

## MEMORANDUM

October 1, 2007

**To: Members of the Committee on Oversight and Government Reform**

**Fr: Majority Staff**

**Re: Additional Information about Blackwater USA**

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On October 2, 2007, the Committee will hold a hearing entitled, "Blackwater USA: Private Military Contractor Activity in Iraq and Afghanistan." The hearing will examine the mission and performance of Blackwater USA and its affiliated companies in Iraq and Afghanistan. Erik Prince, the owner of Blackwater will testify at the hearing, as will three State Department officials: Ambassador David M. Satterfield, Special Adviser, Coordinator for Iraq; Ambassador Richard J. Griffin, Assistant Secretary, Bureau of Diplomatic Security and Director of the Office of Foreign Missions; and William H. Moser, Deputy Assistant Secretary for Logistics Management.

The hearing will provide members the opportunity to address three key questions: (1) Is Blackwater's presence advancing or undermining U.S. efforts in Iraq? (2) Has the State Department responded appropriately to shooting incidents involving Blackwater forces? And (3) what are the costs for U.S. taxpayers of the reliance on Blackwater and other private military contractors?

The Committee has received new information, which is summarized below, bearing on all three of these questions.

***Blackwater Shooting Incidents.*** Incident reports compiled by Blackwater reveal that Blackwater has been involved in at least 195 "escalation of force" incidents in Iraq since 2005 that involved the firing of shots by Blackwater forces. This is an average of 1.4 shooting incidents per week. Blackwater's contract to provide protective services to the State Department

provides that Blackwater can engage in only defensive use of force. In over 80% of the shooting incidents, however, Blackwater reports that its forces fired the first shots.

In the vast majority of instances in which Blackwater fires shots, Blackwater is firing from a moving vehicle and does not remain at the scene to determine if the shots resulted in casualties. Even so, Blackwater's own incident reports document 16 Iraqi casualties and 162 incidents with property damage, primarily to vehicles owned by Iraqis. In over 80% of the escalation of force incidents since 2005, Blackwater's own reports document either casualties or property damage.

The reports describe multiple Blackwater incidents involving Iraqi casualties that have not previously been reported. In one of these incidents, Blackwater forces shot a civilian bystander in the head. In another, State Department officials report that Blackwater sought to cover up a shooting that killed an apparently innocent bystander. In a third, Blackwater provided no assistance after a traffic accident caused by its "counter-flow" driving left an Iraqi vehicle in "a ball of flames." Blackwater also reports engaging in tactical military operations with U.S. forces.

In addition to Blackwater, two other private military contractors, DynCorp International and Triple Canopy, provide protective services to the State Department. Blackwater reports more shooting incidents than the other two contractors combined. Blackwater also has the highest incidence of shooting first, although all three companies shoot first in more than half of all escalation of forces incidents.

***State Department Responses.*** Documents provided by the State Department raise serious questions about how State Department officials responded to reports of Blackwater killings of Iraqis. In a high-profile incident in December 2006, a drunken Blackwater contractor killed the guard of Iraqi Vice President Adil Abd-al-Mahdi. Within 36 hours after the shooting, the State Department had allowed Blackwater to transport the Blackwater contractor out of Iraq. The State Department Charge d'Affaires recommended that Blackwater make a "sizeable payment" and an "apology" to "avoid this whole thing becoming even worse." The Charge d'Affaires suggested a \$250,000 payment to the guard's family, but the Department's Diplomatic Security Service said this was too much and could cause Iraqis to "try to get killed." In the end, the State Department and Blackwater agreed on a \$15,000 payment. One State Department official wrote: "We would like to help them resolve this so we can continue with our protective mission."

The State Department took a similar approach upon receiving reports that Blackwater shooters killed an innocent Iraqi, except that in this case, the State Department requested only a \$5,000 payment to "put this unfortunate matter behind us quickly."

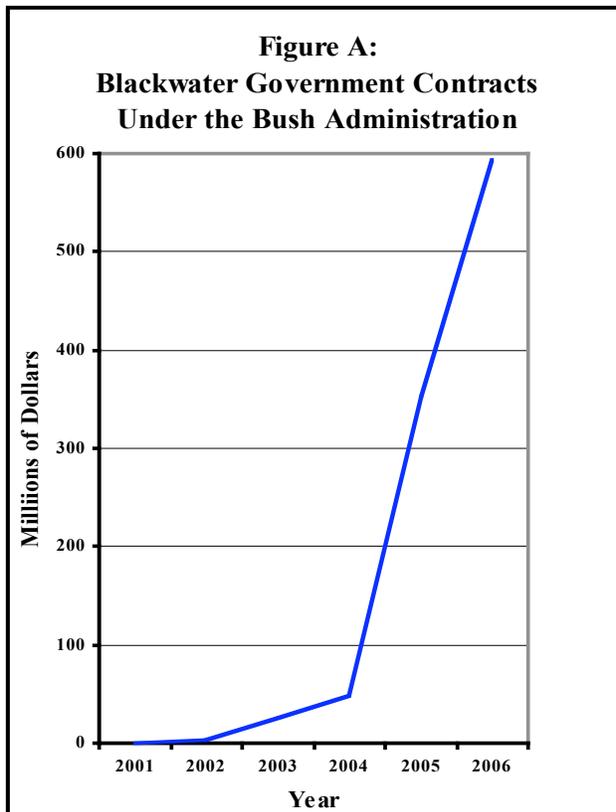
There is no evidence in the documents that the Committee has reviewed that the State Department sought to restrain Blackwater's actions, raised concerns about the number of shooting incidents involving Blackwater or the company's high rate of shooting first, or detained Blackwater contractors for investigation.

