I was going in, and then we had a ten-day handover.

Commissioner Ervin. One other issue I wanted to explore with you briefly, Mr. Pearson, is this. You are a professional security officer, and so I would be interested in your opinion about this, with the extensive experience both in Iraq and Afghanistan as you said.

You heard that colloquy I had with the State Department about the claim that there is a distinction between contract performance and the security of the

embassy and their insistence that the security of the embassy was not and is not endangered right now, but I would like your opinion as a professional security officer about the security implications, in particular of this June 15 party. Is it not the case that such an incident has the potential so to inflame Afghan opinion in the country generally and, in particular, Afghan opinion among those Afghans who work in our embassy, that that could pose a direct threat to the lives and safety of our diplomatic personnel stationed there?

Mr. Pearson. Almost definitely. I mean some Afghans might have gone along with what they were doing, but you will always get some that are religious to the core, and it affects them.

One thing I never mentioned, on this night, on June the 15th, was you have seen it in the photographs that have local Afghans standing there with bottles of beer. These people were actually the drivers of the vehicles that drove the guys to the embassy the next day, and this was 9:00, 10:00 at night.

Commissioner Ervin. That is not relevant to this.

Mr. Pearson. These people, without giving the time--

Co-Chair Shays. Mr. Pearson, just wait for the sound. These are buzzers to tell members of Congress what is happening on the House floor and so on, and I can assure after 21 years of being in Congress I still do not know what is what.

Commissioner Gustitus. Do you not have the instinct to get up and run over?

Co-Chair Shays. I did. Not now. Good question.

Commissioner Ervin. I am sorry, sir. Go back to what your statement.

Mr. Pearson. So these people were driving the vehicles, and I will not give time away, but it was not over eight hours after this party was going on they would be driving the Nepalese, the Gurkhas, in these trucks towards the embassy, doing the changeover, then driving the trucks back. And, they were there, drinking alcohol with Charlie shift.

Commissioner Ervin. Thank you.

Ms. Brian. Could I add? Chairman, is it all right if I add just one?

Co-Chair Shays. Sure.

Ms. Brian. Two points I wanted to make to the question Mr. Ervin asked with regard to Mr. Pearson's removal from the site. One is that I think POGO takes responsibility for the fact that our letter to Secretary Clinton came out on September 1st, and we had as an attachment that statement that Mr. Pearson read, and it was the day after it came out that they started questioning him about the fact that this information had come out. So I take great responsibility for the timing of how this happened.

But the fact that, as Mr. Henke was asking, they were pushing Mr. Pearson out the door so quickly has actually had a real impact, we have learned, on the life of one of his former employees because after Mr. Pearson was forced out so quickly they did not have a replacement for him on duty. I do not know that they still do at this point.

But there was a vehicle bomb explosion that happened after he left, and one of his employees actually bled out and died. We have talked to people there who believe that if Mr. Pearson had been there he would have known where his employees were and would have been checking on them, and, because of that, one of the nationals who was there did not survive.

Co-Chair Shays. Thank you.

Commissioner Green.

Commissioner Green. Let me echo the appreciation expressed by other Commission members for the appearance by both of you.

Mr. Pearson, would you explain in general terms, or describe, the nature of the guard force that resided at Sullivan? I am talking across the board, and I will get to pieces of it later. But, in general, across all the shifts, what is your impression of that guard force?

Mr. Pearson. The vast majority of the guard force are a good bunch of guys, very professional in what they do, enjoy what they do and want to do the best they can.

Me, personally, I used to get annoyed, and I used to think it was an American complaint about people on management meaning complaining about pickles on burgers, but that is as far as I got.

The vast majority of people were good people, very good people.

Commissioner Green. Okay. Now let's focus on the ERT portions of those guard forces, the ABC shifts. Can you characterize the differences in

those shifts?

Mr. Pearson. There is actually four shifts.

Commissioner Green. Four shifts.

Mr. Pearson. Four shifts. Charlie shift, Charlie shift always were different.

Charlie shift, if Charlie shift wanted something, Charlie shift got something, and this was highlighted in the time after I reported it to the time I left, with the change of attitude with the management of ArmorGroup.

Charlie shift wanted to take all the ice out of the dining room and leave the rest of the 300 people with no ice, which I objected to, and I was told by one of the senior managers: That is not your goal. If they want it, they get it.

And, that was because it was Charlie shift. No other shift would have had that treatment. So there was a lot of I would not say rivalry, but there was a lot of people that did not like Charlie shift--not all of Charlie shift, certain people in Charlie shift, because of the way they behaved and the way they were treated, the way they were given special treatment.

Commissioner Green. Any indication that the other three shifts performed in similar ways that Charlie shift did?

Mr. Pearson. Do you mean at parties?

Commissioner Green. Yes.

Mr. Pearson. No. I went to every one of the shift's parties--A, B and Delta--and they were generally what you expect from a party and a barbeque, cookout. People eating, people having a drink, people having a laugh and joke,

and that is it, talking.

Charlie shift, this was the first time on June the 14th I had actually seen Charlie shift at work.

Commissioner Green. Can you characterize the difference in the leadership of the four shifts based on their backgrounds?

Mr. Pearson. This business is hard to know people's backgrounds because what they tell you and what they really were, you have no idea. You have got to take their word for it.

So all I know is the other shifts--A, B and Delta--the confusing thing with it is you had an ERT commander and you had the shift commander.

Commissioner Green. Right.

Mr. Pearson. The shift commander was over the ERT commander. All the other three shifts, the shift commander would control that shift. Charlie shift, it was the ERT commander that controlled that shift.

Commissioner Green. Do you know what the ERT commander's background was?

Mr. Pearson. He says he was Special Forces, Delta Force. However, there was someone that came to the company that either worked for Delta Force or knew Delta Force guys or worked with them and he ousted him for he was not.

He was a store man working for Delta Force. And, as soon as this boy ousted him, he got ousted from Charlie shift and moved to another shift.

Commissioner Green. You indicated in your statement that you reported

the incidents up the chain of command to your management and that essentially they were unresponsive.

Mr. Pearson. Yes.

Commissioner Green. Was there any attempt to report any of these incidents to Department of State personnel in-country?

Mr. Pearson. If I knew how to, I probably would. You have got to remember now that the embassy where the RSOs were, was three miles, four miles up the road, and very rarely did you see them at Camp Sullivan.

The only time I seen them at Camp Sullivan was in June this year when they were leaving. Some of them were leaving. And, whenever we had a VIP coming, they would turn up. That was the only time I ever seen them.

Commissioner Green. Would you have felt free to report these incidents to a State Department person, had they been there and you knew how to do it, or would you have felt restricted by RAI chain of command and ArmorGroup chain of command?

Mr. Pearson. I would not have had a problem reporting it to someone else, and that was what I was after when I went through the chain and finally got to POGO. I wanted someone to listen to what I was saying because ArmorGroup and my own company were doing nothing, and, in my opinion, ArmorGroup and probably my own company were attempting to cover up, and this could be the reason why I was off Sullivan within six hours.

Commissioner Green. Last question, do you believe that the State

Department or any personnel at the Department in Kabul were aware of the activities of Charlie group or Charlie shift?

Mr. Pearson. I cannot say if any of them were ever told by any of the guards, but what I do know is when these incidents were going on there was not any State Department onsite.

And, there was occasion last year when the Nepalese have a celebration, September, October, and it was split over three days to give each of the Nepalese shifts a chance to come on it. We were told on one of the nightly meetings that the RSOs were going to be coming to one of these meetings, and someone turned around on that meeting and said, let's just make sure it is not the night that Charlie shift are off.

So they would not have seen it. They would not have seen the behavior.

Commissioner Green. Okay. Thank you.

Co-Chair Shays. So that is in deference to the State Department, that they actually went out of their way to make sure that Charlie shift would not be available.

Mr. Pearson. Yes. Yes, this was ArmorGroup managers that said it.

Co-Chair Shays. Oh, ArmorGroup.

Mr. Pearson. ArmorGroup managers.

Co-Chair Shays. Thank you.

Ms. Gustitus.

Commissioner Gustitus. Who was the head of the Charlie shift, did you

say?

Mr. Pearson. I did not say.

Commissioner Gustitus. Oh, who was the head of the Charlie shift?

Mr. Pearson. The head man at Charlie shift was a man called Steve Dalton.

Commissioner Gustitus. Okay.

Commissioner Henke. Who was the head of the Charlie shift ERT?

Mr. Pearson. That is a guy called Godfrey Godfrey.

Commissioner Gustitus. Did you live on the compound?

Mr. Pearson. I did, yes.

Commissioner Gustitus. Even though people did not see the parties, were they aware of the parties? Was it part of the conversation about Charlie shift? I mean you heard that there was a problem with Charlie shift.

Mr. Pearson. Everyone apart from Charlie shift had heard about these parties and would not go. The other shifts, what you would get is you would get people from one shift going to another, if they were off, going to another shift's one. But the going thing on Sullivan was unless you are into that and you are part of Charlie shift, do not go there.

Commissioner Gustitus. So it was pretty common knowledge then across the camp.

Mr. Pearson. Yes.

Commissioner Gustitus. Did you hear anything about the reconnaissance

mission that we talked about, that Snack Pack, where they dressed up as Afghans?

Mr. Pearson. It was brought up on one of the nightly meetings. Again, every day is like Groundhog Day, so dates mean nothing. But I vaguely remember it coming up, and they were talking about having to change the shift list to get these guys off, so they could go and do this job. So it was discussed.

Commissioner Gustitus. So the discussion was in order to make it available for them to do the reconnaissance mission.

Mr. Pearson. Yes.

Commissioner Gustitus. Who was the highest person in authority present at that meeting, do you know? It is hard to remember.

Mr. Pearson. I do not know. I do not know if both the project manager and the deputy project manager were there, but definitely the guard force commander would have been there. The ERT commander would have been there, and either one or the other of the deputy or project manager.

Commissioner Gustitus. Okay. How visible was the use of alcohol in Camp Sullivan, on the Camp Sullivan campus? Was it pretty common to see people drinking? Were cases of beer stacked up or did people have bottles in their rooms?

Mr. Pearson. People had the alcohol in their rooms, and, if they did not, if they were a sad person and wanted to drink alone they would drink, pardon me, in their rooms.

When they were having the shift parties, and this was not every night. This was during the three days off, they maybe have one day, and they would have it in these bunkers. So, basically, no one could see them. No one could hear them.

My workforce were happy because the night shift would go in there, and these people would pay them money to clean up after them. So it was generally in good form, generally in good form, never had any problems with them.

Commissioner Gustitus. Did most people follow the two-drink minimum? I mean was that understood, that there was a two-drink minimum across campus?

Mr. Pearson. Yes. When that came out, people were picking up garbage bins and saying, well, that is one drink. That is how serious it was taken.

Commissioner Gustitus. Okay. So that was not really followed through.

Mr. Pearson. No.

Commissioner Gustitus. Did RAI have an alcohol policy?

Mr. Pearson. Yes. Drink as much as you can.

Commissioner Gustitus. Is that right?

Mr. Pearson. Yes. There was no limit, no limit.

Commissioner Gustitus. Okay. The claims by--it was Jim Sauer and Pete Martino who were the original program manager and deputy program manager, who were there in the very early days, from April to June of 2007--shed some light on how this all got started, and it does seem to go back to the training camp.

And, I want to read from them, and I will do this with ArmorGroup also, but

from the filing of James Gordon in his suit for wrongful termination. He has these two paragraphs. Now these are allegations, but this is what he says, that during the period April to June 2007, Mr. Sauer, Martino and he received reports that recruits for guard force positions who were then in pre-deployment training in Texas had been engaging in lewd, aberrant and sexually deviant behavior, including sexual hazing, urination on one another and equipment, bullying, moon, exposing themselves, excessive drinking and other conduct, making them unfit for service on the contract.

Mr. Sauer and Martino immediately notified Mr. Semancik, who was the AGNA President, about these reports and objected vehemently to allowing those involved to deploy to Afghanistan.

It was a consequence of raising those issues that apparently those two gentlemen were terminated from their contract with ArmorGroup, and we can explore that discussion with ArmorGroup later this afternoon, but I wanted to put it on the record that there is strong evidence that this kind of conduct and behavior was engaged at the training facility and then brought to Kabul and Camp Sullivan.

Ms. Brian. Right.

Commissioner Gustitus. Is that your understanding?

Ms. Brian. Yes, Commissioner. I think that was an incredibly important point that the State Department representatives were suggesting, well, that was back here and was very different from when they were over in Kabul. But, of

course, they were training to go to Kabul, and so the whole point was that was the environment that was being created in the earliest days of the contract.

Commissioner Gustitus. Right. And, thank you both for coming and testifying today.

Ms. Brian. Thank you.

Co-Chair Shays. Thank you.

Mr. Henke.

Commissioner Henke. Thank you both for being here today.

A first question for Ms. Brian, in your statement, you said you have other photos from other parties. What is the earliest date of the party, of maybe a raging party, that you have photos for?

Ms. Brian. Well, the only thing that worries me is that I do not know absolutely. Because they have a date on the photo, I cannot definitively tell you that is the date of the party, but it was I think January of 2008.

Commissioner Henke. January of 2008?

Ms. Brian. Yes.

Commissioner Henke. Are they similar in nature to the photos we have seen?

Ms. Brian. Yes, naked, drinking.

Commissioner Henke. Okay. Mr. Pearson, your statement says you got in the camp about June, 2008.

Mr. Pearson. That is right.

Commissioner Henke. When you first got there, someone told you, you were warned ~~and~~ never, ever go to any party that Charlie shift has.

Mr. Pearson. That is right.

Commissioner Henke. Who told you that? Who gave you that warning and why?

Mr. Pearson. That was the gentleman I was taking over from, and this was in front of some of the ArmorGroup personnel, headquarters personnel, the admin site, and he was just basically warning me that they were strange parties. They were very weird.

Co-Chair Shays. Clarify.

Commissioner Henke. What do you mean by strange parties? They were just big bonfires and booze?

Mr. Pearson. No, naked men and naked men doing things.

Commissioner Henke. So they were lewd and indecent and everything else.

Co-Chair Shays. Would the gentleman just yield to clarify?

Commissioner Henke. Sure.

Co-Chair Shays. It was said to you in front of management for ArmorGroup?

Mr. Pearson. No, no. This was ArmorGroup admin staff. So nothing to do with management, they were just admin staff, headquarters admin staff.

Co-Chair Shays. Okay.

Commissioner Henke. So, if I understand it, there are, on the ArmorGroup side, four shifts--A, B, C and D.

Mr. Pearson. Yes.

Commissioner Henke. And, C shift is about 100 people total, right, plus or minus 80, 70?

Mr. Pearson. No. I think it is a lot less than that. I think at any one time, ex pats, we had 138.

Commissioner Henke. Just the whole shift, the whole guard shift.

Mr. Pearson. Onsite at one time, because one shift would go on leave, we had about 138 ex pats. So that was three shifts plus the headquarters element. So it is a lot less than 100.

Commissioner Henke. What I am trying to get at, though, is the ERT. When I hear ERT, I think of it is a swat team, right? It is the Emergency Response Team?

Mr. Pearson. Yes.

Commissioner Henke. These are the guys, guys and gals--I do not know--that go in and respond if something goes bad.

Mr. Pearson. Yes.

Commissioner Henke. This is your reserve. This is who you call in when you need some help, right, this ERT?

Mr. Pearson. No, no. These were the guys, their job was actually to escort the vehicles to the embassy. So, although you have, which was a bit

strange because I have never seen this work before--although you have, for example, Charlie shift leader, he is in charge of the whole Charlie shift.

Commissioner Henke. Right.

Mr. Pearson. For the move from the embassy, oh, sorry, Camp Sullivan to the embassy, it is the ERT commander and his vehicles. He controls it.

Commissioner Henke. Okay.

Mr. Pearson. So he controls it until they get to the embassy. Then it is handed back to the shift supervisor.

Commissioner Henke. Okay. Once the ERT gets to the embassy, I understand, is that where they perform as a swat team, sort of? They are in reserve?

Mr. Pearson. That is a bit above me. I do not know what they do.

Commissioner Henke. That would be a question for Mr. Brinkley on the next panel.

Can you describe for us the door-kicking incident? I guess it was somewhere on October, 2008, some time frame. Just tell us what happened.

