

Handbook for Armed Private Security Contractors in Contingency Operations



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MESSAGE TO THE JOINT WARFIGHTERS

As US Joint Forces Command (USJFCOM) continues to interact with the other combatant commands and Services, we recognize there is no universal solution in dealing with the complexity of issues associated with armed private security contractors (APSCs) in the joint force commander's operational area. Over the last several years, the United States Government (USG) has done a great deal to address the policy, legal, and contracting issues for improved oversight and accountability of all contractor services, specifically APSC operations. Consequently, we developed this pre-doctrinal handbook based upon US Department of Defense (DOD) instructions, joint doctrine, policies, and contracting language to support joint force planning, management, and oversight of APSCs now and in future conflicts.

The US military plays an instrumental role in supporting and improving a collaborative environment between USG agencies, host nation intergovernmental and international organizations, and private sector companies employing APSCs. The US Office of Secretary of Defense (OSD) established new policies on managing contractors in support of contingency operations. New DOD Instructions expanded coverage over defense contractors, their employees, and all sub-contractors to include US and non-US personnel working under contract with DOD. In accordance with Fiscal Year 2008 National Defense Authorization Act, DOD coordinated a memorandum of understanding with the US Department of State (DOS) and the US Agency for International Development (USAID) to work together in controlling contracting and contractors in Iraq and Afghanistan.

The APSC project identified, correlated, and assessed relevant DOD trends for utilization of APSCs. Key stakeholders from the OSD, Joint Staff, DOS, USAID, Department of Justice, other combatant commands, and military academia worked in concert with USJFCOM to develop an experimentation campaign. The baseline assessment included research on current practices, current and proposed doctrine, lessons learned, peer reviewed journals, and other related materials. Stakeholders validated and supported a limited objective experiment to test the utility of the handbook in addressing scenarios encountered by the joint force in contingency operations. The resulting handbook revision applies a whole-of-government effort and identifies solutions to deconflict, integrate, and in some cases synchronize the joint force and APSC operations. This handbook also provides examples of "best practices" for establishing and maintaining coordination, cooperation, and understanding of APSC activities.

Understanding how APSC activities affect joint operations and the evolving effort for improved communication, management, and coordination between DOD and APSC operations is vital to the joint force commander. I encourage you to use the information contained within this handbook and provide feedback to help us capture value-added ideas for incorporation in emerging joint doctrine.

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PREFACE

1. Scope

This handbook is a pre-doctrinal publication on planning, integrating, and managing the employment of “Armed Private Security Contractors” (APSCs) by a joint force commander (JFC) and staff for a contingency operation. It provides a single collection of current (2009) work to address the policy, contract, and legal concerns of a joint force commander and staff.

2. Content

This handbook examines joint doctrine and the current policies, techniques, and procedures as practiced in the operational theaters. There is continual evolution on this subject as requirements, procedures, agreements, and best practices adapt to the joint and interagency community’s needs. This handbook helps bridge the gap between current practices in the field and existing doctrine. It also offers some considerations for the future development of APSC-related joint doctrine, training, materiel (logistics), leadership, education, and facility planning.

3. Development

Development of this handbook was based on information from joint and Service doctrine, conferences, trip reports, and experimentation. Additional research was conducted through the wider body of knowledge in civilian and military academic products, training, and lessons learned. US Government agencies contributed through the whole-of-government approach to handbook development. Coordination with the leading experts on policy formulation, understanding legal authorities, contracting, and interagency views provided the most current direction in this field. Critical stakeholders validated the experimentation plan, supported the experiment effort, and agreed with the findings.

4. Application

This handbook is not approved doctrine. It is a non-authoritative supplement to currently limited doctrine to assist JFCs and their staffs in planning and executing activities involving APSCs. The information herein can also assist the joint community in developing doctrine and maturing concepts and methods.

5. Contact Information

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EXECUTIVE SUMMARY

COMMANDER'S OVERVIEW

- **Discusses the background, definitions, and status of Armed Private Security Contractors (APSCs)**
 - **Describes current Department of Defense (DOD) initiatives to improve the management of APSCs in support of contingency operations**
 - **Identifies organizations, processes, and procedures for APSC planning, management, and oversight**
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Overview

This handbook provides joint force commanders with needed guidance on the planning, employment, management, and oversight of armed private security contractors (APSCs)

This handbook provides the joint force commander (JFC) and staff with an understanding of laws and policy related to the planning, employment, management, and oversight of Armed Private Security Contractors (APSCs) during contingency operations. While the focus of this handbook is on contingency operations, most of the limitations and challenges presented concerning APSCs are applicable universally.

JFC Challenges

Commanders at all levels have experienced challenges in management, accountability, incident management, and contract enforcement regarding APSCs.

APSCs are currently supporting US and coalition military forces by performing critical security functions integral to the success of US foreign policy objectives and military operations. However, our ongoing experience with employing APSCs has revealed a number of continuing challenges for commanders at all echelons as follows:

- Management of APSC operations to include the accountability of APSC personnel.
- Incident management procedures and liability for personnel misconduct.
- Contract enforcement.

Laws and Policies

Recent enactment of laws and DOD guidance has established new policies for managing APSCs in support of contingency operations.

The National Defense Authorization Acts (NDAA) of 2007 and 2008 and implementing guidance promulgated in DOD directives and instructions have revised and established new policies on the management of contractors, to include APSCs, in support of contingency operations.

DOD issuances provide policy, assign responsibilities, and establish procedures for selecting, training, equipping, and accounting for personnel performing private security functions.

Of specific interest and application, DODD 3020.41, *Contractor Personnel Authorized to Accompany the U.S. Armed Forces*, defines policy and assigning responsibilities for program management, DODI 3020.50, *Private Security Contractors Operating in Contingency Operations*, establishes policy, responsibilities, and procedures for selecting, training, equipping, and accountability of personnel performing private security functions. DODI 3020.50 also provides procedures for incident reporting, use and accountability of equipment, guidelines for the use of force by armed contractors, and a process for administrative action to punish misconduct by APSC personnel. This latter Instruction also expands DOD oversight to include all APSCs operating under United States Government (USG)-funded contracts during contingency operations in an area of combat operations, as designated by the Secretary of Defense.

The JFC and staff should be familiar with statutory, legal, and command requirements when employing APSCs.

When employing APSCs, the JFC and the staff should have a general familiarity with the statutory requirements regarding the activities and conduct of APSCs, legal jurisdiction over APSCs, and command-specific requirements and responsibilities.

Planning, Management, and Oversight

APSCs must not only comply with the terms of their contract, but also all applicable US and international laws.

Dependent on the terms and conditions of the contract; processes to plan, manage, and oversee APSCs are designed to align tasks and performance with the performance work statements. As contractors, APSCs must be prepared to perform all tasks stipulated in the contract and comply with all applicable US and/or international laws.

Combatant commanders regularly update plans to reflect changes in the operational situation. For contract support requirements, this process includes the need to recognize and define the evolving requirements in contractors' statements of work, awarding of contracts, and supervising contract execution. In most cases, this will not be a single service or single function. Rather, it impacts all of the involved DOD, interagency, and multinational partners.

The JFC can employ various management tools to include establishment of cross-functional staff organizations and the

The JFC can employ various tools to establish organizations, systems, and mechanisms to assist in various aspects of managing the activities of APSCs. These management options range from a joint contractor coordination board as a policy making body, to a contractor operations cell to manage daily operations. The roles and contributions of

detailed assignment of staff member responsibilities to monitor and control the activities of APSCs.

the joint force staff and contracting officers are also a consideration for JFC management and oversight of APSCs and their operations.

JFC Coordination with Non-DOD APSCs

The JFC must coordinate with the pertinent Chief of Mission for the management and oversight of non-DOD, USG APSCs.

