Statement of
Senator Susan M. Collins

'An Uneasy Relationship: U.S. Reliance on Private Security Firms in Overseas Operations'

Committee on Homeland Security and Governmental Affairs
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Over the past two decades, the end strength of the U.S. military has declined by a third, from 3.3 million in 1987 to 2.2 million in 2007.

That dramatic post-Cold War decline has imposed enormous strains on our troops and caused some unintended consequences as America undertook large-scale military operations in Afghanistan and Iraq.

As the Government Accountability Office concluded in its report on Department of Defense contracting last month, the decline in force strength,

coupled with the demands of overseas deployments, has greatly increased the demand for private contractors, including private security firms.

When thousands of contract security employees are involved in guarding facilities and convoys in a hostile zone and face a high risk of violent incidents, we confront a fundamental question: Should private contractors be responsible for jobs in a combat zone that are traditionally performed by military personnel? Where should the line be drawn between inherently governmental military operations and contract services?

There are, of course, many valid reasons to employ contractors to carry out or augment overseas tasks. But as the Congressional Research Service has pointed out, never before have private-sector

employees played such an extensive role in a combat zone.

Furthermore, the heavy reliance on contractors without effective acquisition policies and contract oversight has led in some cases to wasteful spending, unsatisfactory performance, and failure to achieve mission objectives. When the Departments of State and Defense, the Agency for International Development, or other federal agencies hire firms that place armed civilians in foreign countries, their actions can also have a significant impact on America's foreign-policy objectives.

It is also true that private security firms are providing valuable services in hostile settings overseas, especially when our military forces are stretched so thin. They guard vital infrastructure,

protect American and foreign officials, and escort convoys. Their employees are often skilled, disciplined, and honorable professionals, typically with extensive military experience.

Nonetheless, the actions of some contract employees, combined with legally tenuous or ambiguous accountability mechanisms, have tarnished the industry.

A team of Justice Department prosecutors and FBI agents is currently in Baghdad on a two-week mission to interview local witnesses to the September 2007 incident in which Blackwater private security guards under contract to the State Department opened fire in a public square. Seventeen Iraqi civilians died; others were wounded.

While the facts of this incident remain to be determined, the lingering uncertainty about whether the security guards are subject to *any* legal accountability is unacceptable. And the degree of accountability should not hinge, as it does today, upon whether that contractor was supporting a Department of Defense mission or acting on behalf of the State Department.

The problem is not new. In recent years, several contractors implicated in violence overseas have simply left the area to avoided legal consequences.

These examples underscore a stark truth: the United States cannot expect trust and respect from other governments and other peoples if we cannot impose clear constraints and enforce serious legal consequences for illegal conduct by private security

contractors – as we do with federal civilian employees or the military.

Improving private security performance and protecting federal interests demand explicit expectations, precise contract requirements, sharp oversight, clear standards for the use of force, and a framework for ensuring legal accountability.

Today's hearing raises many difficult questions.

- **Are the missions being performed by private security contractors more appropriately assigned to military forces who explicitly represent the United States and who have a clear chain of command?**

- **If we choose to deploy private security contractors, how can we ensure that every**

armed U.S. civilian contractor acting overseas is subject to proper legal constraints?

- Are federal agencies incorporating appropriate requirements into contracts, and are they providing adequate oversight?

- How can we be certain that adequate screening, training, and performance reviews are part of the private-security contracting process?

- How can we provide for inter-agency sharing of best practices and lessons learned from the use of private security contractors?

These and other questions need better answers than we seem to have today. Devising an effective set of answers must include improving our nation's ability to recruit, train, and retain a skilled federal acquisition workforce.

Our acquisition workforce must not only be strengthened, but able to apply its skills in war zones. That is why I worked with our Chairman to draft provisions in the Accountability in Government Contracting Act that will strengthen our federal acquisition workforce and create a Contingency Contracting Corps to deploy experienced acquisition professionals in hostile settings like Iraq and Afghanistan.

In 1956, a judge on the U.S. Court of Military Appeals stated that "discipline and success will be

affected adversely if one segment of the force is free to operate outside the law and the other is restricted to obedience."

More than half a century later, our adversaries and our deployments have changed, but the core truth of that ruling still stands.

The rule of law, our obligations to other governments and to non-combatants, our responsibilities to taxpayers, and our interest in the success of our foreign policy all suggest that we need to ask fundamental questions about the role of private security firms in a war zone, improve the regulation of these firms when they are used, and ensure accountability for the actions of their employees.

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