Mr. Pearson. Yes. What happened was the same person as mentioned before.

Commissioner Henke. Gilbert, no. Godfrey Godfrey?

Mr. Pearson. How could you forget that name?

Commissioner Henke. Right, I just did. Godfrey Godfrey, the ERT shift leader.

Mr. Pearson. Yes, yes.

Commissioner Henke. Got it.

Mr. Pearson. He was living in the same accommodation as me. It was about 2:15 in the morning. I heard a noise of people coming in, which did not concern me to begin with because I thought it was people coming from KAIA after the drink, and they will be quiet in a couple of minutes.

Then the next thing, there was banging in the corridor. I opened up the door, and, at the same time, an ArmorGroup personnel guy opened up the door opposite me. I looked up. I seen Godfrey and another.

I says, are you going to keep the noise down? It is a quarter past 2:00 in the morning.

To which, he responded, asking his friend, is he speaking English?

I was, ha, ha, ha, very funny.

I went back in my room. I could still hear them. They were making loads of noise. So I just sat up all night, watching TV.

At 7:00 in the morning, I was told by my maintenance manager that two of the doors in the corridor had been smashed in. Then I came out and seen it was the doors that he was standing next to had been, the locks had been smashed all the way in.

After I got it fixed, I went and seen the deputy project manager, told him what had happened.

Commissioner Henke. This is Jimmy Lemon?

Mr. Pearson. That is the one. He came up, had a look at the doors, asked me, do you know it was?

When I said who it was, oh. He then got in touch with the acting ERT commander, and the next thing he came up to me and asked me how much the doors cost. When I found out, within 10 minutes, there was money in my hand to pay for these 2 doors that had been kicked in.

I then went to the dining room.

Commissioner Henke. The other way would be, I guess, to put in a work request, get it funded. He just wanted you to take care of it.

Mr. Pearson. Well, it was going to eventually come. The bill was eventually going to come back to ArmorGroup because it was not general maintenance or repair.

Commissioner Henke. Okay.

Mr. Pearson. So, as far as I was concerned at that time, it was just paying for the doors because he was going on vacation that day, Godfrey, and I thought that getting the money off him before he goes on vacation.

I then went to the dining room. He was sitting, Godfrey was sitting on the table across from me, and all he done was smiled at me the whole time. He then get up with the old ArmorGroup head honcho and walked out.

Jimmy Lemon then came in and said: Remember, keep this all under the radar. Nothing goes out.

Commissioner Henke. Could you say that again?

Mr. Pearson. Keep this under the radar. Nothing goes out from here.

Commissioner Henke. Okay.

Mr. Pearson. Do not mention it.

At which point, I says, well, I am going to mention it. This is my day off.

He has done this.

He then told me to do what I want.

I then went and seen the project manager, myself and the armbr
[phonetic] who had witnessed it. We told him of the incident. We told him that
someone tried paying us off, basically, and keep quiet.

Commissioner Henke. Right.

Mr. Pearson. It was at this stage, he turns around and says, right, I have
got to go and speak to Jimmy about this.

So I then turn and around and says: There lies a problem. It was him that
tried paying us off.

Co-Chair Shays. The full name of Jimmy?

Mr. Pearson. Jimmy Lemon.

About half an hour later, Jimmy Lemon got myself and this other guy and
started raising his voice. I asked him.

Commissioner Henke. Who? The other guy, Godfrey Godfrey?

Mr. Pearson. No, no, no. Another guy that reported it.

At the end of the conversation, he basically said to me, what goes around
comes around.

Commissioner Henke. He said what?

Mr. Pearson. What goes around comes around.

And, I asked, are you threatening me?

Commissioner Henke. You perceived that as a threat?

Mr. Pearson. Yes. And, he just walked away.

Co-Chair Thibault. So, excuse me. You asked him if he was threatening you, and he just walked away?

Mr. Pearson. Yes, he just walked away. He did not answer.

Commissioner Henke. So that does conclude the door-kicking incident and the threats you received?

Mr. Pearson. Yes.

Commissioner Henke. Okay. Could you also tell us for the record about this incident about assaulting a medic while he was treating a patient or an injury?

Mr. Pearson. This, I think the date on this was the 10th of August.

Commissioner Henke. This year, 2009?

Mr. Pearson. This year, this year.

The Charlie shift ERT were across in Camp KAIA, across the road, the NATO camp, and supposedly one of them got stabbed by a member of NATO.

Commissioner Henke. Now this NATO camp, that is where they can get booze but cannot bring it back to the camp.

Mr. Pearson. That is right. There are bars there, but they cannot bring

the alcohol out.

Commissioner Henke. Okay.

Mr. Pearson. This medic was in his bed. He had two of the guys knock on his door and say: You need to come out and see what the guy's name was. He has been stabbed by some Euro scum.

He then went to guy's room with his bag, ready to give some medical assistance. Godfrey Godfrey was standing in the door. He told him to get out of his way so he could go in.

Commissioner Henke. Could you tell me, where was the guy stabbed?

Mr. Pearson. In the leg.

Commissioner Henke. In the leg. So he had a stab wound in the leg, okay.

Mr. Pearson. Yes. It was at this stage Godfrey turned around and assaulted him.

Commissioner Henke. Tell me again. The medic who was treating him?

Mr. Pearson. That was going in to try and treat him, Godfrey assault the guy.

Commissioner Henke. Godfrey assaulted a medic who was going to go try and treat a stab wound.

Mr. Pearson. Yes.

Commissioner Henke. Go ahead.

Co-Chair Thibault. Can you explain what you mean by assaulted him?

Knocked him down?

Mr. Pearson. Punched him.

Co-Chair Thibault. Punched him?

Mr. Pearson. Punched him.

The medic then, because obviously Godfrey was worse for wear for drink, put him on the floor, got him off him, put him on the floor and then dealt with the casualty.

The same night that I got told that someone had been interviewing or quizzing my waiter, the medic, who put in a later complaint about this, went just before I went in to see them, went in to ask about what was happening about this complaint because he had not received any information whatsoever about it. Then I went in just after that with mine.

And, the following day, I was told. When I was told he has been removed from site, he was actually told face-to-face by Jimmy Lemon, he no longer worked for the company, so if you want to push this any further, you do it privately.

Commissioner Henke. So, just if I could wrap up, and I do not want to run over, this guy, Godfrey Godfrey, was the one who kicked in the door and was involved. He was the one who assaulted the medic.

Mr. Pearson. Yes.

Commissioner Henke. Who were the AGNA managers or supervisors who took him out for a farewell party?

Mr. Pearson. It was the deputy project manager.

Commissioner Henke. Jimmy Lemon.

Mr. Pearson. Guard force commander.

Commissioner Henke. Right.

Mr. Pearson. And, the ERT commander, his immediate boss.

Commissioner Henke. Okay. Thank you very much. I appreciate your testimony. I know it is not easy.

Co-Chair Shays. AGNA equals ArmorGroup equals Wackenhut. When we talk about them, it is basically the same organization.

I just want reiterate some key points that I heard you say. You are saying within a week or so you were told, you were warned do not attend Charlie group parties. Is that true?

Mr. Pearson. Right. That is correct.

Co-Chair Shays. But there was no one from ArmorGroup present when you were warned. You were warned by others in the shift of ArmorGroup, in other words, other employees--well, no one from management.

Mr. Pearson. No, no one from management.

Co-Chair Shays. You were brought in, I am told, because RAI was losing money and had a number of problems, but one was it had a problem: It was losing money, and you were there to help turn things around.

What was a major thing you did and what was the impact on the camp when you did it?

Mr. Pearson. The major thing I did then, obviously, is the one that affected morale most of all was the feeding.

Co-Chair Shays. A little louder.

Mr. Pearson. Was the feeding. The food was absolutely disgusting. It was revolting. So the first I done within a month of being there was fire the catering manager.

Co-Chair Shays. I am told you describe an incident where you came to eat the food and these guys were laughing at you and you took a first bite.

Mr. Pearson. Yes, the whole of--I always used to go to meals with the admin staff of AGNA, and when I went in and picked this fish off the table I noticed they were all smiling at me when I sat down, and I actually thought I had something hanging off me or something. And, it was only when I started eating the fish and then spat it back out, that they all said, that is what we were waiting for.

Co-Chair Shays. They kind of laughed?

Mr. Pearson. Oh, they found it hilarious.

Co-Chair Shays. Okay. What did you do about it?

Mr. Pearson. I then took it up to the catering manager, who was an Englishman, and said, this is absolutely disgusting.

And, his attitude towards the Americans was he used to call them children. So he said to me, oh, is that the children complaining?

I said: No. I am the child. That is mine. Get it off the hot plate. Get that

thrown away.

And, I actually made him take it off the hot plate and dispose of all the fish.

Co-Chair Shays. And, you replaced him?

Mr. Pearson. And, within less than a month, he was replaced.

Co-Chair Shays. The cost was I am told that the employees, rather than eating in the kitchen, were buying their own food.

Mr. Pearson. Yes.

Co-Chair Shays. What is the impact on your company when they do that?

Mr. Pearson. Well, I mean the impact on the client was they were using their money.

The impact on us was we were only getting paid for the amount of people that clocked in coming through the dining room. So, if they were not coming in, which they were not, I would be lucky to see three ex pats in there. If they were not coming in, the food that we had put out for them to eat, we had to throw away. So we were not getting any money whatsoever.

Co-Chair Shays. You were not getting money for the food, and you were not getting money for the individual heads.

Mr. Pearson. The people coming in.

Co-Chair Shays. So you got a better cook. Did you start making money at the facility?

Mr. Pearson. Yes, we did. We suddenly became instead of a money-losing, we are now profit-making.

Co-Chair Shays. Okay. In my line of thought, that means that you were a plus to the company, not a minus.

I have some takeaways. One is not directly related to you, but one is the lowest cost technically acceptable needs to be replaced with the best, highest standard.

Another one that I have is that you need the military option. In other words, when we have contractors that are not performing, rather than feeling like you have to deal with them and go out to bid, that you just bring in a group of military who can come in so that the contractors do not feel like somehow they have got you over a barrel.

Another takeaway is, and this is the one that speaks directly to you, Mr. Pearson, you described to us that you never saw a State Department representative on a daily basis, except every six months someone from out of country would come in, but the folks in country you had no contact.

State has basically explained it, and I will put it in my terms. They did not put it this way. But what happens in Camp Sullivan stays in Camp Sullivan. They did not focus on that. Their argument is we focused on the performance of the job.

I have not heard any testimony from you that says, except in one of two instances, that their performance on the job was bad except in one or two instances where someone may have--well, let me say are you speaking about their performance on the job in any way that we need to be aware of?

Mr. Pearson. No. I never seen them at the embassy. So I cannot comment on that. I just seen in the camp where they lived.

Mr. Pearson. Okay. Well, I just want to make sure. Your testimony is very powerful. I just want to make sure that we do not read more into than we should, and, frankly, it gives you more credibility to not claim that you know something you do not.

Did you have anyone from the other three groups that would speak to you about Charlie company and how come they get away with it and we do not, or was there ever talk about somehow Charlie company was treated differently?

For instance, if another group knocked down two doors, what is your sense of how ArmorGroup, the management, would have dealt with it?

Co-Chair Shays. I think they would have dealt with it by dismissal. They would have dismissed the guy.

And, I was like a social worker in Camp Sullivan. Everyone used to talk to me, and loads of people used to question, what has that shift got on management? Why are they allowed to get away with this?

Co-Chair Shays. Get away with stuff that they should not get away with.

Mr. Pearson. Yes.

Co-Chair Shays. So, I mean this is really serious, and so now it speaks to this whole issue of one of my takeaways. We have got to have a system that enables someone like you to speak out because if we heard you, we could nip this in the bud. In other words, we could stop it. So that is one of my takeaways.

Did you feel there was anyone? Once you went through your channels of the company--I think you answered but I am going to ask it in the flow of my questions--did you feel there was anyone at State that you could go to and speak to?

Mr. Pearson. No, I had no idea.

Co-Chair Shays. Were there any signs that said if you have got a problem with a contractor, contact this number?

Mr. Pearson. No, nothing was available.

Commissioner Gustitus. Chris, could I ask one question?

Co-Chair Shays. Sure, absolutely.

Commissioner Gustitus. We were informed that the RSO in the months of July and August were present. He was present daily at Camp Sullivan.

Co-Chair Shays. Do you know what an RSO is?

Commissioner Gustitus. I am sorry. The regional security officer was at Camp Sullivan on a daily basis in July and August, and I believe you were at Camp Sullivan in July and August. And, can you tell us whether you saw any difference in the visibility of the State Department representative at Camp Sullivan in those two months?

Mr. Pearson. I went on vacation on the 28th of July, and, up until that date, I cannot remember seeing any State Department official coming onsite, apart from if we have VIP visits.

Commissioner Gustitus. Right. Then when did you come back from

vacation?

Mr. Pearson. The 14th, 14th of August.

Commissioner Gustitus. How about August 14th?

Mr. Pearson. I was not there much longer. I got ousted, but, no. The next time after that, there was a planned visit from the State Department on the six monthly one, but instead that got changed because of what was highlighted. And, on the 2nd of September, then we had State Department guys coming in, doing interviews.

But, no, there was not a regular occurrence. They were not there in June and July or July and August. I never seen them once.

Commissioner Gustitus. That is troubling. Okay. Thank you.

Co-Chair Shays. Ms. Brian, let me just end with you because I have reached the seven minutes. So I am going to conclude here by just being clear. I was struck when we met with Mr. Pearson over the weekend, that he felt there was one of the five managers who was responsive and seemed to care about what you were saying, but it appears all of the managers were fired. It triggers a concern that I have.

Is there any of the group in Charlie company who had contacted you, who wanted this to end, that have actually been caught up in this sweep? And, if so, that would be tragic. Is there?

Ms. Brian. There is a concern, not of someone who contacted me but who is universally, from everyone I am talking to, recognized as someone who had

not been a part of the problems, and he has been, I believe, unfairly caught up in that sweep. So that is exactly the right thing to be worried about.

I think not all the right people are gone, and some of the people who are gone should not have been fired.

Co-Chair Shays. Okay. So we will start our second round, Mr. Thibault.

Co-Chair Thibault. Well, thank you, and thank you again.

I guess I want to go back to the point I have been making since the outset. When we talked to State, State told us that if additional disclosures came through, that they did not have the whole story properly, and that there had been interest in curtailing this in a discussion. But that had not been brought forward like, well, they went and had a couple of beers, but then they left.

In fact, you have shared that they went and had a discussion, this chief administrative staff and the number two person, the deputy program manager about whether they ought to shut it down. They decided not to shut it down. So, as the discussion ensued, it seems to me that the full story is coming out, and I sort of anticipate additional things to come out.

To recap, it is again State, and I have absolutely no reason to think that State knew about. There has just been no indication. If it comes forward, they will have to be accountable, but they only came around during VIP tours and farewell functions. Well, a VIP tour, you clean everything up and you dust everyone off and you have a nice tour. That is understandable.

You know, in fact, they offered us. We did not have time, but they said,

hey, how would you like to go to this camp, and we did not have the time to go in there and see it.

We hear about the joke in the camp, that when the two-drink policy came out, well, a garbage bin is the right size for the first drink. That, obviously, is a nice, good policy. Not anyone, no one must have looked at it to try to figure out whether it was being enforced.

I talked earlier about conspiracy, a really strong word. Could there be a conspiracy going on to shed issues in terms of not reporting them to State?

And, we hear about, well, you better keep this under you radar. You better make sure that you do not involve yourself with Charlie shift because they are pretty wild and crazy. We have all these other longstanding issues.

I would just like to say I am frustrated, and I so much again appreciate your doing your job, Ms. Brian, and your staff at the Project on Government Oversight.

My last comment is if I was in a company and I was looking to walk the straight and narrow about corporate ethics, about assuring that employees got the message, about putting eyes on my own work rather than have to wait until some government agency put eyes on my work, Mr. Pearson, you would be the kind of person I would turn to. So I wish you the very best in your job search.

As a person who is a few years older than you, I realize how young 50 is. So I wish you the very best in your job search. Thank you.

Mr. Pearson. Thank you.

Co-Chair Shays. Thank you.

Mr. Ervin.

Commissioner Ervin. Thank you. I will be very brief.