**Costs to Taxpayers.** Using Blackwater instead of U.S. troops to protect embassy officials is expensive. Blackwater charges the government \$1,222 per day for the services of a private military contractor. This is equivalent to \$445,000 per year, over six times more than the cost of an equivalent U.S. soldier. In total, Blackwater has received over \$1 billion in federal contracts from 2001 through 2006, including more than \$832 million under two contracts with the State Department to provide protective services in Iraq.

**I. Blackwater’s Federal Contracts**

Blackwater USA, based in Moyock, North Carolina, was established in 1997 and has grown to become one of the world’s largest providers of private military services, offering a diverse range of services including personal security details, military training services, aviation support, K-9 services, and its own line of armored vehicles. Prior to the war in Iraq, the company primarily offered training services for law enforcement and military personnel. But during the past six years, the business has expanded and diversified to include private military contracting.

Blackwater’s government contracts have grown exponentially during the Bush Administration, particularly since the start of the war in Iraq. Blackwater went from having government contracts worth less than a million dollars in 2001 to contracts worth more than half a billion dollars in 2006. Figure A shows the increase in Blackwater’s government contracts over the past six years, while Table A shows the dollar amounts Blackwater received in each of these years.



<b>Table A: Blackwater’s Federal Contracts</b>	
Year	Amount Paid
<b>2001</b>	<b>\$ 736,906</b>
<b>2002</b>	<b>\$ 3,415,884</b>
<b>2003</b>	<b>\$ 25,395,556</b>
<b>2004</b>	<b>\$ 48,496,903</b>
<b>2005</b>	<b>\$ 352,871,817</b>
<b>2006</b>	<b>\$ 593,601,952</b>
<b>Total</b>	<b>\$1,024,519,018</b>

In fiscal year 2001, Blackwater had \$736,906 in federal contracts. By 2006, Blackwater had over \$593 million in government contracts, an increase of more than 80,000%.<sup>1</sup> In total, Blackwater has received over a billion dollars from the federal government during fiscal years 2001 to 2006. Of this amount, \$523,649,287 (51%) was awarded without full and open competition.<sup>2</sup>

Blackwater's work in Iraq began in August 2003, when Coalitional Provisional Authority Administrator Paul Bremer awarded the company a no-bid contract to provide security to top U.S. civilian officials.<sup>3</sup>

In June 2004, Blackwater received a second, much larger no-bid contract from the State Department known as Worldwide Personal Protective Services (WPPS). Under this indefinite delivery, indefinite quantity contract, Blackwater was paid to provide "protection of U.S. and/or certain foreign government high-level officials whenever the need arises."<sup>4</sup> Although the maximum value of the contract was approximately \$332 million, Blackwater ultimately received more than \$488 million between June 14, 2004, and June 6, 2006.<sup>5</sup> Blackwater was authorized to utilize 482 staff in Iraq.<sup>6</sup>

On May 8, 2006, the State Department awarded WPPS II, the second incarnation of its diplomatic security contract. Under this contract, the State Department awarded Blackwater and two other companies, Triple Canopy and DynCorp, contracts to provide diplomatic security in Iraq, each in separate geographic locations.<sup>7</sup> Blackwater is authorized to have 1,020 staff in Iraq under this contract.<sup>8</sup> The maximum value of the contract is \$1.2 billion per contractor, or \$3.6

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<sup>1</sup> Eagle Eye Inc., *Eagle Eye Federal Prime Contracts Database* (compiling data from the Federal Procurement Data System for fiscal years 2001 through 2006).

<sup>2</sup> *Id.* The amount awarded without full and open competition includes \$493,058,545 in no-bid contracts and \$30,590,742 in contracts awarded after limiting or excluding qualified bidders.