To improve coordination with non-DOD, USG contracted APSCs, the JFC must seek the cooperation of a broad range of parties. The Chief(s) of Mission (COMs) in an operational area play a key role in organizing non-DOD, USG participants and is often involved in the planning, management, and oversight of non-DOD, USG contracted APSCs. When it comes to non-DOD, USG contracted APSC, the JFC must work with the COM and country team to understand respective roles and limitations.

The JFC and staff can employ a civil-military operations center to obtain visibility and situational awareness of non-USG contracted APSCs.

A civil-military operations center provides an option for the JFC and staff to acquire visibility and situational awareness of non-USG contracted APSCs present in the operational area. It also permits the JFC and staff to initiate direct coordination between controlling entities to plan and manage mutual APSC support requirements.

Conclusion

This handbook will assist the JFC and staff in establishing operational and functional relationships with APSCs.

This JFC handbook is designed to assist the JFC and staff in establishing operational and functional relationships with APSCs within a mutual security environment, and to the extent possible, provide options to deconflict, synchronize, and integrate activities for operational success.

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CHAPTER I

THE JOINT FORCE COMMANDER'S CHALLENGES

1. The Contractor Challenge

a. While private contractors have accompanied US forces since the Revolutionary War, in the past 20 years, there has been an exponential growth in the contractor force. This change has been most significantly realized in US Central Command (USCENTCOM), which by the end of the first quarter, fiscal year (FY) 2009, reported its employment of approximately 259,000 DOD contractor personnel. Of these contractors, nearly 12,000 provided armed security services.

b. Private security contractors can provide significant operational benefits to the US government (USG). Contractors can often be hired and deployed faster than a similarly skilled and sized military force. Because security contractors can be employed as needed, using contractors can allow federal agencies to adapt more easily to changing environments around the world. In contrast, adapting the military force structure or training significant numbers of Department of State (DOS) civilian personnel can take months or years. Security contractors also serve as a force multiplier for the military, freeing up uniformed personnel to perform combat missions or providing the DOS with the necessary security capabilities when DOS civilian security forces are unable to cover all commitments. In some cases, security contractors may possess unique skills that the government workforce lacks. For example, local nationals hired by USG agencies working overseas may provide critical knowledge of the terrain, culture, and language of the region. Contractors can be hired when a particular security need arises and be let go when their services are no longer needed. Hiring contractors only as needed can be cheaper in the long run than maintaining a permanent in-house capability.

c. In the past, small numbers of armed private security contractors (APSC) operating in combatant commander's (CCDR's) an area of responsibility (AOR) have not been a problem. In recent years, however, new problems have arisen with the significant increase in the number of APSCs. A September 2009 Congressional Research Study, "The Department of Defense's Use of Private Security Contractors in Iraq and Afghanistan: Backgrounds, Analysis and Options for Congress," summarized the current challenge. According to DOD, as of June 2009, there were 15,279 private security contractors in Iraq of which 13,232 were armed (87%). Nearly 88% were third country nationals (TCNs), 8% were local nationals, the remainder were US citizens. These figures do not include the thousands of APSCs working for non-DOD agencies, the host nation (HN), intergovernmental organizations (IGOs) and other international organizations, and private-sector organizations to include multinational corporations (MNCs). In Iraq there are reportedly more than 50 private security companies (PSC) employing more than 30,000 armed employees (Figure I-1). In Afghanistan, there are reportedly about 40 licensed private security companies employing over 20,000 personnel, with another 30 companies applying for a license. Estimates of the total number of security contractors in Afghanistan (Figure I-2), including those that are not licensed are as high as 70,000. According to DOD, since September 2007, local nationals have made up 95% or more of all armed security contractors in Afghanistan.

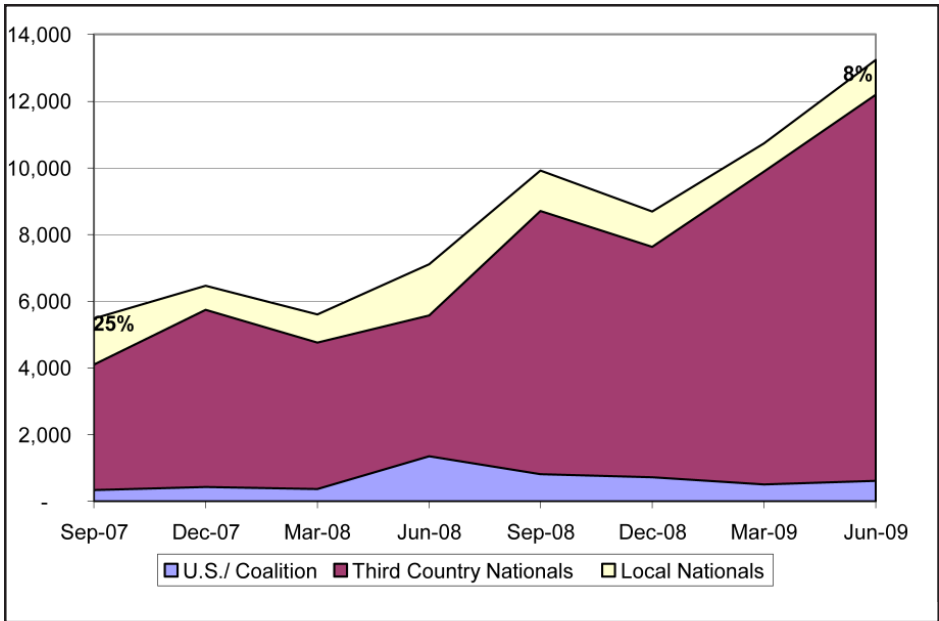


Figure I-1. Trend of Armed Private Security Contractors in Iraq by Nationality

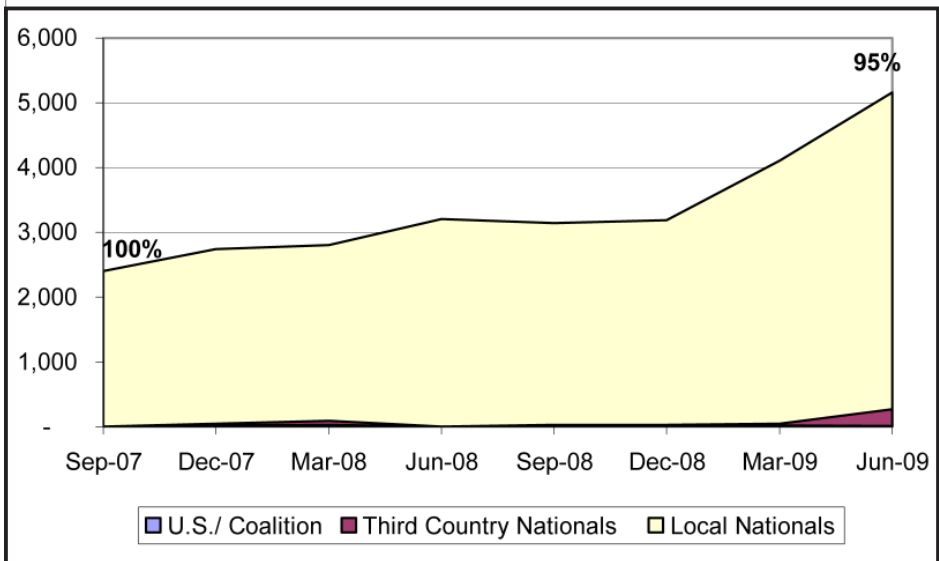


Figure I-2. Trend of Armed Private Security Contractors in Afghanistan by Nationality

d. APSCs differ in significant ways from armed military forces. Military forces are state employed and controlled by a chain of command and their home nation. APSCs are privately employed and controlled by contracts. A commander’s ability to direct or control APSC personnel is limited primarily by the terms of the contract. **Only the**

contracting officer representative (COR) or contracting officer (KO) can direct the contractor to take any specific action. HN, US federal, and international law also provide some constraints and restraints, which the commander may leverage to regulate APSC personnel conduct, but the principal vehicle for the commander to exercise control is the contract. PSCs operate for capital gain and their employees work for a paycheck. Normally, neither is guided by US foreign policy objectives.