Mr. Pearson, I just wanted to follow up, to ask an obvious question that a number of us have asked around but not asked directly, and you may not know the answer to the question. I am going to ask it of ArmorGroup as well. Do you have any idea as to why Charlie shift was so favored?

Mr. Pearson. No. That was a million dollar question in Camp Sullivan. If you knew the answer to that, you would not need the job with ArmorGroup.

That was, again, asked by loads of people: Why? Why does he get away? What does he got on them? No one knew.

Commissioner Ervin. Okay. Secondly, just a point of clarification, I think you have made it clear that to the best of your knowledge the State Department was unaware of all of these incidents, the June 15th party, August incidents, et cetera.

Mr. Pearson. That is right.

Commissioner Ervin. But I just want that to be clear for the record. That is not necessarily a good thing, by the way. I would argue the State Department ought to have been aware of it, but I just want to establish that.

And, this includes the lack of State Department awareness, presumably, as far as you know, also of this plan to engage in surveillance, this Operation Snack Pack, because you referenced that earlier. As far as you know, no State

Department personnel were aware of that. All right.

Then the final question was prompted, Ms. Brian, by where you left it with Mr. Shays just a second ago. Just briefly, who are the people who were fired who ought not to have been, ArmorGroup people, and who are the people who should have been fired, that should be? Are you at liberty to say that?

Ms. Brian. I feel a little awkward on that question, but I am very happy to talk to the Commission separately about that.

Commissioner Ervin. Okay. Are we talking about substantial numbers of people?

Ms. Brian. Well, I mean there is a combination of issues. There is one particular person on Charlie shift that was fired, I understand to be totally unfairly, but there is also a great number of people who were fired or resigned prior to the disclosure of this because of their unwillingness to participate, and I think they also need to be seen as victims because no one was getting to them in time to help them.

One of the issues, that when Mr. Shays asked the question, what would have happened if you were not on Charlie shift and you had done something like this, it raised actually in my mind the perfect example of what happened where one of the new recruits straight out of our military was in one of these parties, was in fact the person engaged in some of the most deviant, I mean was humiliated by his supervisors in one of these videos. The next day, he was so upset by what had happened to him, he wrote some graffiti on one of the trucks,

he and his team leader. They were both fired for the graffiti. So that gives you a sense.

So these are some of the people that I am looking at, saying I believe there is a lot of victims that need to be reconsidered for how can we help those guys. It is not fair.

Commissioner Ervin. Thank you.

Then just one final, very quick one, Mr. Pearson, you said that you saw no evidence at the camp. I guess at the embassy. I presume you were at the embassy from time to time, that there was a mechanism for people to report incidents up the State Department chain of command. That is right?

Mr. Pearson. Yes. I knew Camp Sullivan, back to front, because I used to spend all day walking around it, and there was no signs, no posters, no information whatsoever about if you need to go above the chain of command, go this way.

Commissioner Ervin. And, final question, if I understood you correctly, you spent some time in Iraq as well?

Mr. Pearson. Yes, that is right.

Commissioner Ervin. Is that also right? There was to your knowledge no posted signs or no other information making it clear to contract employees, State Department employees, et cetera, that they had the opportunity to go up the chain?

Mr. Pearson. The difference with Iraq is I was in the personal security

detachment. So it was a different situation. However, on one U.S. contract I did work on, there was not any posters either. So the answer is no, there is not any.

Commissioner Ervin. Thank you.

Co-Chair Shays. Commissioner Green.

Commissioner Green. Mr. Pearson, did you ever know of any guard supervisors to be disciplined for inappropriate behavior, other than the last group that was either fired or resigned?

Mr. Pearson. For inappropriate behavior, no.

Commissioner Green. You mentioned the NATO camp. I want to be very clear that, to the best of your knowledge, guards could not bring alcohol back from that camp.

Mr. Pearson. As far as I know, but it all depends because these places change their soldiers every six months. But it certainly was about a year ago that no alcohol could be taken off-camp.

Now, going back to the alcohol bit, people were getting it from the two sites on the embassy, and also there is a camp called Camp Warehouse. I do not know who runs that because I am not allowed in it, but that is another place where they could get alcohol.

Commissioner Green. They could bring it back from there?

Mr. Pearson. They used to bring it back from there.

Commissioner Green. Okay. Last question, are you aware of any instances where Afghans were forced to consume alcohol?

Mr. Pearson. Forced, as in stretched out, tied up, poured down the throat?

Commissioner Green. Well, or embarrassed to the point.

Mr. Pearson. Well, this night on June the 14th, there was Afghan drivers there. Whether they were forced to drink or they wanted to drink, I do not know, but they were there with cans of beer.

Commissioner Green. Okay. Thank you.

Co-Chair Shays. Thank you.

Ms. Gustitus.

Commissioner Gustitus. I just have a short observation that is in light of everything you have said and described in terms of the common knowledge of the C group and the 20 whistleblowers that you have talked about, Ms. Brian. It is the statement that we are going to hear this afternoon by Mr. Brinkley from ArmorGroup, which says: "Those of us at AGNA and WSI--basically ArmorGroup--outside of Kabul first learned of the June 15th party and the related misbehaviors through the September 1 letter and photos released publicly by the Project on Government Oversight. We were shocked and upset by what we saw.

So they are saying that they had no knowledge of this until the photos were released on September 1st.

Co-Chair Shays. Thank you.

Mr. Henke.

Commissioner Henke. Just briefly, two or three questions, Mr. Pearson. I understand that based on Ms. Brian's comment about after you departed the main gate at Camp Sullivan is being rebuilt or refurbished. Is that correct?

Mr. Pearson. No. This was in June. This was when the party was going on, it was getting rebuilt.

Commissioner Henke. Why was it being rebuilt? I am assuming there was a security enhancement being done.

Mr. Pearson. The local nationals had taken, there is a road right outside Camp Sullivan, and they had decided that they were taking so much of it that we had T-walls on. They were taking it back. So we basically had to remove the T-walls and build another construction.

Commissioner Henke. So you physically had to move the same gate from point to point, okay.

Can you tell me? Can you describe for us? I want to understand. Is there an armory at Camp Sullivan where weapons are stored off-duty?

Mr. Pearson. There is an armory that the--there is an armory where the ex pats hand in their weapons and ammunition when they go on vacation. There is also an armory where the Nepalese, who have not handed their weapons over to the on-shift, where they hand their weapons in. The ex pats only hand their weapons in when they go on vacation.

Commissioner Henke. So, in other words, when these parties are going on with the ex pats and the U.S. citizens, their weapons and their ammunition are

in the camp, floating around, not in an armory, is that right?

Mr. Pearson. They are in the room. I mean people never went to these parties with the personals on their side and the rifles.

Commissioner Henke. They did not?

Mr. Pearson. They did not, no.

Commissioner Henke. Okay. But the weapons were nearby. It is a fairly small camp.

Mr. Pearson. They were available if someone had--

Commissioner Henke. Back in someone's bunk or in someone's locker.

Mr. Pearson. Yes. If someone had an incident through alcohol, it was available for them, yes.

Commissioner Henke. So, number one, I guess the Nepalese weapons are treated differently. Those guys come off-duty, their weapons are locked up. The ex pats, their weapons are not in the armory but on their person or in their bed or some other storage container. Is that right?

Mr. Pearson. That is right. That is correct.

Commissioner Henke. The point being that there are weapons and ammunition nearby.

Mr. Pearson. Available.

Commissioner Henke. Easy access.

Mr. Pearson. Yes.

Commissioner Henke. Okay. Thank you.

Mr. Pearson. But if I could just throw on, on that one.

Commissioner Henke. Please do.

Mr. Pearson. In the defense of ArmorGroup, if that place does come under attack, you need these people to have access to them straightaway.

Commissioner Henke. That is a very good point. I guess that also leads to another question. Given that possibility, it strikes me that there should not be any drinking at all at the place. If they have to have weapons because they may need them to respond, even when they are on their three days off, why are we having raging bonfires and parties and coconut shells and everything else? I think we know the answer.

Thanks.

Co-Chair Shays. Four takeaways: Lowest cost technically acceptable, best value standard. We need to have a military option. The third one is a person to speak to within the company or within State that someone like you can speak to. And, my fourth one is that the contracts that we have with contractors need to be different in a contingency environment than one when we are back in base and so on. I mean these are some takeaways.

I want to be clear about your own company because the bottom line is your own company. In spite of the fact that you were doing, I am told, an outstanding job and just hearing you testify I would have confidence in a person like you, you were fired. I mean you resigned, but then you were fired. They can call it what they want. They did not even give you the courtesy of 30 days in

spite of the good job.

So the message is clear. They felt they needed you out in order to satisfy the contractor. And so, you were dispensable in spite of the fact you did a good job.

That, to me, says that somehow we have got to get a better way of getting information from subcontractors. Seventy percent, Mr. Pearson, of the people who do work are subcontractors to a contractor.

So I am just going to end by expressing profound gratitude to you for, one, doing what you did and, secondly, your willingness to come here and to speak out. I am going to be very interested to see what your future holds because my judgment is if any contractor wants someone who will help them do a better job it is someone like you.

And, Ms. Brian, I am profoundly grateful that you had the courtesy to contact this Commission and had faith in this Commission, and, obviously, you contacted others as well who have shown an interest in this.

So, congratulations to both of you and thank you.

Mr. Pearson. Thank you.

Commissioner Henke. Thank you.

Co-Chair Shays. We are going to have a five-minute break, and then we will go to our final panel.

[Recess.]

Co-Chair Shays. I would like to call this hearing to order, please, and

present our last panel: Mr. Doug Brooks, President of the International Peace Operations Association; Mr. William Ballhaus, President and CEO of DynCorp International; and Mr. Samuel Brinkley, Vice President of Homeland Security and International Security Services, Wackenhut Services, Inc., and Wackenhut Services is the parent company of ArmorGroup North America.

Gentlemen, we do appreciate your being here. This has been quite an interesting day for us and, I am sure, for you, and we appreciate all three of your being here.

So I need to swear you in, I will ask you to stand, and then we will go from there.

Raising your right hand. Do you solemnly swear or affirm that the testimony you will give before this commission will be the truth, the whole truth and nothing but the truth?

Mr. Brinkley. I do.

Mr. Brooks. I do.

Mr. Ballhaus. I do.

Co-Chair Shays. Note for the record, all three witnesses have responded in the affirmative.

I want to make sure, particularly with this panel, that we do not end without all of you having an opportunity to have some kind of closing comment, to make sure that you feel that we put everything on the record that needs to be put on.

With that, I will turn to my Co-Chair, Mr. Thibault, and he will start us off.

Co-Chair Thibault. Well, actually, I thought I would let them do their statements first, sir.

Co-Chair Shays. Oh, absolutely.

Co-Chair Thibault. It is a long day. He did not even give us lunch. Come on.

Co-Chair Shays. I am so sorry. We are starting with you, Mr. Ballhaus, Mr. Brooks and then Mr. Brinkley. Okay, you have the floor.

TESTIMONY OF WILLIAM BALLHAUS, PRESIDENT AND CEO,
DYNCORP INTERNATIONAL

Mr. Ballhaus. Thank you very much.

Co-Chair Shays. I am going to ask you to pull the mic a little closer. It gets in the way a little bit, and lower it just a spec. Thank you.

Mr. Ballhaus. Thank you, sir. Co-Chair Shays, Co-Chair Thibault and distinguished members of the Commission, on behalf of DynCorp International's 25,000 employees serving in over 30 countries around the world, thank you for the opportunity to participate in this hearing.

I would like to summarize three points from my written testimony, which I request to be incorporated into the full record: one, the challenges associated with contingency operations relative to employee conduct; two, the standards to which we hold ourselves accountable and DynCorp International; and, three, our approach to meeting these standards.

First, on challenges that we face, this Commission is well aware of the very difficult challenges associated with supporting contingency operations in war zones: high operating tempo, dynamic requirements and, probably most relevant to today's hearing, tremendous personal challenges for our people, from tough living conditions and work environments to long days, weeks and months in isolated locations. The environments are austere and dangerous, and they are not for everyone. At DynCorp International, with thousands of employees serving in Iraq and Afghanistan, we understand these unique challenges intimately and

firsthand.

One of the toughest challenges we face as contractors supporting contingency operations is managing a large workforce distributed around the world and ensuring that the working environments at every location are professional, collegial, ethical and based on courtesy and respect. While the challenge is large, the magnitude of the challenge is simply not relevant when it comes to establishing the standard--the standards we must meet to effectively serve the State Department and Department to Defense and support national security and foreign policy missions around the globe.

The job for contractors is clear: to perform, to comply and to ensure that the right working environments are in place at all of our work sites and locations, and that the highest standards of ethics, conduct and integrity are maintained. This may not be easy, but it is our job.

The second point that I would like to make pertains to our standards at DynCorp International. Every day, thousands of our employees around the globe are supporting national security and foreign policy missions and striving to maintain our customers' trust and confidence. That said, it only takes one individual's misconduct to put at risk the reputation of our company, our Nation and the lives of U.S. soldiers and diplomats and their missions.

As a result, our standard with respect to meeting commitments and doing it the right way is, and can only be, perfect. We realize the impracticalities of this standard. We are not perfect. But this standard reflects an ambition that drives

our culture to be proactive in preventing issues and to respond with full transparency and accountability when they do occur.

Third, and finally, I would like to describe our approach to meeting these standards, particularly in the area of employee conduct which consists of three basic elements: first, our core values and company code of ethics and business conduct which provides the foundation for creating professional, collegial and ethical working environments; second, our governance framework which encompasses our policies and procedures, tools that we use to develop our employees, and the multiple channels we have in place to gain insight into our work environments and ensure compliance; third, our leadership culture that is driven by a standard of perfection and is characterized by full transparency, accountability and zero tolerance for noncompliance.

I describe these three elements in detail in my written statement for the record. Here, I would like to provide a few highlights of DynCorp International's governance framework.

We enforce mandatory code of conduct and sexual harassment training. Employees who fail to complete the training do not receive merit pay increases and are subject to disciplinary action up to, and including, termination.

We ban alcohol in Iraq and Afghanistan. It is my view that the government should consider a no-alcohol policy for all contractors operating in war zones.

We test for steroids as an additional screen beyond what is required in our contracts.

We conduct leadership training across our work sites, including Afghanistan and Iraq, taught by professional external consultants. These programs include 360-degree feedback instruments for each participant, designed specifically to gather input from peers, supervisors and subordinates on the individual's leadership style and consistency with our core values. Two hundred and seventy-five managers will complete this program this fiscal year, and, to date, sixty-two managers have already completed the program in Iraq and Afghanistan where we initiated the training.

In closing, while alcohol bans, high standards, drug testing and robust reporting mechanisms such as employee opinion surveys, hotlines and 360-degree feedback instruments do not guarantee the elimination of misconduct, these policies and sensors do provide windows and awareness into what is actually happening thousands of miles in many times zones away.

Most importantly, when a misconduct situation arises, we understand the imperative of promptly investigating and taking appropriate corrective action.

Thank you again for the opportunity to appear today, and I look forward to answering and addressing any questions that you might have. Thank you.

[The prepared statement of Mr. Ballhaus follows:]

Co-Chair Shays. Thank you, Mr. Ballhaus.

Mr. Brooks, I think you are going to have to move that mic closer to you,
sir.

TESTIMONY OF DOUG BROOKS, PRESIDENT,
INTERNATIONAL PEACE OPERATIONS ASSOCIATION

Mr. Brooks. Co-Chair Shays, Co-Chair Thibault, members of the Commission, thank you for the opportunity to testify here on behalf of IPOA, the Association of the stability operations industry. Our association represents more than 60 companies from around the world engaged in a variety of contingency services, including security.

My goal today is to provide the association's views on ways to improve the stability operations industry and to ensure taxpayers gain best value and receive professional and ethical services from our industry.

I would like to take a moment, first, to offer condolences to the family of an IPOA member company employee killed in a savage suicide attack on the NATO base at the Kabul Airport on the 8th of September. This was mentioned earlier, the attack that took place close to Camp Sullivan, home to the embassy security contractors. Four other contractors were wounded in that attack. This incident serves to remind us of the often unseen and seldom mentioned danger faced by our civilians who are supporting United States policies abroad.

