

**STATEMENT OF
PATRICK F. KENNEDY**

**UNDER SECRETARY FOR MANAGEMENT
BUREAU OF MANAGEMENT
DEPARTMENT OF STATE**

Before the

**SENATE COMMITTEE ON HOMELAND SECURITY
AND
GOVERNMENTAL AFFAIRS**

**“An Uneasy Relationship: U.S. Reliance
on Private Security Firms in Overseas Operations”**

Wednesday, February 27, 2008

10:00 a.m.

**SD-342, Dirksen Senate Office Building
Washington, D.C.**

Good Morning Chairman Lieberman, Ranking Member Collins and Members of the Committee.

I am honored to appear before you today with my distinguished colleagues. I would like to thank you and the Committee members for your continued support and interest in the Department of State's programs and foreign policy objectives.

The Bureau of Diplomatic Security (DS), the law enforcement and security bureau of the Department, has the primary responsibility for ensuring the safety and security of State Department and other U.S. government personnel operating under Chief-of-Mission authority overseas. Diplomatic Security's nearly 1,500 Special Agents serve in the United States and around the world, in embassy and consulate Regional Security Offices, and manage security programs designed to protect U.S. government personnel, facilities, and classified information at 285 State Department posts worldwide.

Even with this presence, the employment of security contractors has become a critical Department tool since the 1980s for providing services necessary to protect U.S. personnel, buildings, and information. After the bombing of the U.S. Embassy in Beirut in 1983, private companies were afforded the opportunity to compete for security contracts at U.S. overseas missions under the Diplomatic Security and Antiterrorism Act of 1986. Over the years, security contractors have been employed in diverse hotspots around the world, and, as these contracts have evolved, the Department has sought to standardize the way posts contracted and paid for guard force services to enhance uniform fiscal reporting and to streamline security management.

Over the last decade, conflicts, wars, political unrest, and terrorist activities have increasingly required the deployment of diplomats to areas that are inherently dangerous places to live and work. As the U.S. government continues its diplomatic efforts in those critical areas, the assets and resources required to ensure the safety and security of U.S. diplomats and other government representatives have also increased.

The use of security contractors in these dangerous places has allowed the Department the flexibility to rapidly expand its capability to meet these increased security requirements and to support national-security initiatives

without the delays inherent in recruiting, hiring and training full-time personnel. The employment of security contractors remains an essential cost-effective tool utilized by the Department to provide the security services necessary to protect U.S. personnel and facilities and allow the continued conduct of diplomatic efforts in non-permissive environments.

The government's Federal Acquisitions Regulations enable the Department to procure, sometimes with little notice, the services of a skilled cadre of security professionals for emergency needs as world events unfold. The Department's security contractors perform a narrow range of defensive duties abroad, including protection of certain foreign heads of state, high-level U.S. officials (including members of Congress), and U.S. diplomats under Chief-of-Mission authority. These functions are not inherently governmental, as Department security contractors are engaged in protecting our diplomats or other senior officials and are not authorized to engage in law enforcement or combat activities. The use of contract personnel allows the Department the flexibility to rapidly expand or reduce the level of security personnel deployed based on changing requirements. Most importantly, it is through the contracting mechanism that the Department requires security contractors to adhere to stringent standards and operating procedures for contract performance.

The establishment of interagency standards for security contractors operating overseas would ensure that all U.S. government security contractors or subcontractors meet core standards regarding their qualifications, training, and operations. Over the last several months, the Department of State has been working closely with the Department of Defense to accomplish this goal. Agencies should be allowed the flexibility to augment the core standards, as needed, with additional training and operational requirements.

Contract provisions requiring contractors to comply with local laws and regulations are additional measures that ensure appropriate security contractor activity. Such provisions are currently included in Department of State contracts; for example existing Department security contracts require contractors to comply with all licensing requirements that are established by the host government. In general, such provisions require contractors to secure a business license, firearms permits, and a firearms storage licenses before commencing any security contractor operations.

Contract requirements and government-wide standards are only as effective as the management and oversight controls implemented to ensure contractor compliance and accountability. In October of 2007, the Secretary of State's Panel on Personal Protective Services in Iraq, on which I served, carried out a comprehensive review of U.S. Embassy Baghdad's security practices and provided recommendations to strengthen the coordination, oversight, and accountability aspects of those practices.