e. As missions have grown in numbers and complexity, APSC operations have expanded as well. In addition to providing training for foreign security forces, APSCs are often engaged in the following security support activities and functions in unsecured areas:

- (1) Static security to protect military bases, housing areas, reconstruction work sites, etc.
- (2) Personal security and protection.
- (3) Convoy security.
- (4) Provide security for internment operations.

f. With the initiation of Operation IRAQI FREEDOM (OIF), challenges associated with the management of APSCs have been on the rise. One turning point in particular was the historically important 2007 incident that involved the APSC organization “Blackwater



Private Security Detail in Iraq

Security” in Nisoor Square in Baghdad, Iraq. An APSC personal security detail that was escorting a convoy of DOS vehicles, perceived a threatening situation. Confusion led to escalating the use of force and ended with seventeen Iraqi civilians killed. Local nationals blamed the Coalition for the shooting. This echoed in the international press coverage condemning the US for excessive and reckless use of deadly force. This incident illustrates how the actions of a non-DOD APSC can impact and adversely affect joint force operations. The “Blackwater” incident further illustrates the lack of oversight the USG has had over APSCs operating in a JTF commander’s joint operating area and the negative effects that contractor conduct can have on friendly operations. As a result, the USG undertook a major effort to create a system to manage APSCs and their conduct, ensure APSCs are responsive to the needs of their USG sponsors, and ensure the USG has jurisdiction to prosecute APSCs when necessary.

g. Continuing APSC challenges for commanders at all echelons include:

- (1) Management and coordination of APSC operations, including APSC personnel accountability.
- (2) Incident management procedures and liability for personnel misconduct.
- (3) Contract oversight.

h. In Iraq, two agencies are responsible for the security of USG employees and contractors: (1) the US military, which has responsibility for the security of all personnel under direct control of the CDR and (2) the DOS, which is responsible for all USG and nongovernment personnel under Chief of Mission’s (COM’s) authority. With regard to DOS responsibility, authority is delegated to Embassy Baghdad’s Regional Security Office, which establishes security policies and procedures. Together, the military and DOS share responsibility for providing general oversight and coordination of their respective APSCs, regardless of whether the APSCs perform their services through direct contracts with the USG or subcontracts with its implementing partners.

2. Management and Coordination of Armed Private Security Contractor Operations

The JFC must have visibility over all friendly forces operating in the operational area, including USG and non-USG sponsored APSCs. While the joint force commander (JFC) can coordinate with the COM to establish common procedures for the registration of APSC personnel and the management of APSC movements, the JFC has no authority over non-USG APSCs and only limited authority over non-DOD contracted APSCs. For establishing visibility over USG-affiliated APSCs, the JFC can establish a contractors operations cell (CONOC). Described in Chapter III, “Armed Private Security Contractor Planning, Integration, and Management,” a CONOC functions as a coordinating body, which identifies and addresses operational concerns regarding movement coordination, identification procedures, and fratricide avoidance. The CONOC also can work with a civil military operations center (CMOC) to facilitate establishing visibility over non-USG APSCs activities.

3. Issues Addressing Liability for Personnel Misconduct and Incident Management

Recently introduced Federal statutes and implementing DOD policy guidance have significantly expanded the JFC's investigatory and criminal prosecution authority over misconduct by individual employees of DOD affiliated APSCs. When combined with specific contract language addressing general standards of conduct for APSC employees, the JFC has a far broader range of measures that can be employed to enforce individual behavioral standards and even penalize the contractor for individual misdeeds. As described in Chapter II, "Laws and Policies Governing Armed Private Security Contractors," these initiatives have provided JFCs with leverage to punish specified contractor misconduct. However, these statutes and policies only apply to DOD contractors. For non-DOD APSCs, the JFC must rely on the laws of the respective contracting nation and the HN to punish misconduct. At a minimum, the JFC should establish incident management and reporting procedures for the command, which under the terms of DOD contracts, apply to the APSCs.

4. Contract Enforcement and Management of Contractors

a. A commander's ability to direct or control APSC personnel is limited by the terms of the contract. At a minimum, an APSC contract will advise the contractors on the laws and regulations governing the import of their weapons into the country. It will specify the contractor's responsibilities to instructions from the chain of command (usually published in the form of fragmentary orders (FRAGORDs)), require APSC employees to understand and accept terms for carrying weapons when on- and off-duty, describe the types of weapons that can be carried, stipulate how an APSC is allowed to carry their weapons, provide guidance on the use of force, and remind contractors that MEJA and/or the UCMJ apply to specified acts of misconduct. Ideally the JFC should obtain the contracts of all the DOD-affiliated contractors in the operational area through the theater contracting organization structure. Familiarity with the terms of an APSC's contract will facilitate the management of DOD affiliated contractors by the command's KOs and CORs. For non-DOD, USG affiliated APSCs, specific information on the contract provisions can usually be obtained by coordination with the American Embassy (AMEMB), specifically the regional security officer (RSO).

b. The goal of a well-written contract and its supporting enforcement/coordination mechanism is to ensure the activities of DOD contracted APSCs are integrated in and synchronized with joint operations and there are established standards for the training and conduct of APSCs. At a minimum, when dealing with APSCs employed by non-USG entities, the JFC can seek to use the US model as a suggested standard for adoption by those third parties.

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CHAPTER II

LAWS AND POLICIES GOVERNING ARMED PRIVATE SECURITY CONTRACTORS

“Armed Private Security Contractors are first and foremost contractors who must comply with all Department of Defense requirements concerning visibility, deployment, and redeployment requirements; they must adhere to theater management procedures; and must abide by applicable laws, regulations, policies, and international agreements.”

**Report of the Special Inspector General for the Reconstruction of Iraq
August 2008**

1. Laws and Policies

A number of federal laws and implementing DOD Directives (DODD) and Instructions (DODI) provide specific guidance on the employment of contingency contractors and APSCs. (Note: Additional detail is provided in Appendix A, “Legal Framework for the Joint Force and Armed Private Security Contractors.”) While the staff judge advocate and contracting organizations have expertise in dealing with specific issues relating to the contract and the application of US federal law to individual APSC employees, the JFC and staff should have a general familiarity with the following: statutory requirements regarding the activities and conduct of APSCs; the extent of their legal jurisdiction over individual APSC’s conduct; theater-specific requirements and command responsibilities that have been established by the CCDR; and AOR-specific requirements and command responsibilities established by the CCDR and supplemented, as required, by the subordinate JFC.

2. Statutory Requirements

The following federal laws and DODD/DODI provide the JFC with guidance to plan and manage APSC contracts.

a. **FY 2008 National Defense Authorization Act (NDAA), Section 861.** The Act requires DOD, DOS, and USAID, the leading agencies that employ APSC abroad, to establish a memorandum of understanding (MOU) addressing contracting procedures and contractors in Iraq and Afghanistan. In July 2008, DOD, DOS, and USAID agreed and signed the required MOU specifying each agency’s roles and responsibilities concerning contracts in the two countries; established responsibilities, procedures, and coordination for movements of APSCs in the two countries; and agreed to a common database for contract information. DOD developed the Synchronized Pre-deployment and Operational Tracker (SPOT) and designated it as the contractor management and accountability system to provide a central source of contingency contractor information to fulfill this last requirement.

b. **FY 2008 NDAA, Section 862.** This section requires DOD and DOS to develop regulations for the “selection, training, equipping, and conduct of personnel performing

private security functions under a covered contract in an area of combat operations.” These regulations are normally incorporated as specific requirements in the APSC’s contract and include:

- (1) A process for registering, processing, accounting for, and keeping appropriate records of personnel performing APSC function in an area of combat operations.
- (2) A process for authorizing and accounting for weapons carried by personnel providing private security functions.
- (3) A process for registration and identification of armored vehicles, helicopters, and other vehicles used by APSCs.
- (4) An incident reporting procedure.
- (5) A process for independent review of incidents.
- (6) Requirements for qualification, training, and screening, including background checks.
- (7) Knowledge of the rules for the use of force (RUF).
- (8) Development of specific contract clauses to require compliance with these goals and objectives.