<sup>3</sup> Special Inspector General for Iraq Reconstruction, *Quarterly Report to Congress* (July 2004) (online at [www.sigir.mil/reports/quarterlyreports/Jul04/table\\_j\\_1\\_verified\\_contracts\\_updated.pdf](http://www.sigir.mil/reports/quarterlyreports/Jul04/table_j_1_verified_contracts_updated.pdf)).

<sup>4</sup> U.S. Department of State, *Blackwater Contract S-AQMPD-04-D-0061, Iraq, June 11, 2005 to September 10, 2006* (undated).

<sup>5</sup> *Eagle Eye Federal Prime Contracts Database*, *supra* note 1.

<sup>6</sup> *Blackwater Contract S-AQMPD-04-D-0061, Iraq, June 11, 2005 to September 10, 2006*, *supra* note 4.

<sup>7</sup> U.S. Department of State, *WPPS II Contracts Awarded to Blackwater, Triple Canopy, and DynCorp* (undated) (Blackwater has task orders to work in Baghdad and Al Hillah; DynCorp has task orders to work in Kirkuk and Erbil; and Triple Canopy has task orders to work in Basrah and Tallil).

<sup>8</sup> *Id.*

billion total.<sup>9</sup> Through the end of fiscal year 2006, Blackwater has received over \$343 million under this contract.<sup>10</sup>

In total, the State Department has paid Blackwater more than \$832 million from 2004 through 2006.<sup>11</sup>

During a briefing with Committee staff, the State Department reported that Blackwater currently has 861 Blackwater personnel working in Iraq.<sup>12</sup> Blackwater has stated that 243 of its personnel in Iraq are third-country nationals.<sup>13</sup>

Blackwater is owned by Erik Prince. Mr. Prince is a former Navy SEAL who owns the company through a holding company, The Prince Group, LLC. In the late 1980s, Mr. Prince served as a White House intern under President George H.W. Bush.<sup>14</sup> Mr. Prince's father was a prominent Michigan businessman and contributor to conservative causes. Mr. Prince's sister, Betsy DeVos, is a former chairwoman of the Michigan Republican Party who earned the title of Bush-Cheney "Pioneer" by arranging at least \$100,000 in donations for the 2004 George W. Bush presidential campaign.<sup>15</sup> Her husband, Richard DeVos Jr., is a former Amway CEO and was the 2006 Republican nominee for Governor of Michigan. Mr. Prince himself is a frequent political contributor, having made over \$225,000 in political contributions, including more than \$160,000 to the Republican National Committee and the National Republican Congressional Committee.<sup>16</sup>

Blackwater has hired several former senior Bush Administration officials to work for the company. J. Cofer Black, who served as director of the CIA Counterterrorist Center from 1999 to 2002 and as a top counterterrorism official at the State Department until 2004, now serves as Blackwater's vice chairman.<sup>17</sup> Joseph E. Schmitz, the Inspector General for the Defense

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<sup>9</sup> *Id.*

<sup>10</sup> *Eagle Eye Federal Prime Contracts Database, supra* note 1.

<sup>11</sup> *Id.*

<sup>12</sup> Briefing by Ambassador David A. Satterfield, Senior Adviser and Coordinator for Iraq, U.S. Department of State, to House Oversight and Government Reform Committee staff (Sept. 27, 2007).

<sup>13</sup> *Id.*

<sup>14</sup> *Prince's Blackwater Plays Big Role in Iraq*, Grand Rapid Press (Apr. 29, 2007).

<sup>15</sup> *The Bush-Cheney Gazillions Tour*, Village Voice (Oct. 22-28, 2004).

<sup>16</sup> Donor Search for Erik Prince, Center for Responsive Politics (online at <http://opensecrets.org>) (accessed on Sept. 29, 2007).

<sup>17</sup> Blackwater USA, *Ambassador Cofer Black Becomes Vice-Chairman at Blackwater USA* (Feb. 4, 2005) (online at [www.blackwaterusa.com/press/cofer.asp](http://www.blackwaterusa.com/press/cofer.asp)) (accessed on Sept. 30, 2007).

Department from 2002 to 2005, is now general counsel and chief operating officer of the Prince Group, Blackwater's parent company.<sup>18</sup>

## II. Blackwater's Escalation of Force Incidents

For several years, questions have been raised about the conduct of Blackwater and other private military contractors operating in Iraq. These questions have received increased attention since the September 16, 2007, shooting incident in Baghdad, which reportedly left 11 Iraqi civilians dead and 14 wounded. In recent days, U.S. military commanders have reported that Blackwater guards "have very quick trigger fingers," "shoot first and ask questions later," and "act like cowboys."<sup>19</sup> A senior U.S. military official has asserted that the impact of Blackwater's actions on Iraqi attitudes toward U.S. forces "is going to hurt us badly" and "may be worse than Abu Ghraib."<sup>20</sup>

The Committee has been investigating the activities of Blackwater and other private military contractors and, on February 7, 2007, held a hearing on the death of four Blackwater contractors in Fallujah on March 31, 2004. Since then, the Committee has received thousands of pages of documents produced by Blackwater and 14 other private military contractors involved in providing security to U.S. officials and contractors in Iraq. These documents have included 437 internal Blackwater incident reports, as well as incident reports from DynCorp International and Triple Canopy, the two other companies serving the State Department under WPPS II. The Committee also received a limited number of incident reports and documents from the State Department relating to all three companies, and a limited amount of data relating to private military contractors from the Defense Department.