Founded in 2001, membership in IPOA is not an automatic, and it requires disclosures and information not typical of trade associations. Companies can be expelled if they violate the association's code of conduct. IPOA works with humanitarian organizations and NGOs to regularly update and improve the code and has supported a number of international initiatives to support industry-wide

standards, including the widely respected Montreux Document. The Montreux Document clarifies international law on the stability operations industry and is spearheaded by the International Committee of the Red Cross and the Swiss Government.

I often point out that Afghanistan and Iraq are the best supported, best supplied military operations in U.S. history. In the big picture, the model of private sector support for the all-volunteer professional military works remarkably well, but nobody denies there are problems that we do need to address. Indeed, when operating in weak and failed states, it would be astonishing if there were not any problems.

Our industry employs civilians who are owed all the privacy, human rights and due processes given to private citizens anywhere. At the same time, we recognize that operations in high-risk environments require a balance between rights and responsibilities.

In regard to the recent situation at the U.S. Embassy in Kabul, the association strongly believes that hazing or humiliation should never be tolerated, and, indeed, personnel involved in such behavior are generally fired and can be charged with crimes.

No one has any plans to put cameras in bedrooms, and individual rights must always be respected. But when personal behavior negatively impacts on the mission or the client, then a company does have an obligation to step in and address that problem.

The recently published photographs raised concern from the public and also from the industry. Clients of the stability industry should expect professional services, and they have a right to assume their contractors will not become an embarrassment. Needless to say, the consequences faced by the perpetrators are widely supported by the international community of professionals that comprise our industry.

IPOA would welcome a practical review or government-wide conference on how procurement and contract management could be modified for the unique realities of contingency contracting. It would be ideal to get the contracting officers, the contracting officer representatives, industry representatives and country managers in an environment conducive to resolving many of these issues, as partners instead of antagonists. In any case, there have already been some moves by Congress and the Executive Branch to solve some of these problems.

One issue that perhaps relates to today's topic is that intense competition is beneficial for obtaining a low price for the government, but focusing only on price when awarding a contract can ultimately degrade the quality of service. The Departments of Defense and State handle these contracts quite differently, and it would be interesting to explore why.

IPOA continues to improve our widely recognized self-regulatory efforts, but it is important to remember that we are not the first responder in contractual and legal issues. We can and do supplement, but not replace, government

oversight and accountability with our own codes and procedures and are focused on ethical concerns.

IPOA also commenced an initiative this past legislation cycle to approach Congress with the request for mandatory third-party certification of private security contractors--a step that may be necessary to establish a sufficient baseline for firms providing these services.

Finally, I urge the Commission to keep in mind that while the focus of this hearing is on Afghanistan and previous hearings have been on Iraq, in the long term, we need to think about the thousands of contractors supporting humanitarian and international peacekeeping missions in Darfur, Eastern Congo, Haiti and elsewhere. Afghanistan and Iraq are important, especially from a U.S. policy perspective, but from a humanitarian perspective the pale in comparison. More than five million people have died in Eastern Congo alone since the beginning of that tragic conflict.

Our industry is important to the U.S. mission but critical to supporting international peace efforts as well. Any rules or regulations that come from your recommendations should be consistent and supportive of our private sector support for those humanitarian operations in the future.

I look forward to your questions. Thank you.

[The prepared statement of Mr. Brooks follows:]

Co-Chair Shays. Thank you.

Mr. Brinkley, before calling on you, this Commission had a bit of a debate on whether we should invite another contractor and somehow, by implication, tie them to the specific issues related to ArmorGroup. We decided there is two parts: one, the specifics, but also the lessons learned.

Mr. Ballhaus, that is why you have been invited, and there are obviously issues that you can share with us, and you have your challenges as well, which we will talk about shortly.

Mr. Brooks, again, you told us kind of the company norm.

We are looking not only at the specifics but the systemic, but, Mr. Brinkley, I appreciate your being here. I think that this is has got to be a difficult issue and time for you, but we will be fair to you, but we are going to be tough.

Thank you, Mr. Brinkley. You have the floor.

TESTIMONY OF SAMUEL BRINKLEY, VICE PRESIDENT,
HOMELAND SECURITY AND INTERNATIONAL SECURITY
SERVICES, WACKENHUT SERVICES, INC.

Mr. Brinkley. Thank you, Commissioner. Co-Chair Shays, Co-Chair Thibault, Commissioners, at the request of the Commission, I appear before you today to discuss performance of ArmorGroup North America, often called AGNA, of the contract to provide the protective force for the U.S. Embassy in Kabul, Afghanistan and, in particular, to address the recent incidents of misbehavior by certain personnel detailed to the embassy contract.

The three incidents that have given most rise to this hearing are described in my written testimony: the June 15 party at Camp Sullivan, the August 1st dining facility incident and the August 10 party at Camp Sullivan. In my written testimony, I address specifically what we knew, when we knew it, in regard to these incidents.

At the outset, let me say that I am not here to defend the indefensible. I have served as a Marine in harm's way in many sensitive and intense operations. I also served for over three years in the Department of State. I know the pressure of duty in areas under imminent threat. Those pressures, in no way, justify or excuse the types of behavior that are evidenced in the photos and the reports that recently have come to light.

Certain of our personnel behaved very badly. I am personally embarrassed by their misbehavior, and I am embarrassed to be here speaking

about their poor judgment and inappropriate actions which bring discredit to the Department of State, WSI, AGNA and the hundreds of other professionals protecting the U.S. embassy in Kabul.

There are no excuses. We do not tolerate, we will never tolerate such misbehaviors.

Certain misconduct is obvious in the face of the photos and reports. We have dealt with these incidents firmly and swiftly, terminating those directly involved in the incidents and also removing senior management on the embassy project for their failures of oversight and supervision. We have a new management team taking over on the project and are coordinating with the State Department to provide for an orderly transition.

We also investigated and continue to investigate what happened. Currently, we are deferring to the State Department investigators who are in-country, questioning our people. We are working with the State Department to ensure a full investigation and complete understanding of the extent of the situation and to identify any additional matters of concern. Based on what is found, we will take whatever additional actions that are appropriate to rectify fully any wrongful conduct.

Our people know better. They are well trained regarding their obligations to do the job effectively, which includes behaving in a manner that reflects well upon themselves, the company and the U.S. Government.

We emphasize to them repeatedly the high standards of conduct expected

of them during their service at the Kabul Embassy. They each commit to maintain these high standards, not only while on duty but at all times.

We emphasize that their work is not just a security mission but a diplomatic one as well.

In my written testimony, I detail the many measures in place to keep incidents like this from happening. Standards of conduct are set forth in the contract, including rules governing consumption of alcohol. We have a morale, welfare and recreation policy that clearly informs personnel that during their off-duty hours they are expected to maintain the highest standards of behavior and that abuse of alcohol is a particularly serious offense.

The written testimony describes our rigorous time-tested vetting procedures which include background checks by us and the government and a thorough review before offering employment.

Also, in the written testimony are the details regarding our training in which personnel are trained regarding their very high standards of professionalism for posting at the Kabul Embassy. The training specifically addresses the limitations on alcohol consumption.

Each employee signs an employee agreement committing them to high standards of conduct and avoiding any activity that might bring discredit on themselves, the company or the government.

Finally, as described more fully in the written testimony, each employee is required to review and certify their understanding of the company's standards of

business ethics and conduct policy, including certifying to the obligation to conduct themselves in a manner above reproach and to avoid the appearance of wrongdoing and to report to management any such questionable activities.

The rules and training were in place. Some, apparently, did not get it.

As a result of the recent revelations, we are reexamining our vetting, training and our processes. We will take advantage of lessons learned from these incidents and do all that can be done to avoid anything like this in the future.

At the same time, however, there is a positive success story that must not be overlooked regarding our purchase of AGNA during a period when it was having very serious contract performance problems at the Kabul Embassy contract and our extraordinary commitment of time and resources working with the State Department to turn that around and bring AGNA into contract compliant.

WSI inherited AGNA and the Kabul Embassy contract. In May of 2008, WSI's parent company, G4S, PLC, acquired ArmorGroup International, PLC, the parent company of AGNA. AGNA was a troubled part of the larger ArmorGroup enterprise.

After the purchase, our parent asked WSI to address AGNA's problems on the contract and to ensure that AGNA did whatever needed to be done to come into full compliance with contract requirements. We learned from DOS that the guard force operations were well executed. AGNA was in good standing from

the perspective of guard force operations, and the Department did not believe that AGNA's contractual noncompliance threatened the security at the embassy.

However, we also learned that the Department was very dissatisfied with AGNA's compliance with contract requirements. Our independent assessment led us to the same conclusion as the Department of State. That is that the security of the embassy was never at risk, but AGNA suffered from many contractual compliant issues.

We developed a detailed corrective action plan that addressed each deficiency, and, over the past year, we have worked conscientiously to execute this plan. We met each week and talked daily at times with the State Department to review actions and progress.

We are proud to say that we have now addressed every weakness and deficiency in the performance of the Kabul contract. The Kabul contract has been fully staffed since January of 2009, except for the vacancies created by the recent terminations due to the misbehaviors in question.

It is important also to address the security of the embassy. It must not be lost in this discussion, that at times the embassy, that at all times the embassy has been secure. None of the recent personal misbehavior incidents or contract compliance issues has meant that at any time there was a failure to have a qualified, competent guard at the post of keeping the embassy secure.

Let me summarize briefly the remedial measures we have taken and continue to implement as part of the corrective action plan:

We have investigated and continue to investigate all allegations, working closely with the Department of State.

We have taken firm, swift personnel action from the evidence, as the evidence warrants. We immediately relieved from duty the eight individuals whose misbehavior was documented in the photos and reports. We have relieved from duty the project manager, the deputy project manager, the emergency response team commander and the guard force commander. We will have taken, and we will take, such additional personnel actions as may be appropriate as the investigation continues.

We are putting a new management team in place. Phil Rudder, my number two, is already in-country and taking charge of operations in Kabul. He has full executive authority to manage the contract. He will also assist me in further examining the situation in Kabul and determining whether additional personnel actions are appropriate.

Mr. Rudder will meet with personnel individually and in groups to ensure they have the appropriate commitment to the highest standards of conduct.

Soon, Mr. Rudder will be joined in-country by Mr. Cornelius Medley, a manager with AGNA who has extensive experience in managing embassy security contracts.

With State Department concurrence, we are revising the alcohol policy and are reviewing all other policies and training to see if changes are appropriate in view of lessons learned from these incidents. We have determined that we

would like to make permanent the ban on alcohol consumption that the project manager put in place in August. We may need to make some limited exceptions, for example, for certain official functions where alcohol is a cultural tradition.

However, casual or recreational use of the alcohol would be prohibited. Camp Sullivan would be a dry camp. The alcohol ban also would apply to off-duty activities away from Camp Sullivan. We would include a no-alcohol clause in new employee agreements.

We are making clear our zero tolerance approach to any misbehavior. With State Department concurrence, the discipline policy will be revised to provide for the immediate termination for violation of the alcohol policy.

We are providing full visibility to the State Department, including immediate reporting of any incidents or concerns no matter how minor they may seem.

As part of our screening process for new applicants, we are implementing the following:

All applicants will undergo a standardized personality test, and we will recommend the MMPI, to determine suitability of personality characteristics for the job.

Formal attitude and character evaluations will be completed for each candidate as part of the training process.

The training segment regarding standards of conduct will be enhanced to take into account lessons learned from the recent incidents and emphasize the

importance of adhering to the standards.

Ongoing in-country refresher training regarding standards of conduct will be conducted quarterly.

We are committed to the security of the embassy, to exemplary performance and to the highest standards of conduct. These personal misbehaviors by some individuals are a stain and a discredit to all those who are well serving in the protection of the U.S. Embassy in Kabul. Those serving well, one of whom was killed and four others wounded by a vehicle-borne IED outside Camp Sullivan last week, should not be forgotten as we discuss this very serious matter.

I will be pleased to respond to questions.

[The prepared statement of Mr. Brinkley follows:]

Co-Chair Shays. Thank you, Mr. Brinkley. We wanted to make sure you could do your full statement, even though you ran over, and I thank you.

Mr. Brinkley. Thank you.

Co-Chair Shays. I am saying this to all of you but particularly Mr. Brinkley because just really we are not interested in any gotchas. You are all under oath, and it is just important that we do not force you to say something that would not be accurate. It would be better for you to be clear that you are not certain of something than to speak with authority and then be wrong and commit perjury. So I just say that to all of you but particularly Mr. Brinkley since you seem to be the one that there is more focus on.

With that, we go to Mr. Thibault.

Co-Chair Thibault. Well, thank you to all of you.

Mr. Brooks and Mr. Brinkley, you both mentioned it is not a question, it is just an agreement with you.

Mr. Brooks, your words were seldom mentioned danger to contractor personnel. I could not agree with you more. I could not agree with your closing statement about the danger. I know you have seen our interim report. It highlights the danger and the commitment.

We made a commitment as a Commission, which is important, that we are so impacted by the military sacrifice, we are equally impacted by the contractor sacrifices and that all of our hearings, as evidenced in Commissioner Shays's statement, will recognize and acknowledge that. That is a given, no argument

here. I am glad you also saw fit, all three of you, to bring that up.

Mr. Ballhaus, about how many, approximately how many employees do you have in both Iraq and Afghanistan last month, today or whatever?

Mr. Ballhaus. It is about 16,000.

Co-Chair Thibault. Okay. You have 16,000.

Mr. Ballhaus. And quickly approaching 20.

Co-Chair Thibault. Growing to 20. So you are in a major recruiting mode, which is good for the Country, but it is a very large workforce. So one of our points, you know you are State Department's largest supplier, and there are many other very large contracts.

Bad things happen, misconduct and the like. A big part of the test is, okay, what is the company's policy and procedures, and you both laid them out in your testimony. You did not get a chance to go into them in great detail, but they are on the record.

You had a recent death a week ago. I guess a little less than a week ago. I am not so interested in the death. It is a tragedy. Any time an American dies it is a tragedy, regardless of the circumstances.

But I am interested in the process that your staff went through when you found the person that died and who you notified, when you notified. Kind of give me, and you do not have to say at 08:30, but kind of give me the time line. I am very interested in that.

Mr. Ballhaus. Yes. Well, first of all, I want to echo your comments.

Whenever there is a death of one of our employees, it is a tremendous tragedy. It touches a lot of people--obviously, the family but also the co-workers that serve with that individual.

In this particular case, and I appreciate not having to walk through the details, but I want to get specific so that I can characterize how we typically respond.

Immediately, once we found out that there was a death of an employee, we did a couple of things. First, secured the area. Treating it as if it is a crime scene, we put guards to secure the room so that nobody could enter. We immediately notified the in-country lead for the State Department and federal investigators.

Co-Chair Thibault. Same day? Same hour?

Mr. Ballhaus. Yes, within minutes.

Co-Chair Thibault. Okay.

Mr. Ballhaus. So we are talking about tens of minutes on this time line.

The in-country lead for the State Department as well as federal investigators so that they could, from moment one, step up and lead the investigation.

Obviously, once those initial actions were taken care of, our attention turned to the family, and so we followed through with the family notifications. I have discussed and presented to the Commission in previous examples our employee assistance program, which we do think is a model for defense

contractors. And, our team, from that moment, was engaged with the family, handling the notifications and with the body until it came back to Dover Air Force Base yesterday, and that is a critical piece of any type of response when we lose an employee.

Beyond that, back in the Washington, D.C. area, myself and my leadership team, we immediately looked at the processes leading up to this individual being recruited, screened, hired, trained and deployed and sent into Afghanistan. This was a new hire who was going to be deployed to his operational site the very next day, and so we wanted to make sure that our process had been intimately followed, and it was.

Once we completed that, I personally called the Assistant Secretary's Office to inform them, make sure that they knew everything that we knew.

And, that pretty much summarizes the first days' activities.

Co-Chair Thibault. So the event occurred on Thursday, if I have it right.

Mr. Ballhaus. Yes, sir.

Co-Chair Thibault. What day? You walked through immediate notification in-country to include investigative authorities and closing it off and the RSO. What day did you notify your counterpart here at State Department?

Mr. Ballhaus. That same day.

Co-Chair Thibault. Same day?

Mr. Ballhaus. Yes.

Co-Chair Thibault. So same day, same hour, same everything, as quick

as you could and as well as taking the EAP-type actions.

Mr. Ballhaus. That is correct.

Co-Chair Thibault. Thank you.