c. **DODI 3020.41, *Contractor Personnel Authorized to Accompany the US Armed Forces, October 3, 2005 (under revision)***. This DODI provides the overarching policy for DOD to:

- (1) Implement appropriate contractor planning, visibility, deployment, and redeployment requirements; adhere to theater management procedures; abide by applicable laws, regulations, policies, and international agreements; and use contractor support only in appropriate situations consistent with the Defense Federal Acquisition Regulation Supplement (DFARS).
- (2) Implement DODI 3020.41 in operations plans (OPLAN) and operations orders (OPORD) and coordinate any proposed contractor logistic support arrangements that may affect the OPLAN/OPORD with the affected geographic combatant commanders (GCCs).
- (3) Ensure contracts clearly and accurately specify the terms and conditions under which the contractor is to perform, describe the specific support relationship between the contractor and DOD, and contain standardized clauses to ensure efficient deployment, visibility, protection, authorized levels of health service and other support, sustainment, and redeployment of contingency contractor personnel.
- (4) Develop a security plan for protection of contingency contractor personnel in locations where there is not sufficient or legitimate civil authority and the commander

decides it is in the interests of the USG to provide security, because the contractor cannot obtain effective security services, such services are unavailable at a reasonable cost, or threat conditions necessitate security through military means.

(5) Ensure that contracts for security services shall be used cautiously in contingency operations where combat operations are ongoing or imminent. Authority and armament of contractors providing private security services will be set forth in their contracts.

(6) Maintain by-name accountability of all APSC personnel and contract capability information in a joint database. This database shall provide a central source of personnel information and a summary of services or capabilities provided by all external support and systems support contracts. This information shall be used to assist planning for the provision of force protection, medical support, personnel recovery, and other support. It should also provide planners an awareness of the nature, extent, and potential risks and capabilities associated with contracted support in the operational area. Note: In January 2007, SPOT was designated as the DOD database to serve as the central repository for all information for contractors deploying with forces and contractor capability information.

d. DODI 3020.50, *Private Security Contractors Operating in Contingency Operations*, July 22, 2009. This is the latest guidance that directly applies to APSCs employed in contingency operations outside the United States. DOD policy:

(1) Requires the selection, training, equipping, and conduct of APSC personnel including the establishment of appropriate processes to be coordinated between the DOD and DOS.

(2) Requires GCCs to provide APSC guidance and procedures tailored to the operational environment in their AOR. Specifically, they must establish the criteria for selection, training, accountability, and equipping of such APSC personnel; establish standards of conduct for APSCs and APSC personnel within their AOR; and establish individual training and qualification standards that shall meet, at a minimum, one of the Services' established standards. Additionally, through the contracting officer, ensure that APSC personnel acknowledge, through the APSC's management, their understanding and obligation to comply with the terms and conditions of their covered contracts. Furthermore, issue written authorization to the APSC identifying individual APSC personnel who are authorized to be armed. RUF, developed in accordance with Chairman of the Joint Chiefs of Staff Instruction 3121.01B shall be included with the written authorization.

(3) Recognizes that the relevant COM is responsible for developing and issuing implementing instructions for non-DOD APSCs and their personnel consistent with the standards set forth by the GCC. The COM has the option to instruct non-DOD APSCs and their personnel to follow the guidance and procedures developed by the GCC and/or subordinate JFC. Note: Interagency coordination for investigation, administrative penalties, or removal from the theater of non-DOD affiliated APSCs for failure to fulfill their contract requirements may be included in these instructions.

(4) Additionally, DODI 3020.50 requires GCCs to develop and issue implementing procedures for the selection, training, accountability, and equipping of such APSC personnel and the conduct of APSCs and APSC personnel within their AOR. In consultation with the COM in designated areas of combat operations, these requirements also are shaped by considerations for the situation, operation, and environment.

3. Legal Jurisdiction over Armed Private Security Contractors

There are four ways that an individual contractor can be prosecuted for misconduct:

a. Where the HN has a functioning legal infrastructure in place and in the absence of a SOFA that includes protections for DOD affiliated APSCs, the civil and criminal laws of the HN take precedence. If the HN waives jurisdiction, then US laws regarding criminal/civil liability will have precedence.

b. With the passage of Section 552, “Clarification of Application of Uniform Code of Military Justice During a Time of War,” of the John Warner National Defense Authorization Act (NDAA) for Fiscal Year 2007, commanders are authorized court martial jurisdiction over certain offenses committed outside of the Continental United States by contractors employed by or accompanying US forces in a declared war or contingency operation.

c. If an APSC employee has not been prosecuted under the HN’s legal system or under the Uniform Code of Military Justice (UCMJ), that person, after being brought to the US, can be tried in US Federal Court under the “Military Extraterritorial Jurisdiction Act” (MEJA), 18 United States Code, Section 3261. MEJA allows a JFC to bring criminal charges against US contractors working for DOD or in support of a DOD mission; however, it only applies to felonies - offenses punishable by at least one year in prison.

d. Certain US federal statutes have extraterritorial application regardless of the application of MEJA or the UCMJ. For example, certain acts of war profiteering, torture, certain false statements by a US citizen, theft of federal property by US citizens abroad, and certain fraud, human trafficking, counterfeiting, and forgery offenses can subject the alleged offender to the jurisdiction of the US courts regardless of the seriousness of the offense.

4. Combatant Commander Responsibilities

a. CCDRs have responsibility for geographic areas or specific worldwide functions. While DOD has published DODIs and DODDs establishing general requirements, the CCDRs must tailor their implementing regulations, orders, directives, and instructions to fit their unique requirements for contingency operations and the employment of APSCs.

b. CCDR Responsibilities

(1) **Registering and Accounting for Personnel.** When the CCDR considers using APSCs, there is a requirement to register and account for personnel assigned to the various contracts implemented within the AOR. The current SPOT system allows the command to register and track personnel as they in-process through a centrally controlled

deployment center, and issue documentation that will establish that individual's status and authorize government support for each individual associated with the GCC's forces in a theater. SPOT provides a web-based database tool to track all types of contractor personnel and contractor expertise and capabilities within a theater. This system also tracks contractor operated armored vehicles, helicopters, and other vehicles. Contracting officers (KOs) must keep track of, and account for, contractor personnel while deployed in support of the force.

(2) **Verifying Eligibility and Granting Permission to Arm Contractors.** When there is a requirement to arm contractor personnel, a review by the staff judge advocate (SJA) ensures the agreement follows US and HN law and DOD policies. At a minimum contractors will be required to be trained on specifically authorized weapons to Service established standards before they are granted authorization to carry weapons. Contractor weapons training will include the command's established procedures for reporting of suspected incidents.

(3) **Establishing RUF.** Established at the combatant command level, RUF require a certain amount of restraint. As a result, APSC personnel must be thoroughly familiar with the application of RUF in various scenarios. RUF need to be developed and implemented in the contract and are usually modified as the situation changes. The JFC, through the KOs, will certify that APSCs are following the RUF. Figure II-1 is an example of USCENTCOM RUF for APSCs in Iraq.