The Blackwater and State Department records reveal that Blackwater's use of force in Iraq is frequent and extensive, resulting in significant casualties and property damage. Blackwater is legally and contractually bound to only engage in defensive uses of force to prevent "imminent and grave danger" to themselves or others.<sup>21</sup> In practice, however, the vast majority of Blackwater weapons discharges are preemptive, with Blackwater forces firing first at a vehicle or suspicious individual prior to receiving any fire.

According to the Blackwater incident reports received by the Committee, Blackwater personnel have participated in 195 incidents in Iraq from January 1, 2005, through September 12, 2007, that involved firearms discharges by Blackwater personnel. This is an average of 1.4 incidents per week. In 32 of those incidents, Blackwater personnel were returning fire after an attack, while on 163 occasions (84% of the shooting incidents), Blackwater personnel were the first to fire.

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<sup>18</sup> *Blackwater Tops All Firms in Iraq in Shooting Rate*, New York Times (Sept. 27, 2007).

<sup>19</sup> *Private Security Puts Diplomats, Military at Odds*, Washington Post (Sept. 26, 2007).

<sup>20</sup> *Id.*

<sup>21</sup> Mission Firearms Policy, U.S. Embassy Baghdad, Iraq (Aug. 2006); Worldwide Personal Protective Services II Contract §52.233-1(c).

In the vast majority of instances in which Blackwater forces engage in weapons fire, the Blackwater shots are fired from a moving vehicle and Blackwater does not remain at the scene to determine if their shots resulted in casualties. Nevertheless, Blackwater’s own reports document 16 Iraqi casualties caused by Blackwater during the same time period. Blackwater’s reports also document property damage on 162 occasions, primarily to Iraqi civilian vehicles. In total, 84% of the Blackwater escalation of forces incidents resulted in casualties or property damage or both. See Table B.

<b>Table B: Blackwater Use of Force Data</b>				
<b>Year</b>	<b>Total Incidents with Shots Fired by Blackwater</b>	<b>Incidents in which Blackwater Fired First</b>	<b>Confirmed Iraqi Casualties</b>	<b>Incidents with Property Damage</b>
2005	77	71	7	71
2006	61	53	3	52
2007 <sup>22</sup>	57	39	6	39
<b>Total</b>	<b>195</b>	<b>163</b>	<b>16</b>	<b>162</b>

When Blackwater’s performance is compared to that of the other two State Department contractors, DynCorp and Triple Canopy, the reports reveal that Blackwater participated in more shooting incidents than the other two companies combined. For the time period from January 1, 2005, through April 30, 2007, Blackwater fired weapons in 168 incidents, as compared to 102 incidents for DynCorp and 36 shooting incidents for Triple Canopy. Blackwater also fired first at a higher rate than its counterparts on the State Department contract, although the incidence of firing first was high for all three contractors. During this time period, Blackwater fired first in 143 escalation of forces incidents (85% of incidents), compared to 63 incidents for DynCorp (62% of incidents) and 30 incidents for Triple Canopy (83% of incidents). Blackwater also inflicted property damage more often than the other two companies combined.

The Blackwater reports and documents from the State Department describe a number of Blackwater incidents involving Iraqi casualties and property damage that have not been previously reported. For example:

- On October 24, 2005, Blackwater personnel on a protection mission from Mosul Provincial Hall to an American base departed the main gate of the Provincial Hall, turned left, and encountered a vehicle that appeared to be making a turn that would cause it to break into motorcade’s path. When the driver did not heed warnings to stop, a Blackwater gunner released “a burst of fire” onto the vehicle that apparently disabled it. During the shooting, a civilian bystander outside of the car was hit in the head by a bullet that passed through the car and fell to the ground in the median of the road. Blackwater continued on without stopping. Blackwater reported the “shooting and probab[le] killing,” and an ambulance was sent to the scene. The available documents do not describe any assistance offered by Blackwater to the victim or his family.<sup>23</sup>

<sup>22</sup> Through September 12, 2007. Figures do not include the September 16, 2007 incident.

<sup>23</sup> Blackwater PSD Incident Report (Oct. 24, 2005).