I know, Mr. Brinkley, that you are aware that we are troubled with the time line between the 11th and 25th

I think I want to back up because I know you were here. I worked on the point of establishing, because in your testimony you state including managers and supervisors participated in at least part of the party until many left early.

Two of our supervisors, and you mentioned the top two people, deputy PM and chief administrative, attended. They told you. They indicated. I guess that is told you, and during the period they were present witnessed no untoward behavior.

My concern is we have just had a prior witness that said he had a discussion about their discussion about whether they ought to shut this thing down, and they obviously had in the next couple of months more parties.

If that is true, you know it was firsthand discussion here under oath, but if that is true, do you feel blindsided?

Mr. Brinkley. Well, Mr. Chairman, obviously, this issue is under investigation. The information in my statement is what I knew at that time and is still what I know at that time.

We take every allegation seriously, and we will investigate it aggressively. However, I know that the Department is taking statements, and we look forward

to seeing the results of what they found.

Co-Chair Thibault. But if you find out that they held back, if your own most senior leadership is aware, had a discussion and chose, as we have had shared here before, we do not leave it outside the compound, and if that included you, you can be the most aggressive, have the greatest procedures and policies, but I use the word blindsided. You are put in a position that you cannot do anything.

Mr. Brinkley. I would be personally offended by that action if it turns out to be true.

Co-Chair Thibault. Okay. Thank you.

Commissioner Ervin. Mr. Chairman, are you done?

Co-Chair Thibault. I am red. So I am always done when I am through.

Co-Chair Shays. Thank you.

Mr. Ervin.

Commissioner Ervin. Thank you, Mr. Chairman.

Mr. Brinkley, a number of questions for you, as you might imagine. I want to begin by reprising this long colloquy I had with the State Department about this issue of whether the embassy was secure.

You say in your statement: It is important to address security of the embassy. It must not be lost in this discussion that at all times the embassy has been secure.

It is one thing to say that the embassy was secure, which simply means that nothing happened during the course of these incidents. It is quite another

thing to say, and you do not say this, but you seem to want to imply it, that at no time was the Department at risk by virtue of these incidents.

I would argue that having 18 guards in March off-duty, some for up to 3 hours or longer than 3 hours actually, the May Operation Snack Pack incident when these two guards put themselves at risk and arguably could have put embassy personnel at risk and did arguably put the embassy at risk by rendering the embassy night-blind, as we understand it, not having equipment that would have allowed the embassy to see during the course of the night, and these incidents in June and August, the potential to inflame opinion against us.

Would you, for the record and under oath, go on to say that in your judgment the embassy was never put at risk by virtue of these incidents?

Mr. Brinkley. Let me take those because each of them are distinct, if I could, Commissioner.

Commissioner Ervin. Okay, and please do it as quickly as you can.

Mr. Brinkley. First, the March missing post, the total number of personnel that were on the compound was fully staffed. It was an issue of lack of supervisory on post change for a rover post, but the total number of personnel for the embassy were there and could respond. The contract was fully staffed.

Secondly, the Snack Pack incident, as I think it is being called, is under investigation. I am not aware of any other information other than what the Commission has. I have inquired about it. I have been led to believe that it was an authorized activity.

Commissioner Ervin. Authorized by? By ArmorGroup?

Mr. Brinkley. I am under the impression that it was an authorized activity, and I am looking forward now to determining at what level that happened.

Commissioner Ervin. But you are saying authorized by somebody at ArmorGroup as opposed to the State Department, for example?

Mr. Brinkley. I do not know the difference at this time on the detail.

Commissioner Ervin. All right.

Mr. Brinkley. I know we authorized it, Commissioner, because it has an op plan and it was briefed.

Commissioner Ervin. Okay.

Mr. Brinkley. What I do not know is if it had any other authority to it.

Commissioner Ervin. So what you are saying is you know that ArmorGroup authorized it. What you are not sure of is whether the State Department acquiesced in it. Is that what you are saying?

Mr. Brinkley. I do not know that answer.

Commissioner Ervin. All right. Am I accurately characterizing what you are saying?

Mr. Brinkley. I think you accurately characterized it.

Commissioner Ervin. All right. Did you have an interjection, Bob?

Commissioner Henke. Just to be clear, are you saying that you are informed by your people that it may have been authorized, that you are looking, by State Department, that you are looking into that or looking forward to the

answer? Are you informed that it may have been authorized by State?

Mr. Brinkley. I have been led to believe that it may have been authorized by State or someone believed it was authorized by State. I do not know the details of the investigation to make a determination, a judgment.

Commissioner Ervin. All right. So we can complete this, just very quickly, what is your argument as to why the June and the August incidents did not endanger, cause a risk to the embassy, just quickly?

Mr. Brinkley. Commissioner, those are off-duty personnel. They are not a part of either the defense of the camp or defense of the embassy, and, while their activities were deplorable and not acceptable, they are not part of the staffing of the security of the embassy or Camp Sullivan.

Commissioner Ervin. If the embassy had been overrun during the course of those incidents in June, August, August 10, would not the guards, off-duty even, at that camp been required to, as a practical respond, respond to help the embassy?

Mr. Brinkley. The contingency plan has the off-duty shift to respond. It would be logical that anyone else that was available would be gathered up, but remember the response capability is not limited just to the ex pats but also a significant number of the Gurkha guard force.

Commissioner Ervin. All right. Let me move on to a different topic.

Co-Chair Shays. Excuse me. Could we just clarify that one point?

Commissioner Ervin. Sure, sure.

Co-Chair Shays. And, you will get your time.

Commissioner Ervin. Sure.

Co-Chair Shays. Why do you refer to it as the Gurkha force? I was waiting to hear why you would do that. They are from Nepal, and they are not Gurkhas, correct?

Mr. Brinkley. Well, I differ from the previous panel member's view.

Co-Chair Shays. I want to be very clear.

Mr. Brinkley. They are--

Co-Chair Shays. I want you to just listen to the question. Were these Gurkhas or are you calling them Gurkhas?

Mr. Brinkley. The force is called the Gurkha guard force.

Co-Chair Shays. Why do you call them the Gurkha guard force if they are not Gurkhas?

Mr. Brinkley. Well I would like to take that question for the record.

Co-Chair Shays. No, no, I am not going to let you do that. Were these Gurkhas?

Mr. Brinkley. It is how you might define. Your previous panel member had a definition of Gurkhas. We do not use the same definition.

Co-Chair Shays. No, but there is a definition. Gurkhas are individuals, I believe, who have gone through the military and have earned that title, and I just want to know were these Gurkhas or were they from Nepal and not Gurkhas. That is all I am asking, and it is a simple answer.

Mr. Brinkley. Chairman, the Nepalese individuals that are on this force have all served in either the British Army, the Indian Army or the Nepalese Army and have met resume approval that is necessary to meet the requirements of this contract.

Co-Chair Shays. But they were not Gurkhas, correct?

Mr. Brinkley. We call them the Gurkhas.

Co-Chair Shays. I know you call them that. I do not debate it. That is my problem. I do not know why you call them that if they are not Gurkhas.

Thank you.

Commissioner Ervin. I will be as brief as I can, but I would like to get into a couple of other areas.

One of the things that I am struggling to understand is the economics of this contract from ArmorGroup's point of view. You and others at ArmorGroup have acknowledged for the record that Wackenhut bid on this contract to begin with, and the price was significantly higher. You did not think that you could manage the contract for the price at which ArmorGroup bid, and now you say that you are losing a million dollars a month.

If you do the simple math, it is a 1-year contract with 4 extension years, \$12 million per year, so up to \$60 million you could lose here. Why is not ArmorGroup petitioning the government to let them out of this contract?

Mr. Brinkley. Two things: First, a correction for the record, based upon the acquisition, we would be only required for four years, not five. And, secondly,

the execution of options is a unilateral decision on the part of the government.

Commissioner Ervin. Say that again.

Mr. Brinkley. The exercise of an option is a unilateral decision on part of the government.

Commissioner Ervin. Do you want the State Department to let ArmorGroup out of this contract? Would you like the State Department not to exercise its remaining options, given your druthers, if the decision were up to you at ArmorGroup?

Mr. Brinkley. As I testified in June before the Senate subcommittee, we have worked very hard to come into contract compliance with this contract by a lot of work on very dedicated professionals. So, from an operational perspective, we are most proud of what we do.

Commissioner Ervin. I understand that. Just a quick yes or no, would you like the State Department to exercise its option to renew or would you rather they not? I recognize that you do not have any control over the process.

Mr. Brinkley. I have no control of that.

Commissioner Ervin. But my question is do you want the contract to continue or would you prefer that it be terminated?

Mr. Brinkley. We have this contract, and it is our decision that as long as we have it we will perform it well.

Commissioner Ervin. Would you like this contract to be terminated or would you prefer that it be continued? What is your position on that? That is a

simple question.

Mr. Brinkley. My personal position is we have it, and we are operating, and we continue to conduct. We will work the project.

Commissioner Ervin. I want to talk about several whistleblowers: James Gordon and John Gorman and then two other colleagues. Why were these four people, we do not have the names of the two colleagues of John Gorman, but to your knowledge, why is it that James Gordon was fired?

He alleges one thing. What do you understand to be the reason why he was fired by ArmorGroup?

Mr. Brinkley. First is I only can look at historical record, commissioner. This was before the acquisition. He left in my recollection is February of 2008, and our acquisition was in May of 2008. So, and the records that I have indicate that he voluntarily resigned.

Commissioner Ervin. All right. Anything to say about the others?

Mr. Brinkley. I have no knowledge whatsoever of Mr. Gorman.

Commissioner Ervin. Okay. Final question for this round, according to what we have been told, in March of this year, 50 guards at Camp Sullivan confronted you directly and complained about guard shortages at Camp Sullivan and said that these guard shortages endangered the embassy. Did that happen?

Mr. Brinkley. No.

Commissioner Ervin. So, for the record, under oath, you are denying that happened.

Mr. Brinkley. It did not happen. We had a town hall meeting. There were discussions. That did not happen in that manner.

Co-Chair Shays. Define in that manner.

Commissioner Ervin. What happened at that town hall meeting?

Mr. Brinkley. My recollection is, Commissioner, that we had a discussion concerning individual versus shift R&Rs. There was a question concerning could we go to 8-hour shifts versus maintaining the current 12-hour shifts, at which the point I made was we are currently under a 12-hour shift schedule, and we are currently under shift R&R, and all of those would be reviewed.

Commissioner Ervin. Why are you under a 12-hour shift as opposed? Is it because there are just too few guards? Is that the reason?

Mr. Brinkley. Oh, no. I mean it was actually the number one reason that you do that in this particular environment is shift change. If you increase the number of guards, then you will go to and from the embassy three times a day versus twice a day.

Commissioner Ervin. Let me just end, just to put this on the table, and we can back to it, and perhaps other Commissioners will pick up on it. But the allegation is made, and it is common-sensical to think--and I would be interested in your response to this when you have an opportunity to do it--that the company is making up for the money it is losing on this contract by having too few guards, by providing sub-par vehicles, by not providing its weapons, its own weapons, by providing inadequate clothing. You know we have this counterfeit allegation that

we have not talked about in the hearing yet.

So, if you have a quick response to that now, I would be interested in hearing it, and then I would like to follow up on that in the second round.

Mr. Brinkley. The quick answer is everything that happened prior to May of 2008, we have reviewed and which I have had no direct input on. So a number of those allegations are prior to the acquisition. I can only speak for those that come after me. If we could limit it to those, in specific, it will be easier for me, Commissioner, to address those.

Commissioner Ervin. Thank you.

Co-Chair Shays. Commissioner Green.

Commissioner Green. Mr. Brooks, in your testimony and certainly in your literature, you make a lot of the code of conduct and the mission and so forth, and I certainly commend you for that. I will quote a couple of short sentences here in the code of conduct, which is very detailed and all inclusive, and that is:
A Signatory shall respect the dignity of all human beings.

And, in the mission statement, I quote:
A Provide high operational and ethical standards of firms active in the peace and stability operations industry.
IPOA is committed to raising the standards of the peace and stability operations industry to ensure sound and ethical professionalism, et cetera.

I assume ArmorGroup is a member.

Mr. Brooks. Yes, they are.

Commissioner Green. In a sense, at least in my mind, you almost have a

conflict of interest. On one hand, you have set some standards of conduct for your members, which I just mentioned a few, while at the same time you try, I am sure, to attract new members who may have difficulty meeting those standards or they may have different standards. I think this may be particularly true in the personal security area.

What is your incentive for terminating a member, number one?

And, number two, have you ever terminated a member? I am talking about somebody resigning. Have you ever terminated a member and what is the standard for that?

Mr. Brooks. A great question, about, I think, five questions actually, but let's see if I can address those and be sure to come back to me if I miss any.

Commissioner Green. Well, I will repeat them if you forget.

Mr. Brooks. But, yes, first conflict of interest. The reason I think our association is attractive to companies is because they do see it as one that, they see it as a selling point, to be a member of an ethical association. If the association does not have standards, if it is not addressing problems within the association, then you lose that selling point.

So, essentially, losing a company now and then, a member company, is not bad for us necessarily. We are big enough that one company really does not make a difference, and we are certainly getting more companies in line to join. So I mean we are at 64 companies now. We were about two-thirds of that a year ago.

I think yes, there are different standards. And again, I started this association as an academic and my idea was to have a very large umbrella, get all the companies in and then make sure their standards are compliant.

Once we started getting members and we set up our membership committee, the first thing they said is, well, there are certain companies we do not want to even allow in. So I had a big umbrella idea, the members had a small umbrella idea that said let's make sure we properly vet these companies when they join.

The creation and the evolution of the standards committee, or the membership committee I should say, has been quite interesting. So they are more exclusive. So a number of companies have been excluded.

I think your third question was actually on in terms of has a company been removed. We hope never to have to actually remove a company. It is the death penalty, essentially, as far as we are concerned.

We have other--I think what our standards committee is best at is really the behavioral modification. We will get a complaint in or we will get a general question about how the companies are operating in these areas, and the standards committee can do a number of things, either ask the company to provide information, alter its behavior or do any other number of things.

If the company refuses to do that, then through a process, and I am happy to share that with you. We have a poster I can pass on to you, that shows a process where the standards committee would actually recommend to the full

board of directors that a company may need to be removed, and then that would be up to the board to do that.

The process is in place. The companies take this very seriously. It is quite interesting that when an incident hits the news the companies often, one of the first things they do is contact our standards committee and say, here is our perspective or here is our side of that particular side. So they do take this quite seriously.

Commissioner Green. Would the standards committee take on a challenge of trying to modify the behavior of ArmorGroup?

Mr. Brooks. If we received a complaint, we would bring the issue up with them, obviously. Normally, our complaints come in, when they do on these sorts of incidents, weeks later. Obviously, the initial reaction is always contractual or criminal, and that is not our venue.

But if there is an ethical question that is raised and we do, we have created our complaint system so anybody can bring a complaint against our members based on that code of conduct, then, yes, we will review it. And, that would apply to any company within the association.

Commissioner Green. Okay. But it has to be a company within the association that brings that complaint.

Mr. Brooks. No, no, sir. Anybody can bring the complaint, and this includes journalists. It includes students. It includes people in the field, nongovernmental organizations and so on, and they have brought complaints

against our members.

If you want, I can describe the whole process of how the complaint goes from there to the standards committee and then how they review it and so on.

Commissioner Green. Based on what you have heard today and what you know about the performance of ArmorGroup in this case, might that not be a reason to terminate their membership?

Mr. Brooks. Again, there would be a process. There still is a due process and the question. You know, as we say, bad things happen to the best companies. Now how does a company deal with it? From what we have seen, ArmorGroup has been quite proactive in dealing with this particular issue once they learned of it.

Again, I am not on the standards committee. I do not have a vote on the standards committee. It would be essentially up to a jury of peers to make that decision, and ArmorGroup would certainly be allowed to defend themselves.

Commissioner Green. Okay. Thank you.

Co-Chair Shays. Thank you very much.

Ms. Gustitus.

Commissioner Gustitus. Yes, thank you very much.

Mr. Brinkley, you said in your testimony that WSI inherited AGNA and the Kabul Embassy contract, and we have done an extraordinary job of bringing AGNA into contract compliance.

I take it, with that sentence, you are separating out contract compliance

from conduct and is that an appropriate distinction for you as the head to make, that there is a difference as to whether you comply with the contract or how you conduct yourself under the contract?