SAMPLE OF USCENTCOM RULES FOR THE USE OF FORCE	
<p>USCENTCOM RULES FOR THE USE OF FORCE BY CONTRACTED <u>SECURITY IN IRAQ</u></p> <p>NOTHING IN THESE RULES LIMITS YOUR INHERENT RIGHT TO TAKE ACTION NECESSARY TO DEFEND YOURSELF</p> <p>1. CONTRACTORS: Are noncombatants, you may not engage in offensive operations with Coalition Forces. You always retain your ability to exercise self defense against hostile acts or demonstrated hostile intent.</p> <p>2. CONTRACTED SECURITY FORCES: Cooperate with Coalition and Iraqi Police/Security Forces and comply with theater force protection policies. Do not avoid or run Coalition or Iraqi Police/Security Force checkpoints. If authorized to carry weapons, do not aim them at Coalition or Iraqi Police/Security Forces.</p> <p>3. USE OF DEADLY FORCE: Deadly force is that force, which one reasonably believes will cause death or serious bodily harm. You may use NECESSARY FORCE, up to and including deadly force against persons in the following circumstances:</p> <p>a. In self defense, b. In defense of facilities and persons as specified in your contract, c. To prevent life threatening offenses against civilians, d. In defense of Coalition-approved property specified in your contract</p> <p>4. GRADUATED FORCE: You will use the reasonable amount of force necessary. The following are some techniques you can use, if their use will not unnecessarily endanger you or others.</p> <p>a. SHOUT: verbal warnings to HALT in native language b. SHOW: your weapon and demonstrate intent to use it c. SHOOT: to remove threat only when necessary</p>	<p>USCENTCOM RULES FOR THE USE OF FORCE BY CONTRACTED <u>SECURITY IN IRAQ</u></p> <p>NOTHING IN THESE RULES LIMITS YOUR INHERENT RIGHT TO TAKE ACTION NECESSARY TO DEFEND YOURSELF</p> <p>5. IF YOU MUST FIRE YOUR WEAPON:</p> <p>a. Fire only aimed shots, b. Fire with due regard for the safety of innocent bystanders, c. <u>Immediately report the incident</u> and request assistance.</p> <p>6. CIVILIANS: Treat Civilians with Dignity and Respect</p> <p>a. Make every effort to avoid civilian casualties, b. You may stop, detain, search, and disarm civilian persons if required for your safety or if specified in your contract, c. Civilians will be treated humanely, d. Detained civilians will be turned over the Iraqi Police/Security or Coalition Forces as soon as possible.</p> <p>7. WEAPONS POSSESSION AND USE: Possession and use of weapons must be authorized by USCENTCOM and must be specified in your contract.</p> <p>a. You must carry proof of weapons authorization, b. You will maintain a current weapons training record, c. You may possess and use only those weapons and ammunition for which you are qualified and approved, d. You may not join Coalition Forces in combat operations, e. You must follow Coalition weapons condition rules for loading and cleaning.</p>

Figure II-1. Sample of USCENTCOM Rules for the Use of Force.

(4) **ROE and RUF** should not be used interchangeably. Generally, ROE refers to rules of force during military combat operations while RUF usually refers to the use of force required while conducting security or noncombat operations.

(a) ROE is the authority to use up to lethal force to engage an enemy of the State, and the source of authority is a State's inherent right to defend itself and provide national security. For the US military, ROE must be approved by the chain of command, commencing with the President and Secretary of Defense. Subordinate commanders may further limit the rules, but may not expand them, and in no case can the rules deprive military personnel of their inherent right of self defense.

(b) RUF is the term applied to personnel who are authorized to use force to accomplish their mission to enforce laws, maintain peace and security, and protect the civilian population. The source of this authority is the duty of the State to protect its citizens.

(c) ROE apply only to military operations under proper orders from the SecDef through the chain of command. RUF apply to security type operations; therefore, if the APSC is performing law enforcement operations, then the RUF would apply. Under a typical RUF the right of self-defense is inherent and may be resorted to for protection from a hostile act or the display of a hostile intent indicating an imminent attack. Additionally, absent a hostile act or intent, the right of self-defense does not authorize the use of force to protect government property, and the assistance of security forces should be sought. Furthermore, the use of force must be proportional to the threat in intensity, duration, and magnitude based on facts known, with due care for third parties in the vicinity.

(d) Contractors may be used for a variety of missions, many of which do not involve the likely use of force to accomplish a mission but are nonetheless high risk. These activities include supporting field operations, conducting surveillance programs, providing police training and mentoring, and providing corrections/border patrol training. In high risk situations, these contractor personnel may be authorized to carry arms for self-defense.

(e) Contractors should not be asked or offer to assume inherently military missions just because they may be armed or because they have particular knowledge or skills outside those called for in the scope of their contracts, as it is not a proper delegation of such duties. For example, a security team with the mission to protect a contractor, should not ask the contractor to lead a convoy or man one of the weapons other than for the purpose of self-defense.

5. Area-specific Requirements

a. In contingency operations, JFCs are responsible for ensuring, through contract management teams, that contractors comply with orders, directives, and instructions issued by the CCCR and the JFC especially those relating to force protection, security, health, safety, and relations and interaction with local nationals. In circumstances where DOD contractor personnel are authorized to be armed, commanders and contracting

officials are responsible for ensuring they comply with specific CCDR and subordinate JFC guidance for the operational area, including ROE and RUF, use of weapons in self-defense, and local license requirements. Additional information is included in Appendix B, “Armed Private Security Contract Compliance with Joint Force Commander and Host Nation Requirements.”

b. While most AOR-specific contract requirements will have been identified early in the planning process for inclusion in the base contract, the contract also should provide a vehicle for updating/modifying requirements as the situation dictates. The JFC should coordinate procedures with the respective KOs to develop and promulgate these changes to the affected contractors. For example in the USCENTCOM AOR, the command uses FRAGORDs to effect changes. As discussed in the following chapter, JFCs should ensure promulgation of appropriate requirements for arming contract security personnel and investigate use of force incidents.

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CHAPTER III

ARMED PRIVATE SECURITY CONTRACTOR PLANNING, INTEGRATION, AND MANAGEMENT

SECTION A. PLANNING FOR THE EMPLOYMENT OF ARMED PRIVATE SECURITY CONTRACTORS

1. Overview and Context

a. The 2008 Congressional Research Service (CRS) Report to Congress, *Private Security Contractors in Iraq: Background, Legal Status, and Other Issues*, 25 August 2008, identified the following key issues and concerns influencing APSC planning, integration, and management:

(1) The United States is relying heavily on private firms to supply a wide variety of services...including security. From publicly available information, this is apparently the first time that the United States has depended so extensively on contractors to provide security in a hostile environment.

(2) Private contractors contribute an essential service to US and international efforts to bring peace. Nonetheless, the use of armed contractors raises several concerns, including transparency and accountability.

(3) The lack of public information on the terms of the contracts, including their costs and the standards governing hiring and performance, make evaluating their efficiency difficult. The apparent lack of a practical means to hold contractors accountable under US law for abuses and other transgressions, and the possibility that they could be prosecuted by foreign courts, is also a source of concern.

b. This CRS report further explains that questions often arise when a federal agency hires private persons to perform “inherently governmental functions,” which Congress in 1998 defined as “so intimately related to the public interest as to require the performance by Federal government employees (FAIR Act of 1998). DOD implementation of DFARS does not prohibit the use of contractors for security, but limits the extent to which contract personnel may be hired to guard military institutions and provide personnel and convoy security. DOD subsequently clarified and amended DFARS to authorize APSCs to use deadly force “only when necessary to execute their security mission to protect assets / persons, consistent with the mission statement contained in their contract.” This rule establishes that:

“It is the responsibility of the combatant commander to ensure that the private security contract mission statements do not authorize the performance of any inherently Governmental military functions, such as preemptive attacks, or any other types of attacks. Otherwise, civilians who accompany the US Armed Forces lose their law of war protections from direct attack if and for such time as they take a direct part in hostilities.”

c. Acknowledging, “without private contractors, the US military would not have sufficient capabilities to carry out operations,” the CRS Report recognizes “potential

downsides to (this) force multiplier argument.” Citing important concerns, it questions whether the use of private security contractors may adversely affect:

(1) Military force structure suggesting that a competing private sector could deplete the military of highly trained security personnel.

(2) US military missions when APSCs disregard the sensitivities of and consequences for the people of the HN.

(3) Military flexibility as commanders do not exercise command and control of APSCs.

