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Testimony

of

Under Secretary of State Patrick F. Kennedy

before the

Commission on Wartime Contracting

Monday, September 14, 2009

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Co-Chair Thibault and Co-Chair Shays, 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 senior leadership of the State Department share your deep concern about the outrageous misconduct by a small number of Armor Group North America employees in Kabul, Afghanistan. We are also very concerned about Armor Group's 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 Department's senior management officer, I take responsibility for having failed to prevent them and for having not uncovered them earlier.

As representatives of the U.S. government, it is our obligation to adhere to the highest standards for individual behavior and conduct. The behavior of the employees, captured in graphic images, dishonored their Armor Group colleagues and the State Department, in a country where the success of U.S. objectives 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 action 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 Office. To date, 165 AGNA 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 Armor Group guards have been removed from the State Department contract, and four more have resigned. Each of these 12 individuals has departed Afghanistan.

- Armor Group's entire senior management team in Kabul is being replaced – two were removed from the contract and two have resigned. Three of the managers have departed Afghanistan; the final manager will leave on September 16 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.
- The consumption of alcoholic beverages also has now 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 operating environments such as Afghanistan.

As the State Department deploys in new and expeditionary ways, security is critical. We are carving out a new road as we operate 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 security of the U.S. Mission personnel in Afghanistan (and elsewhere) is our first priority.

Our security operations in Afghanistan and Iraq are unlike those at any other of our 263 posts around the world and we are writing out a new set of rules and policies as we go. In most cases, where contractors provide static security 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 benefited 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 security 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. .

In Afghanistan, a major international security firm was contracted to provide essential on-site 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 when 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 Defense reduced its security support, the use of a contract workforce 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 U.S. and foreign dignitaries, carries out critical investigations vital to protect our national security by ensuring that United States 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 timeframe. The unpredictable duration of missions of this level of intensity present a real challenge in determining the appropriate level of the 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 this Commission's recommendations.

In the interim, the Department of State 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-changing 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 guard services in Kabul.

The Department first contracted with PAE Louis Berger as an interim measure ahead of full and open competition. In July 2005, an award was made to MVM. MVM began the transition phase but was unable to reach a point where it could begin contract performance and was ultimately terminated. The PAE Berger contract remained in place during this time.

On March 12, 2007, a contract award was made to Armor Group North America, after full and open competition involving a number of companies.

This contract has required extensive oversight and management. Since award, we have issued seven (7) deficiency notices addressing 25 deficiencies, one (1) cure notice and one (1) 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.

- June 2007: Allegations of misconduct and inappropriate actions, including deceiving the Government regarding its proposal. The Department pursued each allegation with AGNA and requested immediate corrective action plans. AGNA addressed each allegation.
- July 19, 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 AGNA to convey the Department's serious concerns with transition progress and our expectation of full contract compliance.
- April 30, 2008: Final Deficiency Letter. The Department issued a second letter of reprimand, issued due to AGNA's inability to permanently correct previously identified deficiencies – including sufficient guard relief– as well as newly identified deficiencies.
- In May 2008, G4S (Wackenhut) acquired AGNA and assigned corporate management for this contract to its U.S. subsidiary, Wackenhut Security Incorporated (WSI). Wackenhut's management team, with extensive experience in providing static guard services at other U.S. Embassies worldwide, committed to resolve all outstanding issues. The Department was therefore confronted with a difficult decision – whether to continue the contract in light of AGNA's deficiencies, which were being addressed; or to consider alternative vendors when there had been only one other qualified bidder for this contract and on a 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 21, 2008: Show Cause Notice: The State Department sent AGNA received a third letter of reprimand for failure to permanently correct staffing shortages, despite the representations made by G4S/WSI upon acquisition. The Department decided to take the first step toward contract termination.
- Over the next five months, the Department conducted an extensive dialogue with AGNA and AGNA sufficiently demonstrated its ability to resolve the remaining deficiency – staffing shortages. On January 24, 2009, the contracting officer and Diplomatic Security judged AGNA to be compliant with the contract's staffing requirements.

Despite the administrative deficiencies discussed with AGNA, 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 Mission Kabul, as with all our overseas missions, is based on 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% of the total hours required to provide 100% coverage. As an example, a guard post at the Embassy would have a contractual requirement for six static security 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 concern given the redundant coverage in place. Thus, while the staffing shortages for which AGNA received deficiency notices represented a failure to meet contract specifications, they did not pose 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 AGNA 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's 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 oversee the conduct of our foreign policy.
- As representatives of the U.S. government, it is our obligation to adhere to the highest standards for individual behavior. There is a single standard for all of 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 on 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 of with the Commission.

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