

Joint Statement of  
Christopher Shays and Michael Thibault, Co-Chairs  
The Commission on Wartime Contracting in Iraq and Afghanistan

Hearing on:  
**State Department Oversight  
and Contractor-Employee Conduct**

2247 Rayburn House Office Building, Washington, DC  
September 14, 2009

---

[As prepared for delivery.]

Good morning. I am Christopher Shays, co-chair 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-Chair Michael Thibault 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, and  
Dov Zakheim.

The immediate catalyst for today's hearing is, of course, the widely reported allegations and photographs of misconduct among members of the private security-contractor guard force that protects the U.S. Embassy in Kabul, Afghanistan. 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 is what brought us to this hearing, but our primary interest is 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? Rhetorically, why are we having this hearing now, when significant issues with this particular contract have been festering for over two years?

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:

- With reports of misconduct problems among ArmorGroup personnel surfacing as early as December 2008, and with two contracting officer representatives tasked full-time to the Kabul contract, how could the State Department detect no signs of trouble until it received a notice from ArmorGroup leaders — in Washington, not even in Kabul — in late August 2009?
- How did flagrant breaches of ArmorGroup’s code of conduct and its contractual obligations go unobserved and unreported by senior management for months? Or were senior managers participating in these events?
- Why did ArmorGroup supervisors delay reporting news of misconduct and to attempt to intimidate people who might report it?
- Why did the State Department display no 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?
- In a wartime environment, is providing security for U.S. embassies an appropriate function to be delegated to contractors?

Our colleagues undoubtedly 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. Gross misconduct by employees of U.S. contractors devalues that asset.

It is unfair, insulting, and dangerous to the young military, State Department, US AID, and non-governmental 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 are not representative of the conduct of contractor employees as a group. In fact, the solid and respectable American and foreign citizens who constitute the contract workforce should be equally 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 a problem. They certainly can't claim that they were unaware of their obligations. Their contract with the State Department explicitly describes not only conduct requirements, but also the reasons for them. I'll quote just one of the provisions:

"Each contractor employee or subcontractor employee is expected to adhere to standards of conduct that reflect credit on themselves, their

employer, and the United States Government.”

The disparity between that contract language and events on the ground speaks for itself. So let me move on to balance the picture by saying that so far, the misconduct appears to have been concentrated in a rogue band of ArmorGroup employees—some of whom have, belatedly, been fired, along with their supervisors and senior leaders. Others have been allowed to resign. Similarly, we have so far 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.

Those questions may be sharp because it seems 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 15, August 1, and August 10. 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 can’t be expected to spend their leisure hours diagramming sentences or studying the etiquette of the local tea ceremony. But we *can* expect them to exercise a bit of maturity and apply a dash of judgment. And we 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 a realistic option under our current policy choices. Contractors have provided critical support to American military operations since the Revolutionary War. More than 200,000 contractor employees are working in Iraq and Afghanistan, and more than a thousand 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, not scapegoating, and on improvement, not replacement.

Let me comment briefly on why we invited DynCorp International to testify

today. 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 employee 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 State Department. We will explore DynCorp's experiences and practices today, including their expectations regarding alcohol and other substance. 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 situation 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 want or need to make statements for the record during these proceedings.

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

The second panel will provide non-governmental viewpoints. The witnesses will be:

- Ms. Danielle Brian, Executive Director of the Project on Government Oversight, or POGO; and
- Mr. Terry Pearson, former Operations Supervisor in Kabul, Afghanistan, for RA International, the largest subcontractor on the Kabul security contract.

Our third panel comprises officials from the contract-security industry:

- Mr. William Ballhaus, President and CEO of DynCorp International;
- Mr. Doug Brooks, President of the International Peace Operations Association; and
- Mr. Samuel Brinkley, Vice President, 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 5 to 7 minutes in order to ensure adequate time for a good flow of questions and answers. The full texts of any written statements they submit will be entered into the hearing record. We ask that witnesses to submit within 15 business days responses to any questions for the record and any additional information they may undertake to offer during this hearing.

We thank our witnesses for participating in what promises to be a very informative session. Now we turn to our first panel.