I will let you answer that question first.

Mr. Brinkley. Commissioner, under this contract, behavior is part of contract compliance. Until the recent revelations, we did not have any indication that we had a behavior problem which would take us out of contract compliance.

Commissioner Gustitus. But that makes that sentence a little inappropriate then really because you have not done an extraordinary job of bringing AGNA into contract compliance because you had all these problems.

As a matter of fact, when your people, your managers on the ground, were interviewed about these events and asked, which was just last month, how these events could have taken place, we were told by the State Department interviewers that a number of your people said, well, boys will be boys. So, up until last month, your people on the ground had that idea or attitude towards the conduct, which to me goes to the issue of compliance as well. Would you agree with that?

Mr. Brinkley. I would agree with that.

Commissioner Gustitus. So maybe you would want to amend your statement then.

Mr. Brinkley. Well, my statement is not in that text, in that context. It was the contract compliance. We had a cure notice. We had a number of things we

were working through. So, in that regard, we believe we had worked very hard to meet all the issues in the cure notice and any additional ones. Between the 30 April, 2008 Department's paperwork and through the show cause, we had worked very hard becoming contract compliant, fully manned and meet all the requirements.

Commissioner Gustitus. Okay.

Mr. Brinkley. I am not here to say that behavior is not part of the contract. I would like to make that distinction. We are not in any way saying that it is not part of the compliance. We clearly understand that, and the individuals involved have violated the trust and that part of the contract.

Commissioner Gustitus. I am glad you made that distinction.

You said in March, 2009, and I cannot find the letter that I read this in, but I hope you can remember, that the inadequacy of sufficient relief guards--it was in response to a stated concern by the Department of State--was due, and these were your words, to supervisory personnel negligence and not because of manpower shortages.

And, you said that the relevant people had undergone counseling.

I was just wondering who those people were, what was the personnel negligence and what kind of counseling did they undergo?

Mr. Brinkley. On the last part, not having their personnel records in front, I will take that for the record. I am not clearly aware of whether it was written or verbal.

On the other piece, the individuals were--had failed to ensure that shift relief went in the set required, where one is relieved and then the other person is relieved on time. A couple of the individuals, or a number of the individuals, self-broke, and they were rover positions.

So those site supervisors, on the way the compound is built in Kabul, one side, there are two sides to the compound. Those site supervisors were identified, counseled and, where appropriate, some of them were actually moved to another position.

Commissioner Gustitus. Were those the C shift people or was it broader than that?

Mr. Brinkley. I will have to get back to the record, Commissioner. I do not know which shift it was.

Commissioner Gustitus. All right. In your June, 2009 testimony to the Senate, you referenced a review of March, 2008 internal assessment. There was an internal assessment that had been conducted by AGNA.

Mr. Brinkley. Yes.

Commissioner Gustitus. What did that assessment say? You did your own internal assessment in March, 2008.

Mr. Brinkley. Sorry, our internal assessment was in May.

Commissioner Gustitus. Oh, okay.

Mr. Brinkley. I am sorry. May, Commissioner, of 2008.

Commissioner Gustitus. Okay. I am sorry.

Mr. Brinkley. I sent four non-AGNA employees in to ensure that we had a good feel for what was happening on the ground.

Commissioner Gustitus. And, what did they find?

Mr. Brinkley. My testimony indicates that we agreed with the Department of State that the security of the embassy was being conducted and the embassy was not, it was an issue on the embassy security.

We found on the ground there were administrative problems, and there were tons of administrative problems back here in the United States on the contract compliance. When we went through all the other normal invoicing and the other issues that raised issues with the Department.

Commissioner Gustitus. But you did not pick up, your people did not pick up any of this, what was allegedly common knowledge about C group or C shift?

Mr. Brinkley. No.

Commissioner Gustitus. Or the parties or the abuse of alcohol?

Mr. Brinkley. No.

Commissioner Gustitus. Even though this was, as we heard in the earlier panel, quite commonly understood and known by everybody, to stay away from the C group?

Mr. Brinkley. We had no indication of that until we received the August 25th photos from an EEO complaint. We had no indication at this level of a problem.

Commissioner Gustitus. What is the order of hierarchy here? You have

got your deputy program manager on the ground. You have got your program manager. Who is the next person who links Kabul to your offices here?

Mr. Brinkley. Well, that is here, actually. That is here--our vice president, my vice president of operations.

Commissioner Gustitus. So it is from your vice president of operations to the program manager.

Mr. Brinkley. Yes.

Commissioner Henke. I am sorry. Would you yield?

Commissioner Gustitus. Go ahead.

Commissioner Henke. Are you not the vice president of operations?

Mr. Brinkley. Well, I have an operations person that deals with the day-to-day operational issues.

Commissioner Henke. That is back here?

Mr. Brinkley. That is back here.

Commissioner Henke. Is that Mr. Carruthers?

Mr. Brinkley. That is Mr. Carruthers.

Commissioner Gustitus. You say in your testimony that those of us at AGNA and WSI outside of Kabul, so that would be your vice president of operations, first learned of the June 15th party and related misbehaviors. So I guess that would be the December party, the January party, the bunker parties. All of that you learned of through the September 1st letter and the photo released by POGO?

Mr. Brinkley. Let me make this clear for the record, if I might, Commissioner. We received, and I think it is on your chart. We had received an EEO complaint about the August 10th party on August the 25th with some photos attached.

On the 26th, we had a scheduled meeting with the Department, and, at that meeting, we had a sidebar and indicated we had received that. We reviewed that. We started an investigation, and we advised them of that. But those photos were not of the most lewd.

Commissioner Gustitus. They were not the June 15th party.

Mr. Brinkley. No June 15 party, and they were not the most outrageous photos of even that party. They indicated a problem, but they did not indicate-- even though we received those, we started an investigation, and we were already looking into it, and we notified the Department.

Commissioner Gustitus. Okay. Just for the record then, what I want to say is everything before July 1st, all the activities that we have talked about with respect to the parties and the inappropriate behavior, you are saying in your testimony that you had no knowledge of.

Mr. Brinkley. That is correct. We learned that on the 1 September POGO letter and photos we received.

Commissioner Gustitus. Okay. Is my time up or do I have another minute?

Co-Chair Shays. You know what, you have another minute.

Commissioner Gustitus. Okay. Mr. Brooks, what is the policy on alcohol for your organization?

Mr. Brooks. Oh, we have no policy. That would be up to the individual company and their clients and contracts.

Commissioner Gustitus. But you have policies on other things.

Mr. Brooks. Yes, we do.

Commissioner Gustitus. But you do not have an alcohol policy.

Mr. Brooks. We do not have an alcohol policy in our code of conduct.

That is really dependent upon the members.

Commissioner Gustitus. Mr. Ballhaus, do you have an alcohol policy for your private security contractors?

Mr. Ballhaus. Well, for our company, yes we do, absolutely. And, as I mentioned, we ban alcohol in Iraq and Afghanistan, period.

Commissioner Gustitus. And, Mr. Brinkley, what is your alcohol policy, your company's alcohol policy?

Mr. Brinkley. The company's alcohol policy is contract-specific. In our contracts in Iraq, it is a zero alcohol policy which is the same as the CENTCOM policy. In Afghanistan, the policy was the RSO's policy of two drinks a day up until August the 11th.

Commissioner Gustitus. Is that because in Iraq you work for the Department of Defense?

Mr. Brinkley. That is correct.

Commissioner Gustitus. And, in Afghanistan, you work for the Department of State?

Mr. Brinkley. The contracts in Iraq, we are a subcontractor to KBR for the Department of Defense. In Afghanistan, we are a contractor to the Department of State.

Commissioner Gustitus. Do your employees in Iraq seem to have any problem with the no alcohol policy?

Mr. Brinkley. We have, like any company, there have been occasions when someone may have violated that policy, and we have taken corrective action on that.

Commissioner Gustitus. I mean do you find it hard to recruit good people because of the alcohol policy?

Mr. Brinkley. No.

Commissioner Gustitus. Do you find it hard to recruit good people, Mr. Ballhaus, because of the alcohol policy?

Mr. Ballhaus. No, we do not.

Commissioner Gustitus. Thank you.

Co-Chair Shays. Thank you.

Commissioner Henke. A question for Mr. Brinkley, it strikes me that it would be unusual to get an EEO complaint from a party. What was the nature of the EEO complaint you received after the August 10th or 11th party?

Mr. Brinkley. I would prefer to give you that language for the record,

Commissioner. It was one of--

Commissioner Henke. Is that because you do not know or it is embarrassing?

Mr. Brinkley. I am sorry?

Commissioner Henke. Is that because you do not know right now or it is embarrassing?

Mr. Brinkley. No, not because I do not know. The exact language of the complaint, I do not have in front of me, and I would not want to misstate for the record what I think the issue was.

I think the issue was an individual had a problem with the party and how it was conducted, and that person felt threatened by that, and so he lodged an EEO complaint.

Commissioner Henke. On an EEO basis, that strikes me as still unusual. Was it sexual harassment?

Mr. Brinkley. I do not recall the language, and I would get back to the Commission

Commissioner Henke. Would you take that for the record and get back to the Commission?

Mr. Brinkley. I would take that for the record.

Commissioner Henke. Mr. Brooks, a question for you, you said ArmorGroup is a member of your association, right?

Mr. Brooks. Yes.

Commissioner Henke. Is WSI a member?

Mr. Brooks. Well, that is actually to be determined because ArmorGroup was a member before they got purchased. At this point, ArmorGroup is listed as a member.

Commissioner Henke. Okay. Well, just to refresh, my question is: Is WSI a member, Wackenhut Services International?

Mr. Brooks. Wackenhut is not currently a member, not listed.

Commissioner Henke. Is Wackenhut a member, the parent?

Mr. Brooks. Wackenhut, no, not at this point.

Commissioner Henke. Okay. I am trying to understand if your organization is really, my sense is, a Good Housekeeping Stamp of Approval without the good housekeeping, and I am not being facetious there. I really want to understand what teeth are in your code of conduct.

You go to great lengths in your statement to talk about your standards of conduct committee and how anyone can file a complaint. That is anyone, right? Any member company? Any journalist? Any NGO?

Mr. Brooks. You can file a complaint based on our code of the conduct.

Commissioner Henke. Has anyone yet? Since September 1st, since POGO went public with this gross misconduct, has any complaint been filed against ArmorGroup, WSI or Wackenhut?

Mr. Brooks. At this point, we do not reveal those complaints until later in the process.

Commissioner Henke. You will not tell us here today if anyone has filed a complaint?

Mr. Brooks. I would rather not. Yes.

Commissioner Henke. You will not tell us or you would rather not?

Mr. Brooks. I would rather not, to be quite frank. We try and keep the system--

Commissioner Henke. Have you filed a complaint as the head of the organization?

Mr. Brooks. I do not file complaints. As the head of the organization, I will not.

Commissioner Henke. Okay. I am filing a complaint now.

Mr. Brooks. Okay. I will send you information on filing, on the filing process.

Commissioner Henke. Now I am in your system, and I want to see what happens with this code of conduct.

Mr. Brooks. When you are in the system, you will be informed as the complaint moves forward.

Commissioner Henke. I am filing a complaint against ArmorGroup for their gross misconduct and the violation of your organization's code of conduct.

Commissioner Ervin. Bob, can I just interject just quickly?

I would like you to answer the question for the record. I understand if you do not want to do it. I would like you to answer whether there is presently on file

a complaint against either ArmorGroup, WSI or Wackenhut.

Mr. Brooks. To be honest, I would have to actually check the policy on that, but I would prefer--

Commissioner Ervin. Check the policy on whether there is a complaint?

Mr. Brooks. No, no, on the revealing of the complaint if there is a complaint because--

Commissioner Ervin. I would like for you to just take a minute before we end this hearing, check the policy and get back to us.

Mr. Brooks. No. You know what? I will tell you right now at the risk of annoying my membership, but there has been no complaint to date on ArmorGroup or Wackenhut.

Commissioner Henke. No complaint to date at all?

Mr. Brooks. No, but these complaints usually take some time before they actually do come in. On our side, it is an ethics complaint rather than--

Commissioner Henke. It has been 13 days, and no one, much less a member company, has said, there is something wrong here, I am going to complain?

Mr. Brooks. That is correct, sir.

Commissioner Henke. How many members do you have?

Mr. Brooks. We have 64 members, sir.

Commissioner Henke. Sixty-four member companies, no one has said a word?

Mr. Brooks. Well, they have said a word. There have been lots of discussions about it.

Commissioner Henke. Well, I am sure they are talking about it.

Mr. Brooks. Nobody has filed a formal complaint.

Commissioner Henke. Nobody has filed a complaint. I just think that is egregious. I mean this distinction of--

Mr. Brooks. Keep in mind, most of the complaints come from outside the association.

Commissioner Henke. As mine just did.

Mr. Brooks. Yes.

Commissioner Henke. Thank you.

Mr. Brooks. And, I am going to send you information so you can make a formal filing, and we will address that as we would any other complaint.

Commissioner Henke. I want to get at this issue of you draw it out in your statement. The very last part says do not forget about the millions of people in Darfur.

Mr. Brooks. The origins of IPOA go back to Africa, when I was doing my academic--

Commissioner Henke. Let me get the question out. You can do that on your own time.

If you go to great lengths in your statement to talk about, first, humanitarian missions on a scale from left to right--peacekeeping missions,

humanitarian missions, peacekeeping missions. Is what is going on in Afghanistan right now a peace operation?

You are the International Peace Operations Association. Is it a peace operation?

Mr. Brooks. Actually, we changed that name officially. It is just IPOA now.

But I would actually--it gets into academic definitions. I would consider it a stability operation, not a peace operation. It seems to me it is more of a military operation rather than an attempt to keep the peace.

Commissioner Henke. So, not peace, but stability, and you are going to take a pass on whether it is a war scenario?

Mr. Brooks. I think many people would consider it a war scenario. Again, I think it gets into academic definitions, and I am happy to go with whichever one you prefer.

Commissioner Henke. What I want to get at is in a war scenario is there a distinction between? A lot of people have gone to great lengths to distinguish they were off-duty, they were off-shift, they were on their three days off. Is there such a thing as on-duty, off-duty?

Mr. Brooks. I think that is a great question, and actually I think you have addressed it here.

I think there are situations. If you were in, say, Haiti, you would probably be much more benign if you are doing an operation there, and you may have different rules. I think as has been brought up by the other two panelists, it really

depends on the situation.

I know that DynCorp, for example, has operations in Mogadishu, a very dangerous place. Those rules are going to be very different.

So it really depends, and I do not know whether you need to worry about the terminology so much as a risk to the employees.

Commissioner Henke. I do not disagree with you that it is a very dangerous place, but I would say that in Afghanistan, where 40-some, 50-some American troops are killed in a month, it is not close. Okay?

I am getting at this issue of where is the line on inherently governmental. Can you comment on that?

Mr. Brooks. Yes, I can, actually. I think a lot of it comes down to sort of a pragmatic perspective, and, again, this is how we got into it. The reality is the government is trying to do some fairly significant policies, and it has a certain limited capability to do that.

I like to point out we have probably the most effective, most professional military in history. The United States does, I should say.

But, to do that, it has outsourced a lot of the aspects that really you do not want soldiers doing. They may have been cleaning toilets or flipping eggs in the past, but that is something that obviously should be done by contractors. You do not want our limited number of volunteers, the professional soldiers that we have, doing that sort of stuff. They should be focused on the policy aspect.

Now there is the issue of security, and that is the one that is sort of the

gray area. At what point, can you use private security? I think if they are protecting something, if it is not a state-on-state war and everything, it is really not that difficult of a choice. It is simple security.

And, this is an issue I think that gets to the whole Montreux Document. You have illegal combatants. You have issues of when you protecting warehouses, do you need to use soldiers to protect humanitarian warehouses and things like that? It is an issue that has to be able to evolve.

I think the U.S. Government has several definitions of what inherently governmental is, but I think we have to be practical when we make these decisions. And, if we make a decision to say that all security work has to be done by the government, it is essentially hamstringing our larger policy issues.

So it is, you know. In a sense, it is my opinion, but in a bigger sense it is a practical decision. How are we going to do this? And, I think contractors have a real role in that.

Commissioner Henke. Thank you.