- On June 25, 2005, a Blackwater team on a mission in Al-Hillah killed an Iraqi man, who received a fatal shot to the chest. The victim's brothers reported to the State Department that their brother, a father of six, was "killed as an innocent person standing on the side of the street." According to an internal State Department document, the personnel who fired the shots initially failed to report the shooting and sought to cover it up.<sup>24</sup>
- On September 24, 2006, a Blackwater protection detail with four vehicles was driving at approximately 45 miles per hour on the wrong side of the road in Al-Hillah in a maneuver called "counter flowing." Although most cars driving toward the Blackwater team were able to move out of the motorcade's path, the driver of a red Opel car lost control of his vehicle while trying to avoid the Blackwater team. The car "swerved right to avoid the Lead" vehicle, then "locked his brakes up." The driver "attempted to correct the initial overcorrection," skidded into one of the Blackwater vehicles, which it disabled, and crashed into a telephone pole at the side of the road. The car "almost immediately went into flames." The Blackwater team collected the personnel and sensitive equipment from its disabled vehicle and left the scene without attempting to assist the occupants of the Iraqi vehicle, which was described by Blackwater as "in a ball of flames."<sup>25</sup>
- On November 28, 2005, a Blackwater motorcade traveling to and from the Ministry of Oil for official meetings collided with 18 different vehicles during the round trip journey (6 vehicles on the way to the ministry and 12 vehicles on the return trip). The written statements taken from the team members after the incident were determined by Blackwater to be "invalid, inaccurate, and at best, dishonest reporting." According to a Blackwater contractor who was on the mission, the tactical commander of the mission "openly admitted giving clear direction to the primary driver to conduct these acts of random negligence for no apparent reason." The only apparent sanction resulting from this incident was the termination of two of the employees.<sup>26</sup>

The documents also reveal that Blackwater's activities under the State Department contract have on occasion involved engaging in tactical military actions in concert with U.S. troops. On April 10, 2004, Blackwater became aware from staff for the U.S. Ambassador to Iraq that there was an attack on Najaf and joined the firefight. Several Blackwater personnel took positions on a rooftop alongside U.S. Army and Spanish forces. The Blackwater personnel reinforced the military positions and used machine guns to "engage[] whatever targets of opportunity presented themselves."<sup>27</sup>

On November 24, 2004, a Blackwater helicopter team helped a U.S. military unit secure a mosque from which sniper fire had been initiated. While conducting this mission, the Blackwater team in the helicopter spotted a vehicle attempting to leave the premises of the

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<sup>24</sup> State Department E-Mail re: From RSO Al-Hillah (July 1, 2005).

<sup>25</sup> Blackwater PSD Incident Report (Sept. 24, 2006).

<sup>26</sup> Blackwater Memorandum re: Termination of Independent Contractors (Nov. 28, 2005).

<sup>27</sup> Blackwater Internal E-Mail re: Najaf (Apr. 10, 2004).

mosque. The Blackwater team fired a warning shot from the helicopter to the front of the vehicle. When the car did not stop, the Blackwater team fired three more rounds directly in front of the vehicle. The car then stopped and the occupants came out. The Blackwater team motioned for the occupants to go back to the mosque on foot. When the driver made a move to turn back to the car, the Blackwater team fired another warning shot to keep him away from the car. After the driver finally moved away from the car, the Blackwater team fired shots into the engine compartment to disable the car.<sup>28</sup>

### III. State Department Oversight of Blackwater

The documents the Committee has received raise questions about the State Department's oversight of Blackwater's activities under the contract. Even in cases involving the death of Iraqis, it appears that the State Department's primary response was to ask Blackwater to make monetary payments to "put the matter behind us," rather than to insist upon accountability or to investigate Blackwater personnel for potential criminal liability. The most serious consequence faced by Blackwater personnel for misconduct appears to be termination of their employment.

In a statement last week, Deputy Secretary of State John D. Negroponte asserted that every incident in which Blackwater fires its weapons "is reviewed by management officials to ensure that procedures were followed."<sup>29</sup> The documents reviewed by the Committee do not substantiate this claim. If a review or investigation occurs after the shooting incidents, it is not reflected in the documents that the Committee has reviewed.

#### A. State Department's Response to the Christmas Eve Shooting

On December 24, 2006, a 26-year-old Blackwater security contractor shot and killed a 32-year-old security guard to Iraqi Vice President Adil Abd-al-Mahdi during a confrontation in the "Little Venice" area of the International Zone in Baghdad. This incident sparked an angry reaction from the Iraqi government. In a December 28, 2006, letter to the U.S. Embassy, Iraqi Prime Minister Nouri al-Maliki's Chief of Staff called the incident "murder."<sup>30</sup> The September 16, 2007, shooting incident that led the Iraqi government to impose a ban on Blackwater operations rekindled complaints by Iraqi officials about the Christmas Eve shooting.<sup>31</sup>

According to documents obtained by the Committee, the Blackwater contractor, who worked as an armorer, had attended a party on the evening of December 24, had consumed several alcoholic beverages, and was described as drunk by witnesses who encountered him that

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<sup>28</sup> Blackwater Aviation After Action Report (Nov. 24, 2004).