(4) Reliability and quality of APSCs as the demand for security services increases.

d. The following considerations are integral to the basic relationship between the commander and the APSCs, and provide general guidance when drafting the overall terms of a contract:

(1) APSCs are required to perform all tasks identified within the performance work statements and all provisions defined in the contract. As contractors, APSCs must be prepared to perform all tasks stipulated in the contract and comply with all applicable US and/or international laws.

(2) APSC employees may be subject to court-martial jurisdiction in time of war or while participating in a contingency operation.

(3) Even though APSCs are armed, when deployed, the JFC has a continuing obligation to provide or make available force protection and support services commensurate with those authorized by law.

(4) APSCs accompanying the US Armed Forces may be subject to hostile actions. If captured, an APSC’s status will depend upon the APSC’s precise activity at the time of capture, the applicability of the Geneva Convention Relative to the Treatment of Prisoners of War (GC III), the Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC IV), the type of conflict, applicability of other bodies of international law and any relevant international agreements, and the nature of the hostile force (state-based armed force, irregular force, paramilitary force, terrorist group, etc.).

2. Planning for the Employment of Armed Private Security Contractors

a. For each APSC mission area, effective planning and integration significantly improves the potential to successfully manage and implement APSC operations. APSCs typically support four mission areas:

(1) Static security to protect military bases, housing areas, reconstruction work sites, etc.

- (2) Personal security and protection.
- (3) Convoy security.
- (4) Security for internment operations.

b. It is worth noting that the fourth mission area is a relatively recent and expanding role for APSCs. These contracts for custodial security, support for detention operations, riot control, and related missions, significantly impact associated APSC performance work statements and RUF.

c. Qualified and well-trained CORs and KOs need to be involved from the beginning of the JFC planning processes to identify the requirements for APSC support. Involvement of the joint force SJA or legal counsel is crucial and fundamental to effective planning for APSC support. Early participation in JFC mission analysis yields a clearer understanding of contract requirements and more efficient allocation of JFC and APSC personnel and resources.

d. In accordance with DODI 3020.50, CORs need to be identified for US government private security contractors operating in a designated area of combat operations. This DODI prescribes the selection, accountability, training, equipping, and conduct of personnel performing private security functions under a covered contract in a designated area of combat operations for both DOD and DOS APSCs. It also prescribes incident reporting, use of and accountability for equipment, RUF, and a process for the discipline or removal, as appropriate, of USG private security contractor personnel. The DODI responds to requirements of section 862 of the FY 2008 NDAA.

3. Establishing Planning Requirements for Armed Private Security Contractor Support

a. The CCDR provides specific guidance on arming contractor personnel and private security contractors in the AOR through DOD and theater-specific policies, FRAGORDS, and other authoritative guidance.

b. During the mission analysis, the following general conditions and requirements regarding contracts and contractor personnel should be considered:

(1) Private security contractor personnel are not authorized to participate in offensive operations and must comply with specific RUF. Under these RUF, private security contractor personnel are authorized to use deadly force only when necessary in: self-defense, defense of facilities/persons as specified in their contract; prevention of life-threatening acts directed against civilians; or defense of JFC-approved property specified within their contract. The JFC will issue, to approved private security contractor personnel, a weapons card authorizing them to carry a weapon. This weapons card also contains the guidance for the RUF and the contractor personnel's signature acknowledging the difference between the RUF and ROE.

(2) Private security contractor personnel must be properly licensed to carry arms in accordance with HN law and must receive JFC approval of their operations.

(3) In addition to properly authorized Status of Forces Agreements (SOFAs), the status of Stationing Agreements (SA) can be discussed between the United States and a HN. A stationing agreement can establish joint committees to review existing APSC policies and to develop new policies and procedures. Committee members include representatives from the HN Ministry of Interior and the AMEMB. These committees can discuss and implement the following:

- (a) Licensing of contractors.
- (b) Registration of firearms and personal security weaponry.
- (c) Vehicle registration.
- (d) Licensing of pilots and aircraft related to personnel and security operations.
- (e) Customs, duties, tariffs, taxation and inspections.
- (f) Entry, exit procedures and use of DOD assets to transport members of the US Forces, DOD civilian component, US contractors, AMEMB personnel, and other members of the Coalition.
- (g) DOD contractor personnel armed by DOD authorities must report any use of force, including the firing of a weapon. This requirement and the required information to be submitted, or references imposing the specific requirements, are identified within the terms of the contract.

Note: By incorporating these requirements in the contract's basic provisions (or subsequent amplifying directives), the JFC can minimize the opportunities for problems related to contractor performance and/or misconduct.

c. APSC requirements also shape specific measures of performance and resulting performance work statements (PWS) to include the duration of support, and the USG's requirements to provide subsistence and care for APSCs. Ultimately, the result of this process yields an actual cost-benefit analysis of proposed APSC support, which serves to appropriately scope and determine the worth of APSC costs/effort to continue with the contract.

d. Contracting for APSC support incurs higher-than-average levels of risk given the potentially profound consequences of their actions. Other considerations include: the appearance or perception of APSCs as mercenaries; RUF and the escalation of force issues; back-up plans for corrective action should a contractor default; questions of human trafficking; and how to synchronize, integrate, essential services, and manage the APSCs (as described in JP 4-10, *Operational Contract Support*, Chapter IV).

e. During mission analysis, establishment of a working group is recommended to consider the employment of APSCs. This working group should include the following joint force staff representatives or members:

- (1) J-1, Personnel Directorate;
- (2) J-2, Intelligence Directorate;
- (3) J-3, Operations Directorate;
- (4) J-4, Logistics Directorate;
- (5) J-5, Plans and Policy Directorate;
- (6) J-6, Command, Control, and Communications Directorate;
- (7) SJA;
- (8) Provost Marshal Office (PMO);
- (9) Civil Affairs (CA);
- (10) PA;
- (11) Security Manager;
- (12) Staff Surgeon;
- (13) Applicable contracting authorities; and
- (14) Resource Manager or Comptroller.

f. With known contract support requirements and the subsequent development of each PWS, the contract planning process needs to recognize and define evolving requirements that may affect a contractor's PWS along with the procedures to award the contract and supervise its execution.

Note: Planning considerations for APSC support explained in JP 4-10 includes the development of the contract support integration plan (CSIP).

4. Contract Support Integration Plan

a. In all operations where there will be a significant use of contracted support, the supported GCCs and their subordinate commanders and staffs must ensure that this support is properly addressed in the appropriate OPLAN/OPORD. Accordingly, a CSIP is developed by the logistics staff contracting personnel, assisted by the lead Service (if a lead Service is designated). Additionally, each Service component should publish its own CSIP seeking integration and unity of effort within the supported GCC's CSIP. The CSIP defines key contract support integration capabilities to include command and control (C2) relationships, cross functional staff organization (e.g., board, center, cell) requirements, theater business clearance policies, etc., necessary to execute subordinate JFC contract support integration requirements. Using the guidance provided in the CSIP, requiring

activities have the basis for defining, vetting and prioritizing joint force requirements, to include the need for APSC support.

b. Normally, the CSIP is developed by the J-4 contracting personnel, but this effort may be assisted by the lead Service (if a lead Service is designated). Additionally, each Service component should publish its own CSIP seeking integration and unity of effort within the supported GCC's CSIP. Close coordination with J-3, J-5, CA, financial management, and legal support is essential to the development of the CSIP. JP 4-10 provides a detailed discussion of the CSIP development process and a contracting support planning checklist can be found in its Appendix E.