Co-Chair Shays. Mr. Brinkley, I asked our staff to give me a definition of Gurkhas, and it appears to be somewhat nebulous, and I want to put it on the record. It is not as strong as I would have thought. So it gives you a little license, but I will speak to that in a second.

Gurkhas are people from Nepal and Northern India who take their name from the 18th Century Hindu warrior, Guru Gorakhnath. That is one definition.

Another is a member of the Nepalese force that has been part of the

British Army for 200 years, known for fierceness in combat--and that source is the WordNetPrinceton.edu--a member of the Hindu people descended from Brahmins and Rajputs who live in Nepal.

Referring to belonging to the Gurkha people and member of the dominant ethnic group in Nepal.

And then, a member of these people recruited to serve in their own elite unites in the British and Indian Army.

So what I am going to ask is that you give us a breakdown of every one of these individuals. One, are they from Nepal? Two, what kind of background do they have?

So I wanted to put that on the record.

I think you will find that most people believe that it is an elite force, and, when we refer to Gurkhas, we think of an elite force. I do not believe all of your folks were elite force, but we will find out.

Evidently, Jimmy Lemon, an employee of yours said to Terry Pearson, what goes around comes around. I would just say to Mr. Pearson that that is true, but it did not apply in exactly the same way he meant it.

I want to know what happened to Jimmy Lemon. Was he fired or allowed to resign?

Mr. Brinkley. Jimmy Lemon was removed from the contract. He has returned to the United States.

Co-Chair Shays. Listen to my question. Was he fired or was he allowed

to resign?

Mr. Brinkley. He had resigned.

Co-Chair Shays. Okay. Now let me ask you, are there any of the individuals--

Commissioner Henke. Would you yield?

Co-Chair Shays. Yes.

Commissioner Henke. You said he had resigned. Is he now employed by ArmorGroup or Wackenhut?

Mr. Brinkley. He is still employed because of he was a WIA on the 8th and because--

Commissioner Henke. I am sorry. WIA?

Mr. Brinkley. Wounded in action. I apologize.

Commissioner Henke. Okay.

Mr. Brinkley. He was a WIA on the 8th at the vehicle IED. He has to retain employment until we go through Defense Base Act worker's comp issues and then once those medical issues are taken care of. But he is back. He has been removed from the contract, and we have to go through his medical issues in accordance with the requirements.

Co-Chair Shays. Mr. Brinkley, are there any of the managers that were either fired or let go that are now working either for you, your organization, Wackenhut or any other organization?

Mr. Brinkley. Not every one of the senior management has left country.

The project manager is still there and is still on the rolls. He is transitioning out on the 16th.

Co-Chair Shays. How about the folks that have left, who were given the impression that they were either fired or resigned, are any of them engaged with any other contractor since their firing or leaving?

Mr. Brinkley. No.

Co-Chair Shays. I am stunned that your organization did not know about these problems since everyone else seemed to. When I say your organization, your organization out-of-country because your folks in-country knew. They knew.

It says to me there is something so incredibly sick about your organization, that that would be the case.

It says something very sick about a rat, that says: AWarning this project is infested with rats. Be cautious of what you say and do around those suspected of being rats. Rats can cost you your job and your family. Never rat on your friends and always keep your mouth shut.

That would explain, Mr. Brinkley, why your management folks do not know much because there is this kind of sickness, cancer, in your organization.

So I would like to ask you, first, why did it take a number of days, almost two weeks, for your company to notify State as to what was happening in Charlie shift?

Mr. Brinkley. In retrospect, Commissioner, the project manager on the 11th banned alcohol based upon the incident. He did not notify the Department.

He was wrong. He should have.

Commissioner Henke. Okay. May I ask?

Co-Chair Shays. Jump in.

Commissioner Henke. You said he did not notify the Department. I am assuming that means anyone in Kabul, RSO, ARSO, his contracting officer's representative. He did not notify the Department, got it.

I think my Co-Chair is getting at the question, after he notified you that things have gotten so dynamic here, so volatile, I have banned booze, can you talk to what you did?

Mr. Brinkley. He did notify me, and his request was we--I would like to take the alcohol policy under review.

Co-Chair Shays. Let's start with the alcohol policy. Why did it take so long for your company, you can put any name next to it, so long to notify State? Why would you not have notified State within a half-hour that you had a problem?

Are you not aware that these pictures would be absolutely deadly for our forces, that it would undermine our mission? Is that nothing that comes to mind and would you not think that State should know right away?

Mr. Brinkley. Commissioner, on the 11th of August, I knew of no pictures, which is--

Co-Chair Shays. I did not ask you. I am asking about anyone in-country, anyone here, not just you. That is too cute.

Co-Chair Thibault. Can I also add to that, though?

Because clearly on the 11th your site managers who notified you--this gets into my prior question, do you feel blindsided--they knew about the pictures because the pictures show, many of the pictures, as you know, show three, four, five guys in the background, taking pictures. So you have the back pictures and the front pictures all in there.

So you may not have known, but they knew. It seems like they make it out, well, we have had--I am being facetious--the two-beer rule. We had some people drinking three or four, so I am going to, or, did they say, well, they really got carried away.

That, I think is my Co-Chair's comment. How did they explain to you?

Co-Chair Shays. It is a little stronger than that. I mean that is part of it.

This has a feeling of Abu Ghraib. It has the feeling of grossness. It is lewd. You have pictures. It is destructive. I want to know why State was not notified immediately.

I need you--I was going to ask, what makes you the best person to speak for your company? Well, you are supposed to be the most knowledgeable. So, you answered that question, but you have not answered this basic point.

And, it would be grounds, as far as I am concerned, for State to say, we want you out right away because your failure of your company to notify State puts State and DoD at an incredible disadvantage.

So, answer the question, please.

Mr. Brinkley. Commissioner, at that time, the information at hand, it goes

into two parts: what they knew on the ground and what we knew here.

Co-Chair Shays. Did they have pictures?

Mr. Brinkley. On the 11th--

Co-Chair Shays. Did they have pictures?

Mr. Brinkley. Not that I know of.

Co-Chair Shays. Your testimony is that they did not have pictures?

Mr. Brinkley. The project manager, as I know it today, and this is under investigation, as far as I know--

Co-Chair Shays. Is that project manager still working for you?

Mr. Brinkley. He is still in-country.

Co-Chair Shays. That astonishes me.

Mr. Brinkley. He has not been released by the RSO from this investigation. It is under investigation.

Co-Chair Shays. Mr. Brinkley, are you surprised that you do not know anything because you have to be a fool for someone to tell you, because you do not seem to be at all outraged by the fact that this happened. There is a culture within your company that discourages people from speaking out.

I would have thought that you as the person in charge would have said: This is unbelievable. Why was I not notified immediately? You are out.

I would have called State and said, I have just been notified a few minutes ago, this is the case, and so on.

I do not see that. I do not feel it. I have been listening to this panel and

thinking ho-hum, ho-hum, ho-hum.

You do not seem to get it, honestly. I mean no disrespect, but you do not seem to get it. What you have done by your conduct today is a strong indication that you know you better not try to expose.

I would like to ask you this.

Mr. Brinkley. Well, Commissioner, if I might.

Co-Chair Shays. Yes.

Mr. Brinkley. Mr. Chairman, I can assure you that I am outraged. I met with the Commission last week. Unfortunately, the Chair was not there.

I am outraged. I am embarrassed. I am humiliated. We take this very, very seriously. So the idea that we--

Co-Chair Shays. Okay. If you take it seriously, then tell me one action you have taken to say to a whistleblower, we appreciate you more than the scum who did this. Give me one indication.

Did you ever say to your subcontractor that maybe you need to hire Terry Pearson back because he is the one good guy in this group who spoke out? Have you done anything like that?

Mr. Brinkley. I have not taken that action yet because that is--his actions are under investigation. He belongs to another company. I would encourage that company--

Co-Chair Shays. No, no, not another company. He is your subcontractor.

Let me tell you, and this is the thing that bugs me more than anything, 70

percent of our contractors are subcontractors. And, somehow we hide and put a curtain in front of them and say: We cannot look at them. We cannot deal with them. We only deal with the primes.

That has got to stop.

Why do you think that Terry was fired? Because he spoke out and because the sub was concerned that you would take action against the sub.

Mr. Brinkley. I categorically deny that.

Co-Chair Shays. Okay. Tell me why.

Mr. Brinkley. Because that is not our policy. We would not do that. We, obviously, would not want to create an environment of co-employment.

Co-Chair Shays. Have you contacted that sub, the person who fired him, to say, why did you do this?

Mr. Brinkley. Yes.

Co-Chair Shays. You, personally?

Mr. Brinkley. Not me, my OPSO. I have email.

Co-Chair Shays. And, what was their answer?

Mr. Brinkley. The email from the owner is that Mr. Pearson resigned and that based upon the circumstances, that when he tried to come back, that they had already made arrangements to have him replaced.

Co-Chair Shays. Mr. Brinkley, I am going to just end with this, and I am going to tell you what I just heard. What I just heard was a cover-up. That is what I heard.

Mr. Brinkley. That is unfair, Mr. Chairman.

Co-Chair Shays. No, it is not unfair, and I will let you comment, but I am going to tell you what I heard. You have someone who speaks out, who was, in essence, trying to help your company, be punished.

Did you find out if he had done his job? Were they starting to do a better job? Was the food getting better? Was the place getting better? I think you will find the answer is yes.

Mr. Brinkley. I have that information. If you will ask that question, in that context, I will explain that.

Co-Chair Shays. I ask the question.

Mr. Brinkley. The answer is Terrence Pearson had come on the contract. He had done a better job. We were pleased with that. I inspected his mess hall in March, personally. It was much better. The food was better. I ate in that mess hall.

And so, my number two was out there in June. The work on RAI had improved. The mess hall, they had done very well.

He had plenty of opportunity on any of a number of occasions to speak to me personally, and he had a chance to speak with my number two personally, if he thought there was an issue.

Co-Chair Shays. He spoke to five managers. Only one of your managers was sympathetic. That is the bottom line.

So, Mr. Brinkley, you may not see it, and we may disagree, but all your

actions to me speak to the fact that if you are someone like Terry you better keep your mouth shut.

Mr. Brinkley. I categorically disagree with that.

Co-Chair Shays. Well, you can deny that, but that is what comes across to me.

Mr. Brinkley. I understand that, but I do not agree, Mr. Chairman.

Co-Chair Shays. Second round, Mr. Thibault.

Co-Chair Thibault. Okay, and here I thought that the ex-DCAA auditor was the emotional one, Mr. Co-Chair. Thank you for shedding some light on that. I appreciate your candor.

I want to say to all three of you, especially you, Mr. Brinkley, I think Commissioner Shays said this was going to be difficult. Thank you for bearing up with a very challenging assignment.

I have a couple things, one of which is I still go back to I believe that-- actually, I believe that if at Christmas someone would have debriefed and said all right, let's stop this, we might have gotten to the no alcohol policy.

Certainly after June, the party that was for all appearances attended by your two senior people at the time, and they had a discussion, and I am sure the interviews are going to show because if they had it with Mr. Pearson they are going to have, you know.

Sometimes it is a guy thing. Well, I told her, go on back to your room. She may have conscientiously tried to cut this. It did not get cut. We are going

to find that out.

So my sense is listening to you, you had a great discussion. I mean you may not feel it was great, but it was. But listening to you, you come across as sincere and honorable.

I still hold out, I believe, listening to everything cumulatively, that you were blindsided. And I believe, therefore, blindsided by your staff.

I used the word earlier, and I cautioned that it might be a little strong, a conspiracy out there to cover everything up. I think it is less strong than I felt before. But by default then, our first panel, State Department, those individuals were blindsided. I am not saying by your responsibility. I am saying they got blindsided by default, by what occurred and the timing.

The last thing I want to go back to, and I do not know where we got Snack Pack either, but the episode. There were pictures. I saw the pictures.

Again, I can visualize with or without pictures, but I can really visualize it was these seven or eight individuals, several pictures, kind of dressed up as Afghans. It was more to me, and I do not know if you have seen the pictures. But it was not a very good imitation, but they certainly were trying, and it was more a combo of an Afghan warrior and Pancho Villa or something. But they were there.

Then I saw pictures of them out on the open area in a warehouse-like facility with pictures inside and them kind of doing this and a couple poses and the like.

I go back then to something we have tried to make the point over and over and over, about safety. Had there been bad guys, call them Taliban, call them whatever you want.

Had there been even friendlies come by and wonder what is going on and had there been the use of firearms, which to me would not be at all surprising.

Three or four bad guys, an IED right outside the gate. Three or four bad guys, Taliban with IEDs. There could have been a fight.

Would that have been heroic? I would propose maybe not because they should not have been out there, and we have always said they are defensive only. They are not offensive because of this inherently governmental, because the Army is the offensive force.

Then, lastly, on that same one, the fact that we have trouble, and I accept stating that we are not sure who authorized that mission and if, in fact. I know when we last briefed State, the investigators with the DoD IG were very, very cautious.

Well, tell us what you are doing, Tim? Is it that serious?

Yes. I cannot. I am not going to tell you.

Well, I can understand the sensitivity. That one episode, I think defeats any argument against safety. I think the embassy may have been safe, but there may have been very serious safety issues.

Again, I am just hopeful here as I listen to the commitment of State, and they are, and I commend them for sticking around, that they pay attention too.

So I commend all three of you. You got put in a tough spot, but I do not want to be cute and say that is your job because I respect you for coming out here and doing that.

Co-Chair Shays. Thank you.

Mr. Ervin.

Commissioner Ervin. Thank you, Mr. Chairman. I will be very brief.

Mr. Brinkley, just to follow up on that last exchange. I had not planned to, but I will do so now. I just want to go over this one more time.

You are saying, you said earlier in the earlier round, that it is possible that the State Department, somebody in the State Department may well have approved of this surveillance mission, this Operation Snack Pack? I just want to give you another opportunity to clarify that.

Mr. Brinkley. When I read the allegation, we made an inquiry. I was led to believe that it was planned, and I was informed that, from the person that indicated that, it was approved by the Department.

Now, that is under investigation, Commissioner. I do not know the final determination.

Commissioner Ervin. All right. What is your understanding of who that person or people may have been at the State Department who did so?

Mr. Brinkley. I did not--because of the investigation, I said, I am not going to have any more command, have any appearance of command influence to this issue. I got that report and then we stopped. On that issue, we stopped.

Commissioner Ervin. All right. We were told, incidentally, that after this happened the two individuals involved were given a certificate commending them for intrepidity, which is not a word, on letterhead that appeared to be State Department letterhead which might suggest that the State Department had some involvement in this. Do you know anything about that?

Mr. Brinkley. I just saw what was on the POGO report. I saw the same document that the Commission has seen.

Commissioner Ervin. Okay.

Mr. Brinkley. And, let me make clear, you have seen photos which I have not seen either, if I might. I have not seen any photos of that, that the Chair just indicated.

Commissioner Ervin. Okay. Final question, I want to get back to this statement, the paragraph in your statement on Page 4 that Commissioner Gustitus talked about: "Those of us at AGNA and WSI outside of Kabul first learned of the June 15 party and related misbehaviors."

First question, this quick question, we do not want to put, at least I do not want to put words in your mouth. What does related misbehaviors mean to you? What were you referring to when you used that term?

Mr. Brinkley. Rather than go into the lurid details of the photos from June 15th, I would, because that is a term of art that we used that would cover everything from excessive drinking through the most inappropriate behaviors that are described in, that are shown in the photos.

Commissioner Ervin. All right. In what time period are we talking about?
From June 1 to September 1?

Mr. Brinkley. Well, if I might, we described those. June 15th, there was a party. That would obviously describe. Those are photos that clearly discuss that. There are photos from August the 10th that describe that, that show, that depict that behavior.

Commissioner Ervin. Okay. So you are saying that nobody in your company, to include WSI, was aware of this, any communication, no indication whatsoever until September 1? That is what you are saying?

Mr. Brinkley. Except for, as I made clear, the August 25th photos that came with the EEO.

Commissioner Ervin. Right.

Mr. Brinkley. Which were of my understanding of those, of the August 10th party, but they, those photos are not of the most lurid pictures that showed up on September 1st.

Commissioner Ervin. I understand. The main thing we are concerned about, of course, is this June 15 party.