<sup>29</sup> Testimony of Deputy Secretary of State John D. Negroponte, *Hearing of the Senate Committee on Appropriations: The President's FY 2008 Supplemental Request for the Wars in Iraq and Afghanistan* (Sept. 26, 2007).

<sup>30</sup> *Blackwater Supports Inquiry into Fatal Shooting*, *The Virginian-Pilot* (July 25, 2007).

<sup>31</sup> *Blackwater Shooting Crisis Rallies Baghdad*, *Wall Street Journal* (Sept. 24, 2007). The Maliki government has also recently alleged that Blackwater was involved in six other violent episodes in 2007 that left at least 10 Iraqis dead. *Iraq Probe of U.S. Security Firm Grows*, *Washington Post* (Sept. 22, 2007).

evening.<sup>32</sup> Between 10:30 and 11:30 p.m., the Blackwater contractor, carrying a Glock 9 mm pistol, passed through a gate near the Iraqi Prime Minister's compound and was confronted by the Iraqi guard, who was on duty. The Blackwater contractor fired multiple shots, three of which struck the guard, then fled the scene. The victim was taken to the 28<sup>th</sup> Combat Army Support Hospital, where he was pronounced dead shortly before midnight.<sup>33</sup>

The Blackwater contractor fled to a guard post operated by Triple Canopy, another private military contractor. He told personnel there that he had gotten into a gunfight with Iraqis and that they were chasing him and shooting at him. The guards had not heard any gunshots.<sup>34</sup> He fumbled with his firearm, which was loaded, until one of the guards took it from him.<sup>35</sup> Although he appeared visibly intoxicated and smelled of alcohol, he denied that he had any alcoholic beverages that evening.<sup>36</sup>

A Triple Canopy guard returned his firearm and escorted him away from their post. Shortly thereafter, a group of armed Iraqi men arrived at the gate searching for the Blackwater contractor.<sup>37</sup> He was later apprehended by International Zone Police at approximately 1:00 a.m. at his room in the Blackwater camp. The police took custody of his Glock handgun and ammunition. After testing the Blackwater contractor for blood alcohol content, the police determined that he was too intoxicated to be interviewed at that time. During questioning on December 25 by Army investigators, the Blackwater contractor claimed that the security guard, Raheem Khalif, shot at him and that he shot back in self-defense.<sup>38</sup>

On December 25, the day after the shooting of the guard, Blackwater terminated the contractor from the State Department contract based on its policy against possessing a firearm while intoxicated.<sup>39</sup> That same day, only hours after the shooting, Blackwater arranged to have the contractor flown out of Iraq. The State Department was informed of Blackwater's arrangements for the contractor and received a copy of his itinerary. On the morning of December 26, less than 36 hours after the killing, Blackwater transported the contractor to

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<sup>32</sup> Criminal Investigative Division (CID) Report of Investigation (Dec. 25, 2006); Blackwater Memorandum to State Department re: Termination of Independent Contractor (Dec. 25, 2006); Blackwater Developmental Counseling Form (Dec. 25, 2006); Diplomatic Security Service Incident Report (Jan. 12, 2007).

<sup>33</sup> CID Report of Investigation, *supra* note 32.

<sup>34</sup> Triple Canopy Incident Report (Dec. 25, 2006).

<sup>35</sup> *Id.*

<sup>36</sup> Statement of Triple Canopy Guard (Dec. 26, 2006).

<sup>37</sup> Triple Canopy Incident Report (Dec. 25, 2006).

<sup>38</sup> CID Report of Investigation, *supra* note 32; Diplomatic Security Service Incident Report (Dec. 24, 2006).

<sup>39</sup> Blackwater Memorandum to State Department re: Termination of Independent Contractor, *supra* note 32.