5. Contractor Management Plan

a. While the CSIP is focused on how we will acquire and manage contracted support, contractor management planning is focused on the government obligations under the terms and conditions of the contract to provide support (e.g., accountability, force protection, government furnished equipment (GFE)) to contractor personnel. This includes developing policies and procedures required to ensure proper integration of contractor personnel into the military operations.

b. IAW DOD policy, the supported GCC and subordinate JFC must identify operation specific contractor management policies and requirements for inclusion in the OPLAN/OPORD. These requirements include, but are not limited to:

(1) Compliance with operationally specific contracting polices to include Service, multinational, and HN requirements and guidance;

(2) Contractor-related deployment, theater reception, accountability, and strength reporting;

(3) Operations security plans and restrictions, force protection, and personnel recovery;

(4) Contractor personnel services support;

(5) Medical support; and

(6) Redeployment requirements.

c. For each operation, the GCC should publish a contractor management plan (CMP). The CMP identifies the theater's specific contractor personnel and equipment requirements for the JFC(s), Service components, joint theater support contracting command (if established), special operations forces, and Defense Logistics Agency to incorporate into applicable contracts as required. Supporting the GCC's CMP, the JFC(s) and Service components should prepare CMPs that provide added, specific details.

d. While the subordinate JFC-level CSIP is coordinated and written by the J-4 or designated lead Service contracting staff, there is no single primary or special staff officer responsible to lead the contractor management planning effort. By its very nature, contractor management integration-related planning responsibilities cross all primary and special staff functional lanes. To address this situation, the JFC should consider establishing a contractor management integration working group to ensure the various contractor management challenges are addressed and synchronized across all primary and special staff lines.

6. Development of the Armed Private Security Support Contract

a. The culmination of the requirements process leads to the development of the terms of the contract. While each AOR will develop a contract tailored to their particular circumstances, the tasks will generally include supplementing internal operations at entry control points, manning perimeter towers, securing selected facilities, providing convoy security, providing personal protection for select individuals, providing armed escorts for local national laborers, maintaining a liaison cell at selected headquarters sites, and any other internal security services as determined by the command. It will always contain a specific prohibition against engaging in offensive operations. A current example of an APSC contract is USCENTCOM's "Theater Wide Internal Security Services" (TWISS).

b. The USCENTCOM TWISS contains detailed requirements for the training and qualifications of APSC individual employees. For example, it specifies that:

(1) The security contract companies will be expected to supply guards, explosive ordnance detection dog handlers (and working dogs), screeners, interpreters, supervisors, medical officer, and other managerial personnel.

(2) The security guards must be at least 21 years old and speak English well enough to give and receive situational reports. They may be expatriates or local nationals. They must be qualified on 9mm, 5.56 and 7.62 caliber weapons, and be able to fulfill work-weeks of not more than 72 hours.

(3) Employees will be expected to fully understand the differences between the law of war (a.k.a, law of armed conflict (LOAC)), RUF, and ROE.

(4) Contractors will obtain a signed written acknowledgement from each of their employees authorized to bear weapons that they have been briefed on the law of war, RUF, and the differences between ROE and RUF. The TWISS also makes it clear that RUF controls the use of weapons by contractors employed the USG and that the contractor may NOT use ROE at any time for use of force decisions.

c. The TWISS is a very detailed document that covers all aspects of the APSC's relationships with the USG. The terms of the TWISS are used by the KO and the COR when determining the contractor's compliance with the terms of the contract – non-

compliance usually results in a range of penalties. Example of the TWISS's contract language can be found in Appendix E, "Standard Contract Clauses that Apply to Armed Private Security Contractors."

7. Department of Defense Operational Contract Support Enablers

a. The NDAAs of 2007 and 2008, mandated that DOD develop joint policies addressing the definition of contract requirements and establishing coherent contingency management programs. Implementing actions by DOD included establishing the Joint Contingency Acquisition Support Office (JCASO), and co-locating fourteen joint operational contract support planner (JOCSP) positions with select combatant commands to improve operational contract support. The JCASO and JOCSP could also be leveraged to assist in planning, integrating, and managing APSCs. These enablers should be utilized by JFCs and joint force staff planners early, often, and throughout the planning process.

b. JCASO

(1) The JCASO, assigned to the Defense Logistics Agency, facilitates orchestrating, synchronizing, and integrating program management of contingency acquisition support across combatant commands and USG agencies, during combat, post-conflict, and contingency operations. Once the JCASO attains full operational capability at the end of FY 2010, its deployable teams can augment a CCDR's staff to assist in providing oversight and program management at the operational-level over the array of contracts and contractors throughout the AOR.

(2) The deployable teams are multifunctional with expertise in engineering, logistics planning, contracting, and acquisition. The forward team will have reachback to other JCASO team members at Fort Belvoir, VA, for legal, financial, and other support capabilities; including a liaison to interagency partners to assist with the whole-of-government approach to shaping and managing a contingency operation.

c. **JOCSPs** are assigned to the geographic combatant commands, USSOCOM and USJFCOM. The JOCSPs assist CCDR and their staffs in identifying the requirements for contractor services, as well as the performance standards. The requirements will incorporate DOD and the CCDR's policies and standards regarding contractor performance and the provision of life support and other services for military personnel and contractor personnel in forward areas. The JOCSPs work with operations, logistics, and contracting planners to develop contracting support annexes and contractor management annexes.

SECTION B. OPERATIONAL INTEGRATION OF ARMED PRIVATE SECURITY CONTRACTORS

8. General

a. The CSIP prepared for APSC support is designed to enable the supported GCC and subordinate JFCs to properly synchronize and coordinate all the different contracting

support actions planned for and executed in an operational area. While joint doctrine and DOD guidance for the employment of contractors and specifically armed contractors contains detailed guidance on the employment of contractors, in the absence of governing federal law, the language of the contract rules. Commanders do not command contractors, nor can they direct actions outside the work stipulated in the contract itself.

b. Factored into planning and integration for APSC support is the DOD-wide use of SPOT. Combatant commands are continuing to transition from manual accounting of contractor personnel to a this web-based, database tool to track contractor personnel and contractor capability in theater. SPOT has a number of features that facilitate individual contractor management. For example, USCENTCOM is using SPOT to generate Letters of Authorization that are required for contractors receiving government furnished support in the AOR. Additionally, SPOT allows for the scanning of identification cards to track the movements of contractor personnel and equipment through key life-support and movement nodes.

9. Armed Private Security Contractor Integration Initiatives Developed by United States Central Command

a. The following organizations, systems, and mechanisms are initiatives that have supported the command in its employment of APSC's in Iraq and Afghanistan. These mechanisms serve as a model to assist JFCs in planning for and managing APSC activities:

(1) Joint Contractor Coordination Board (JCCB)

(a) A JCCB can be established by a JFC and convened on an as needed basis to review and coordinate policies and contracting actions within the operational area to include APSC issues. The JCCB reviews contract requirements and makes recommendations on which specific contracting organizations/contract venues are best suited to fulfill the requirements.

(b) Potentially, JCCB membership would include the JFC, the joint force staff directorates, MSCs (as required), senior KO, SJA, PMO, and involved USG authorities from the COM and a representative from the CMOC.

(2) Armed Contractor Oversight Division (ACOD)

(a) In order to maintain oversight and visibility over APSC operations, the JCCB can establish an ACOD or armed contractor oversight branch (ACOB). The ACOD, normally chaired by the J-3 or designee, is designed to establish a link between the military and the various APSCs in the operational area. The ACOD can also be employed as the central office for policy, oversight, and military support for APSC related issues. In addition to publishing guidance, the ACOD is responsible for reviewing and tracking all reported APSC incidents as well as facilitating coordination on PSC matters among DOD, DOS, the GoI, and the APSC community.

(b) ACOD tasks include:

1. Process, log, disseminate and monitor APSC activity.
2. Assist military staff in conducting inspections of APSC documentation of training and incident reporting.
3. Coordinate with the brigade support battalions (BSB) and the joint operations center (JOC) to ensure that all reportable incidents involving APSCs are reported.
4. Track the status of all ongoing investigations involving APSC weapons discharges.
5. In coordination with the USCENTCOM: maintain regular contact with HN Ministry of Interior (MOI) or the equivalent representative to identify issues concerning DOD contracted APSC's actions, incidents and procedures; work with MOI counterpart in investigations concerning APSC escalation of force (EOF) incidents; and perform duties as liaison officer with HN government entities.
6. Possess a good understanding of HN government law and the legal system.
7. Accumulate data as reported from various sources and performs analysis to identify trends concerning APSC activities and incidents.
8. Develop and support HN administrative requirements such as rosters, POC phone lists, contract POC lists, etc.