The Panel also encouraged enhanced coordination and communication with the U.S. military in Iraq. To that end, the Secretaries of State and Defense, through the Memorandum of Agreement (MOA) dated December 5, 2007, agreed to jointly develop, implement, and follow core standards, policies, and procedures for the accountability, oversight, and discipline of private security contractors.

Over the past several months, the Department has undertaken to quickly institute new policies and procedures governing security contractors overseas to implement both the Panel's recommendations and the December 2007 MOA with the Department of Defense:

- Diplomatic Security Special Agents are now "embedded" within each Embassy movement of personnel.
- Procedures have been established to ensure that MNF-I and the Embassy are aware of and coordinate on all movements by each others' details. To maximize military support for DOS protective security details and to provide visibility to battle-space commanders, the Embassy continues to provide movement details to MNF-I in advance of each movement.
- Embassy Baghdad and MNF-I liaison officers serve in each other's respective operation centers. The military liaison officer for the Embassy plays a critical role in coordinating military support and facilitating direct communication and intelligence sharing.
- Embassy Baghdad and MNF-I have established procedures to respond to and investigate serious incidents involving protective security details.

- The State Department has developed new investigative policies and procedures for use of force incidents by security contractors, which will also facilitate the referral of cases to the Department of Justice where there is evidence of potential criminal misconduct.
- An Embassy Joint Incident Review Board, which includes MNF-I, periodically reviews incident investigations to develop lessons learned, determine trends, and make recommendations for improvements in private security contractor operations.
- Embassy Baghdad's Mission Firearms Policy has been revised and reissued to reflect the common principles on "Rules for the Use of Force" that govern private security contractor operations, as agreed in the MOA.
- The Regional Security Officer in Baghdad has established direct channels of communication and working agreements on coordination and liaison with senior Iraqi officials at the National Police, Ministry of Interior, and Ministry of Defense.

Moreover, the Department of State strongly supports efforts to provide greater legal accountability for unlawful acts its security contractors may commit abroad. The Administration is currently working with Congress on legislation concerning extraterritorial coverage of U.S. criminal laws. We would very much like to see this critical legislation enacted as soon as possible.

In addition to private security contractors (PSC) that contract directly with the Department of State, there are also PSCs that have a contractual relationship with contractors, subcontractors, or grantees of the Department or other civilian agencies under Chief-of-Mission authority. In accordance with the State/Defense Memorandum of Agreement, the State Department has also taken strides to strengthen oversight and accountability of these security contractors. The State Department has actively engaged with the Defense Department and the Agency for International Development in developing core policies for vetting, background investigations, training, weapons authorizations, movement coordination, and incident response and investigations. In that same vein, on January 30, 2008, Departments of Defense and State co-hosted a meeting with PSC company executives to

discuss efforts to further strengthen security contractor operations, oversight, management, and accountability.

With the passage of the National Defense Authorization Act (NDAA) for Fiscal Year 2008, the Departments of State and Defense are now actively engaged in the development of formal regulations governing private security contractors operating in combat zones, as well as the development of a memorandum of understanding that will address all contractors operating in Iraq and Afghanistan and establish a common database of information on such contractors, as required by sections 861 and 862 of that law. Our joint efforts in developing and implementing the MOA of December 2007 have already established a strong foundation for the regulations required by the NDAA. Moreover, the Department is prepared to participate in DOD's Synchronized Pre-Deployment Operational Tracking (SPOT) database of contractors, upon its anticipated rollout this March.

This enhanced coordination with the Defense Department and our increased oversight of our private security contractors has necessitated additional staffing by Department personnel. In response, the State Department initiated temporary deployments of additional Diplomatic Security Special Agents to Iraq and authorized a permanent increase in Baghdad staffing consistent with the staffing recommendations of the Secretary of State's Panel on Personal Protective Services in Iraq. With these staffing requirements straining personnel resources and the need to meet the continual and emerging worldwide security demands, the State Department will be hiring additional Special Agents. The additional requirements are being requested, and with them the Department will be able to meet these requirements and continue to provide a safe and secure environment for the conduct of U.S. foreign policy.

Chairman Lieberman and Ranking Member Collins, I thank you and the other Members of the Committee for the opportunity to appear here today. I would now be happy to answer any questions you or the other Members may have.