Baghdad International Airport, from which he flew to Jordan, and then back to the United States “[u]nder the authority of the DOS Regional Security Officer.”<sup>40</sup>

Immediately following the incident, the State Department determined that Blackwater should send a letter of condolence to the victim’s family along with a cash payment. On December 25, the Charge d’Affaires wrote to the Regional Security Officer:

Will you be following in up Blackwater to do all possible to assure that a sizeable compensation is forthcoming? If we are to avoid this whole thing becoming even worse, I think a prompt pledge and apology — even if they want to claim it was accidental — would be the best way to assure the Iraqis don’t take steps, such as telling Blackwater that they are no longer able to work in Iraq.<sup>41</sup>

Internally, the Embassy had differing opinions on the amount of compensation. The Charge d’Affaires initially proposed a \$250,000 payment, then suggested \$100,000.<sup>42</sup> The Diplomatic Security Service opposed these figures as too high. One DSS official called the Charge d’Affaires’ proposals “crazy sums” and stated that such a figure could cause Iraqis to “try to get killed so as to set up their family financially.” Noting that there previously had been a payout of \$5,000 for “a guy’s car and a wound to the leg,” the official recommended a \$15,000 to \$25,000 payment.<sup>43</sup>

By December 26, two days after the shooting, the State Department and Blackwater agreed on a figure of \$15,000, which Blackwater would deliver to the family with the assistance of the State Department.<sup>44</sup>

An official in the Diplomatic Security Service explained the State Department’s approach to the incident as follows:

As you can imagine this has serious implications. This was an unfortunate event but we feel that it doesn’t reflect on the ... overall Blackwater performance. They do an exceptional job under very challenging circumstances. We would like to help them resolve this so we can continue with our protective mission.<sup>45</sup>

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<sup>40</sup> Diplomatic Security Service Incident Report, *supra* note 32; Blackwater Incident Report (Jan. 12, 2007); E-Mail from Blackwater to State Department Regional Security Office (Dec. 28, 2006).

<sup>41</sup> E-Mail from U.S. Embassy Charge d’Affaires to U.S. Embassy Regional Security Officer (Dec. 25, 2006).

<sup>42</sup> Diplomatic Security Service Internal E-Mail (Dec. 26, 2006).

<sup>43</sup> *Id.*

<sup>44</sup> E-Mail from Blackwater to Diplomatic Security Service (Dec. 26, 2006).

<sup>45</sup> Diplomatic Security Service Internal E-Mail (Dec. 26, 2006).

The cash payment did not prevent diplomatic tensions from surfacing as a result of the killing. In a subsequent memorandum to Secretary of State Condoleezza Rice, the Embassy reported that while the Iraqi government was working to keep the incident out of the press, it felt strongly that justice had to be done. The Embassy described Iraqi concerns as follows: “Iraqis would not understand how a foreigner could kill an Iraqi and return a free man to his own country.”<sup>46</sup>

The incident also may have increased tensions between Iraqis and the U.S. military. The day after the Christmas Eve shooting, Al-Arabiya Television erroneously reported, “A drunken U.S. soldier killed the escort of Iraqi Vice President Dr. Adil Abd-al-Mahdi at the presidential headquarters in the Green Zone today.”<sup>47</sup> In forwarding the Al-Arabiya account within the company, a Blackwater employee wrote, “At least the shooters ID gets the heat off of us.”<sup>48</sup>

As of today, nine months after the shooting, no charges have been brought relating to the killing of the Iraqi Vice President’s guard. According to the State Department, the incident is still under investigation by the Justice Department. However, given the passage of nine months with no charges filed, it is unclear whether there is any serious effort to pursue a prosecution in this matter.

## **B. Al-Hillah Incident**

The documents indicate that the State Department adopted a similar approach in response to a June 25, 2005, incident in which a Blackwater operator killed an apparently innocent bystander in Al-Hillah. In this incident, the victim’s family complained to the State Department about the shooting. In response, a State Department official requested that Blackwater pay the family \$5,000. In explaining the request, the official wrote: “I hope we can put this unfortunate matter behind us quickly.”<sup>49</sup>

A second State Department official concurred, stating:

[A]llow me to second [the] comments on the need for Blackwater to provide funds asap. ... [W]e are all better off getting this case — and any similar cases — behind us quickly.<sup>50</sup>

According to the State Department e-mail describing this incident, the Blackwater personnel involved “failed to report the shooting, covered it up, and subsequently were removed

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<sup>46</sup> *Blackwater Supports Inquiry into Fatal Shooting*, *supra* note 30.

<sup>47</sup> Blackwater Internal E-Mail re Al-Arabiya News Report (Dec. 27, 2006).

<sup>48</sup> *Id.*

<sup>49</sup> State Department E-Mail re: From RSO Al-Hillah (July 1, 2005). Additional information about this incident is described in part II, *supra*.

<sup>50</sup> *Id.*

from Al-Hillah.”<sup>51</sup> The e-mail further observed that the fact that the contractors failed to report the incident “caus[ed] the family additional pain.”<sup>52</sup> Aside from these observations, however, there is no indication that the State Department conducted an investigation into the circumstances of the shooting or any potential criminal liability.

### C. Contract Terminations

According to the documents the Committee has received, the only sanction that has been applied to Blackwater contractors for misconduct is termination of their individual contracts with Blackwater. These contract terminations have been surprisingly frequent.