I really believe in trust but verify. So my question really here is I think it would be very instructive for our staff to have access to any and all correspondence from the field, from your people in the field, to you and related people in headquarters between June 15 and September 1. I would like to verify the claim that the first you heard of all this was the September 1 from POGO.

Would you be willing to make those materials available to us?

Mr. Brinkley. We will take that for the record, Commissioner.

Commissioner Ervin. What does take for the record mean? Would you be willing to do it?

Mr. Brinkley. Yes.

Co-Chair Thibault. Provide it for the record?

Mr. Brinkley. Absolutely.

Co-Chair Thibault. Thank you.

Mr. Brinkley. We will take that for the record.

Commissioner Ervin. Thank you. I am done.

Co-Chair Shays. Thank you.

Commissioner Green.

Commissioner Green. Mr. Ballhaus.

Mr. Ballhaus. Yes, sir.

Commissioner Green. As tragic as the death of an employee, particularly under these circumstances, and as much as it might cause DynCorp to reflect and review their recruiting and screening policies as well as maybe failures of supervisory oversight, I cannot put it in the same category with some of the personal conduct issues that we have seen this morning. And, I want to commend you and your company for the way and the speed with which you handled these.

You have a huge mission ahead of you. As you take over LOGCAP

operations or some of them in Afghanistan, there will no doubt be occasions when contract issues come up and maybe even some conduct and ethical issues.

But I would ask all of you to just remember this, and that is an old saying that you are probably all familiar with, and that is that bad news does not get any better with time.

And, I hope that everyone here has learned something today, if not from their own failures, maybe from the failures of others.

So, thank you.

Co-Chair Shays. Thank you.

Ms. Gustitus.

Commissioner Gustitus. I just have one final question or comment. It is a question.

Multi-National Corps-Iraq has a general order for all military and all contractors in support of the military against any use of alcohol in Iraq. So it is not just private security contractors. It is all contractors. It does not apply to State Department employees, however.

So it is a zero tolerance policy. It probably affects 250,000 people who are in Iraq, given the military and the contractors.

It seems particularly critical to me to have private security contractors have a no alcohol policy. They do not like to be called mercenaries, but they are – they do many duties that are similar to what the military does or would do, in

fact, in Kabul, the military guarded the Kabul Embassy up to 2004.

And, we know it is a mix, that weapons are involved and that they are in a very serious position of representing the United States.

So my question to you is should we not have a policy across the board for both the Department of Defense and the Department of State that all private security contractors must submit to a no alcohol policy?

Mr. Ballhaus. I will take it first.

Commissioner Gustitus. I will take it right down.

Mr. Ballhaus. I will take that first, if I could.

I made the comment earlier about our alcohol policy, that we have an absolute ban on alcohol in Iraq and Afghanistan, and I just want to put that into context. Less than 1 percent of our business is private security. So we provide a wide range of services for the Department of State and the Department of Defense in Iraq and Afghanistan that are not security. Ninety-nine percent of our business you would not characterize as security.

Our view is, and particularly in those zones, Iraq and Afghanistan, there is no room for alcohol consumption because of some of the issues that came up earlier around the blur of on-duty and off-duty.

Commissioner Gustitus. Right.

Mr. Ballhaus. It is not as if people go home like they do here in the States. If something were to happen and an incident occurred where they had to respond they need to be capable of responding.

So, just for context, our ban is across all of our work in Iraq and Afghanistan and goes well beyond the security work that we do.

Commissioner Gustitus. Thank you.

Mr. Brooks, your organization?

Mr. Brooks. Well, of course, we do not put people in the field, except for brief visits.

Commissioner Gustitus. No, no, but the position of your organization.

Mr. Brooks. I would just say in terms of the vast majority of the personnel that work for our industry around the world are local nationals. In terms of the private security, maybe, but many of them are working in relatively benign environments, and I think the policy just has to be flexible.

Commissioner Gustitus. No, no. It would be private security contractors. I mean we will start with that.

Mr. Brooks. I think it makes some sense, and I think the fact is one of the cardinal rules is do not embarrass your client, and clearly that is something that happened here.

Commissioner Gustitus. Is that something your organization will put in front of itself and consider?

Mr. Brooks. We would be delighted to put that in front of our committees, yes.

Commissioner Gustitus. And, Mr. Brinkley?

Mr. Brinkley. As I said to the committee staff last week, Commissioner,

guns and alcohol do not mix, and I believe that should be the rule.

Commissioner Gustitus. So you could have imposed that, though, in your Camp Sullivan compound.

Mr. Brinkley. Absolutely.

Commissioner Gustitus. When you took over ArmorGroup.

Mr. Brinkley. Yes.

Commissioner Gustitus. Now, I am sure you wish you had.

Mr. Brinkley. I was never comfortable with that policy. We had not had an incident at that time that led to that. I wish I had put it in.

Commissioner Gustitus. And followed your better instincts.

Mr. Brinkley. I should have followed my better instincts. I did not ask. I will take responsibility for not asking a hard question that I should have.

Commissioner Gustitus. I have done that myself.

Co-Chair Shays. Thank you.

Mr Henke.

Commissioner Henke. Mr. Brinkley, this Request for Equitable Adjustment, it is a claim by your company, it could be any company, to State for more money on this contract. Have you had any discussions in your company about submitting a claim for more money, to State?

Mr. Brinkley. We are discussing our options within the contract language of what, and, as you know, Commissioner, it gets down to what are the change of scope and what the contract language may allow us to do. We are looking at

those options, and we are weighing that, to be straightforward. We have not done that yet based upon the events over the last several weeks.

Commissioner Henke. That was my second question, which was if it gets exceedingly technical about scope and back and forth, but since the September 1 POGO breach of this have you had any second thoughts about the propriety or the judgment or the wisdom of submitting that claim?

Mr. Brinkley. We are reviewing our options. We are going to review our options.

Commissioner Henke. What are your current plans, to submit or not submit?

Mr. Brinkley. I am collecting the data necessary to make a decision to recommend to and to be reviewed by legal, and we will do that in a timely manner.

Commissioner Henke. Okay. Thank you.

The second question is this issue of best value versus low priced technical acceptable. Just to refresh, your company bid on the contract. For a reason, you were deemed not technically acceptable.

Mr. Brinkley. That is correct.

Commissioner Henke. Why?

Mr. Brinkley. Well, we have the out-brief from the debrief. It is my understanding from review of the notes that we were considered not technically acceptable for one reason which was that we did not currently have ongoing

work in Afghanistan, and that was, that is the facts as I know them.

Commissioner Henke. Was that one of the requirements for the contract, to already be working in Afghanistan? That is surprising.

Mr. Brinkley. That was the rationale between, that I understand was not technically acceptable.

Commissioner Henke. Okay. Would you take for the record--I think you did this with Senator McCaskill as well--just tell us explicitly why you were deemed not technically acceptable?

But the question I want to get at is your thoughts about the legislation that binds State to pick the low price.

Mr. Brinkley. I will take for the record, our notes for the out-brief that we got from the State Department, and we will get that to you.

Commissioner Henke. I would also, by the way, just like that answer. You may have limited visibility into it, but I would like that answer from State as well.

Mr. Brinkley. Yes, and I am sure they have their records.

Commissioner Henke. Your thoughts about best value versus low price.

Mr. Brinkley. I am going to address it from this perspective. We bid on this contract. We worked very hard to make sure what we did was executable and get the cost right, and we were significantly higher in price.

I am running this contract now, so I know what it takes to run this contract now. So we can make whatever comparisons you would like to make concerning that.

Commissioner Henke. You were like \$80 million to \$90 million higher in price, right?

Mr. Brinkley. We were about \$80 million higher, and that included some profit. So we know.

I am running it now, and we are reviewing it. Am I running it well enough, and that is under review too. I have never had to deal with cost as it pertains to being contract-compliant.

Commissioner Henke. Let me ask you this broadly, though, with your cumulative experience as a Marine officer and working at State, working on the 9/11 Commission. I have read your bio. It is impressive, and I thank you. Does it always make sense to pick the low price for security, even in a contingency environment?

Mr. Brinkley. My view, my personal view is that the FAR does not give enough latitude for the Department. In certain situations, any department should have the ability to have a contingency FAR to put in place those things that they need, to make sure they get it done, so they can get the right companies to accomplish the mission they need. That is my personal opinion and has been for some period of time.

Commissioner Henke. Okay. Thank you.

Co-Chair Shays. Mr. Brinkley, you testified that your staff knew before you did, in Kabul, about the incidents that we are talking about today but that you learned on August 11th.

Mr. Brinkley. I learned on August the 11th from the PM of the Camp KAIA incident.

Co-Chair Shays. Okay, August 11th.

Commissioner Henke. That is the knife fight?

Mr. Brinkley. Yes, the supposed, alleged knife fight.

Co-Chair Shays. Did you notify State on the 12th?

Mr. Brinkley. No.

Co-Chair Shays. Did you notify them on the 13th?

Mr. Brinkley. No.

Co-Chair Shays. Did you notify them on the 14th?

Mr. Brinkley. No.

Co-Chair Shays. Did you notify them on the 15th?

Mr. Brinkley. No.

Co-Chair Shays. Did you notify them on the 16th?

Mr. Brinkley. No.

Co-Chair Shays. Did you notify them on the 17th?

Mr. Brinkley. No.

Co-Chair Shays. Did you notify them on the 18th and 19th?

Mr. Brinkley. No.

Co-Chair Shays. Did you notify them on the 20th?

Mr. Brinkley. No.

Co-Chair Shays. Did you notify them on the 22nd and the 21st?

Mr. Brinkley. No.

Co-Chair Shays. Did you notify them on the 23rd?

Mr. Brinkley. No.

Co-Chair Shays. Did you notify them on the 24th?

Mr. Brinkley. No.

Co-Chair Shays. When did you notify them?

Mr. Brinkley. We notified them on the 26th.

Co-Chair Shays. Okay. So a lot of days went by.

Mr. Brinkley. Yes.

Co-Chair Shays. Please answer the question, why did you not notify them immediately?

Mr. Brinkley. At the time, as I have indicated, at the time, we did not think the specific incident that we knew of rose to the level of notifying them. In retrospect, we were wrong.

Co-Chair Shays. I said that all of you could make a closing statement. Is there any comment that any of the Commissioners want to make?

Commissioner Henke. This specific incident, I understand. But that same day, the project manager said: That is it, no more booze. Something is wrong here. We are going to put an end to this.

Mr. Brinkley. We should have notified of them both, Commissioner.

Commissioner Henke. Okay.

Co-Chair Shays. Gentlemen, we said that each of you could make a

closing comment and without editorial comment from us. Well, I cannot promise that, but you can make a closing comment. I am not going to totally disarm.

Mr. Ballhaus. Well, thank you, Co-Chair Shays, Co-Chair Thibault and members of the Commission.

As I said at the beginning, it is a pleasure to be here to participate and support the hearing. I am a big supporter of the work that the Commission--

Co-Chair Shays. You put a new definition to pleasure.

Mr. Ballhaus. It is a pleasure to support the Commission in any capacity that I can. I think you are taking on a very important mission and some very tough challenges to try and improve contingency in wartime contracting. There are issues there that need to be resolved, and I think you all are working the problem hard, and so I commend you.

In our message today, we understand what is expected of us. We are expected to perform and comply, to do it the right way and to make sure that the right work environments are in place across all of our work sites, around the world, on all of our programs.

Our customers' expectations of us, to me, they are crystal clear. Under Secretary Kennedy and other seniors at the State Department make it very clear to us what their expectations are around performance and making sure that we have work environments in place that are professional and collegial.

Our standard is pretty high, and I take the point about never underestimating the challenges around misconduct, especially at a time like this

where we are ramping up very significantly in Afghanistan and Iraq to support the State Department and the Department of Defense.

As a result, we will not be complacent, and every day we are looking at how can we better institutionalize our core values and our code of conduct, what enhancement can we make to our governance system and how can we further develop our leadership culture. We can never be complacent, and we will not be complacent.

I would like to reemphasize a couple points that we made, I made earlier, and in my testimony. I think the government should consider a ban on alcohol consumption for all contractors in Iraq and Afghanistan. We talked about that enough this morning, but I would like to reemphasize.

Also, I would like to point out when we terminate employees from a contract for issues of misconduct they do not go to other contracts, they leave the company.

Finally, I would like to just put back in front of the Commission a point that I made in the last hearing that I did have the pleasure of supporting, and that is the idea of a government-mandated and funded employee assistance program for the families of contractors who are injured or fallen on the battlefield. There are a lot of contractors out there today. They are exposed to major risks and threats. We cannot ever forget about them. We cannot ever forget about their families. And, I just once again would like to ask the Commission to take that under consideration.

Again, I would like to thank you for the opportunity, and I look forward to supporting the Commission in whatever capacity I can in the future. Thank you.

Co-Chair Shays. Thank you.

Mr. Brooks.

Mr. Brooks. Well, thanks for the opportunity to do a final comment. It has been an honor to be here today.

Commissioner Henke, I will provide you the information for filing your complaint. Also, I will provide to the entire Commission information, a poster that we give out to nongovernmental organizations and others so they know how to make complaints, as well a flowchart showing how the process works.

I want to emphasize we have been pushing the concept of third-party certification. We have some Congressional support, but if the Commission were to support that concept I think it would get a nice boost.

I welcome Congressman Shays or Commissioner Shays's takeaways. I think the points he made from the earlier thing, I think those are very good, especially, of course, as has been brought up repeatedly, the best value concept.

For contingency operations, you need to have some flexibility and need to be able to adjust the resources depending on the level of risk and so on.

We will bring the alcohol policy concept on the PSCs to our Private Security Company Working Group that we have within the association.

Finally, I think going back to the original statement that the Chairs made, they pointed out that contractors have been supporting U.S. Military operations

since the beginning, and, while they generally bring enormous value, there have been problems since the beginning. Anybody who has done--I am a historian in my background, and you do see problems with contractors all the time.

I think we kind of have a golden opportunity, with the support of the industry, to address some of these problems and come up with some solutions, perhaps specific to contingency operations or maybe just modifications to the way we do contracting now. But I think it is a great opportunity.

And, I just want to affirm that our association will be very supportive. We see a lot of good things coming out of what you have done in the past so far, and we are looking forward to working with you in the future.

Co-Chair Shays. Thank you, Mr. Brooks.

Mr. Brinkley.

Mr. Brinkley. Well, for the Commissioners, let me close in the following:

One, we take all allegations that have come to light seriously and investigate them. Today, we know that the investigation in the Kabul Embassy contract is still ongoing. We want to find out what the facts are, and I look forward to taking, getting those results. We will take any other actions that are necessary and deemed appropriate based upon those outcomes.

I am disappointed in the employees that we had, and I am. I will tell you I am as outraged, as the Chair has indicated, that we had people that did not do it right and did not understand their diplomatic mission as well as their security mission.

I would be remiss if I did not also say that there are a great number of people out in Kabul as we speak, standing post, on duty, who did not participate, who did not do anything wrong and are in harm's way. I owe it to that force not to leave here today without telling everybody that a certain few do not represent the all. Those small few put a stain on their reputation, and I can assure they are as embarrassed about it as I am.

But, please understand that there are over 600 people on this contract, and we have right now a small few that did not do it right, and I look forward to having the results of the investigation to see.

Finally, we have lessons learned, and I will gladly take those lessons learned. We have laid out some of those issues here before the Commission. We will learn from this, and we plan on moving forward to correct those failures that we had.

Co-Chair Shays. Thank you all very much.

I would like to thank our first panel, the State Department witnesses, for staying. We are not going to ask you to do that every time you come before us or we will probably never get you here at all.

I thank our second panelists as well and our third panelists, all three, for their testimony and their willingness to help us sort this all out.

I would like to request, Mr. Brinkley, that you have some interaction with Terry Pearson before he leaves later this week because I think you could learn some things that would be helpful, and I would think it would speak well of your

company if you did that.

With that, I will just say the full text of any written statements they submit will be entered into the hearing record. We ask that witnesses submit within 15 business days responses to any questions for the record and any additional information they may undertake to offer during this hearing.

And, with that, any closing comment, Mr. Chairman?

Co-Chair Thibault. No, thank you. Great job.

Co-Chair Shays. We will close the hearing and thank you all very much.

The hearing is adjourned.

[Whereupon, at 3:23 p.m., the Commission was adjourned.]