A review of documents Blackwater submitted to the Committee reveals that Blackwater has terminated 122 employees under the State Department contract for protective services. This amounts to more than one seventh of Blackwater’s current workforce under contract with the State Department in Iraq. Table C summarizes the principal causes for termination.

Weapons Related Incidents	28
Drugs and Alcohol Violations	25
Inappropriate/Lewd Conduct	16
Insubordination	11
Poor Performance	10
Aggressive/Violent Behavior	10
Rules Violations	8
Failure to Report an Incident/Lying	6
Publicly Embarrassing Blackwater	4
Security Clearance/Classification Issues	3
PTSD	1
Total	122

The most common cause for termination was weapons-related incidents, which included two terminations for inappropriately firing at Iraqis, one termination for threatening Iraqis with a firearm, 12 terminations for negligent or accidental weapons discharges, and one termination for proposing to sell weapons to the Iraqi government. The terminations for drug and alcohol violations include four terminations for drunk driving accidents. The terminations for “publicly embarrassing Blackwater” include terminations for speaking to the media without Blackwater’s authorization.

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<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> Many terminations cite multiple causes. In the table, each termination is assigned to its most serious cause to avoid double-counting.

### III. Costs to the Taxpayer

One fundamental question that the recent controversy over Blackwater has raised is whether the government's heavy reliance on private military contractors is a wise use of taxpayer funds. According to contract documents obtained by the Committee, Blackwater bills the United States government \$1,222 per day for one individual Protective Security Specialist.<sup>54</sup> On an annual basis, this amounts to \$445,891 per contractor.

These costs are significantly higher than the costs that would be incurred by the military. The security services provided by Blackwater would typically be performed by an Army Sergeant, whose salary, housing, and subsistence pay range from approximately \$140 to \$190 per day, depending on rank and years of service. On an annual basis, the salary, housing, and subsistence pay of an Army Sergeant ranges from \$51,100 to \$69,350 per year.<sup>55</sup> The amount the government pays Blackwater for these same services is approximately six to nine times greater.

Defenders of private security contractors have argued that using private security contractors saves the government money because it avoids the need to train, equip, and support troops. However, the reverse may actually be occurring as the growing role of private military contractors causes trained troops to leave the military for private employment. Secretary of Defense Robert M. Gates recently testified: “[M]y personal concern about some of these security contracts is that I worry that sometimes the salaries that they are able to pay in fact lure some of our soldiers out of the service to go to work for them.”<sup>56</sup> The situation has deteriorated to the point that Secretary Gates testified that he has asked Pentagon officials to work towards including “non-compete clauses” in military contracts in order to “put some limits on the ability of these contractors to lure highly trained soldiers out of our forces and to work for them.”<sup>57</sup>

Another concern for taxpayers is overcharging and double-billing by private security contractors. A January 2005 audit of a Blackwater security contract by the State Department Inspector General found that Blackwater was charging the government separately for “drivers” and “security specialists,” who were in fact the same individuals.<sup>58</sup> The audit also revealed that Blackwater was improperly charging profit as part of its overhead costs, which results “not only

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<sup>54</sup> *Blackwater Contract S-AQMPD-04-D-0061, Iraq, June 11, 2005 to September 10, 2006, supra* note 4; Blackwater invoices to the U.S. Department of State under WPPS II.

<sup>55</sup> U.S. Department of Defense, *Regular Military Compensation Calculator* (online at [www.dod.mil/militarypay/pay/calc/index.html](http://www.dod.mil/militarypay/pay/calc/index.html)) (accessed on Sept. 29, 2007).

<sup>56</sup> Testimony of Secretary of Defense Robert M. Gates. *Hearing of the Senate Committee on Appropriations: The President's FY 2008 Supplemental Request for the Wars in Iraq and Afghanistan* (Sept. 26, 2007).

<sup>57</sup> *Id.*

<sup>58</sup> U.S. Department of State, Office of the Inspector General, *Agreed-Upon Procedures Review of Daily Direct Labor, Aerial Support Equipment and Indirect Expense Rates Proposed by Blackwater Security Consultants, Incorporated* (Jan. 31, 2005) (OIG-AUD/IQO-05-13).

in a duplication of profit, but also a pyramiding of profit because, in effect, Blackwater is applying profit to profit.”<sup>59</sup>

#### **IV. Conclusion**

The hearing on October 2 will provide members an opportunity to explore basic questions about the role of Blackwater in Iraq, including whether Blackwater’s actions are helping or impeding U.S. efforts in Iraq and whether the costs to the taxpayer are justified. Members will also have an opportunity to question State Department officials about their oversight of Blackwater’s conduct. As summarized in this memorandum, the Committee has received new information about Blackwater’s activities, the State Department’s responses, and taxpayer costs that can help inform member questioning in these areas.

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<sup>59</sup> *Id.*