(3) **Contractors Operations Cell (CONOC)**. A USCENTCOM initiative for the day-to-day management of contractor movements is the CONOC, which allows the JFC to establish a central point of contact to gain awareness of, track, and coordinate the day-to-day movements of APSCs. To reduce the potential for fratricide, the CONOC was developed to coordinate the movement of the large numbers of APSCs frequently moving in the uncertain or hostile operational environment of Iraq. CONOC deconfliction permits both the joint force and APSCs to accomplish their tasks within a reasonable time, increase their safety in a hostile environment and reduce the potential for fratricide. It also serves as a central point of coordination with the AMEMB and its USG APSCs. While non-DOD APSC participation in the coordination of convoy movements is not mandatory, they can benefit in conforming to JFC movement request requirements to acquire access to intelligence about the area, deconflict with military operations, and if needed, receive medical evacuation (MEDEVAC) or quick reaction force (QRF) support. For details, see Appendix C, "United States Central Command Contractor Operations Cell Coordination Procedures."

(4) **Joint Contracting Command for Iraq and Afghanistan (JCC-I/A)**. Finally, USCENTCOM established a JCC-I/A to facilitate theater oversight of its theater-support contracts. This command provides a central management office for clearing all contracts and task orders for those two countries. An advantage is the faster response time to

support operational contracting needs by the units. This command approves PWS terms and conditions for supplies and services in either country. By this system, trained personnel handle the contracts to ensure that they contain required clauses, are consistent with the priorities and operations of the in-country JFC's plans, and contracted work has been completed prior to delivery.

10. Assessing and Balancing Risk to Forces Support

a. Another major challenge in planning for and integrating APSC support is balancing the risk to required support and the potential impact on the civil-military aspects of the supported commander's objectives. In many cases, hiring local companies and local personnel to provide security services will provide substantial economic benefit to the populace and further the goals of the civil-military aspects of the joint operation. However, this option is not without risks.

b. Transitioning to local vendor support can be accomplished by moving the requirements of a Civil Augmentation Program (CAP) task order to a theater support contract or by setting subcontracting goals within a CAP task order to move from a TCN and/or expatriate work force to a local national work force. In either case, both the increased security risks and contract management requirements must be closely analyzed prior to making any formal decisions. When contemplating transferring an APSC contract to local sources, the lead Service or joint theater support contracting command must work closely with the supported GCC, the subordinate JFC, and the Services to assess these risks and make determinations on which APSC actions can be effectively and safely transferred to local sources and which ones cannot.

11. Balancing Contracting Best Business Practices with Operational Needs

a. The JFC planners must work closely with the lead Service or joint theater support contracting command personnel to balance acceptable contracting business practices and operational needs. In some cases, a tradeoff process may be appropriate when it may be in the best interests of the USG to award to other than the lowest priced offer or other than the highest technically rated offer or in order to achieve best value for the government considering other factors such as overall civil-military strategic objectives, schedule, and performance. Examples of such contracting actions include:

(1) Awarding to a vendor based on civil-military considerations (i.e., the company is owned by or substantially employs local nationals) versus lowest cost.

(2) Developing a PWS that may require the use of manual labor, in lieu of mechanized equipment, in order to employ more local nationals even though this may drive the cost up and increase the delivery schedule.

(3) Awarding a contract to a local national vendor versus a lower costing foreign vendor in order to maintain a viable local vendor base.

SECTION C. MANAGEMENT OF ARMED PRIVATE SECURITY CONTRACTORS

12. Overview

a. Contractor management planning is related to, but not the same as, contracting support integration planning. While the CSIP is focused on how we will acquire and manage contracted support, contractor management planning and the CMP are focused on the government obligations under the terms and conditions of the contract to provide support (e.g., accountability, FP, GFE) to contractor personnel. This includes developing policies and procedures required to ensure proper integration of contractor personnel into the military operations.

b. The JFC-level CSIP is typically coordinated and written by the J-4 or designated lead Service contracting staff for the CMP. There is no single primary or special staff officer responsible to lead the contractor management planning effort. By its very nature, contractor management integration-related planning responsibilities cross all primary and special staff functional lanes. To address this situation, the JFC should consider establishing a contractor management integration working group with a designated office of primary responsibility, to ensure the various contractor management challenges are addressed and synchronized across all primary and special staff lines.

c. The JFC's lead Service contracting staff, responsible for contracting and/or joint theater support contracting command personnel, acts as advisors to the subordinate JFC and/or working group on how the contracting process affects in-theater contractor personnel management. The lead Service contracting staff should not be designated as the lead for contractor management planning or execution oversight since their role is to assist the appropriate GCC and subordinate JFC staff section as necessary to ensure that the overall contract support effort is properly integrated with the contractor management planning effort.

13. Primary Responsibilities for Providing Military Management and Oversight

a. KOs and CORs

(1) The military system of KOs and CORs has specially designated government personnel vested with responsibility and authority to monitor contract compliance. The primary responsibility for supervising the day to day compliance with the contract rests with the KO and COR. Only the KO is able to approve contract modifications and accept a completion of requirements. This makes the KO and their representatives the main legally invested interface with the companies, which provide APSC services. JFC personnel should coordinate all input and comments regarding the performance of contractors with the KO and COR. Only the KO and COR are authorized to officially review and comment on such performance (e.g., any inclination to praise performance of a contractor should be forwarded to the KO to ensure that successful performance in one area is not used by the government as a defense against poor performance in another area).

(2) CORs are critical for oversight. They provide day-to-day oversight of the contractors' performance and compliance with contract requirements. They are "the eyes and ears of the contracting officer". They have significant responsibilities. They must monitor the contractor's performance and compliance with contractual requirements, including compliance with all applicable laws, regulations, orders, and directives. Furthermore, the COR is responsible for validating invoices for payment submitted by the contractor. In USCENTCOM, the TWISS CORs are also responsible for ensuring that APSCs adhere to arming requirements, personnel reporting systems, serious incident reporting systems, badging (identification tasks), and compliance with the command's FRAGORDs.

(3) In some cases, the KO and COR have responsibility for a large number of contracts and may not be located in the country where the contracts or grants are being performed. If they are not co-located with the APSC, the COR may encounter significant difficulty providing sufficient monitoring and oversight of execution of the contract's performance measures.

(4) Standard DOD contract language requires the APSC to provide the following office records/reports:

(a) **Daily Reports.** The contractor should provide a daily report to the COR on any ongoing issues with regard to personnel, APSC incidents, or other items that affect the contractor's ability to perform its mission.

(b) **Monthly Report.** The contractor should provide summary reports that meet criteria specified in each contract, i.e., for the discharge of weapons, detention of individuals, convoys attacked.

(c) **Monthly Invoice.** The contractor submit an invoice (DD 250) to the COR, at the same time as the monthly report, to be processed for payment.

(5) Finally, an appropriately trained, authorized (by warrant) and experienced COR appointed in accordance with joint contracting command guidelines shall hold a grade commensurate with the contract's oversight responsibilities. Ideally, the contract oversight function should be the COR's primary duty; however, the reality is that COR duties are normally considered as additional duties. The COR will normally:

(a) Review and approve contractor requisitions and expenditures in order to stay within the annual budget.

(b) Submit funding request, as required, to joint force finance office to maintain the contractors and their system(s), if used.

(c) Coordinate with other CORs and the JFC to provide reports on contractor performance to contract specialist representative responsible for the contract/task order at the JCCB.

b. Joint Force Staff Responsibilities For Contract Management and Oversight

(1) In addition to contributing to the planning of APSCs, the joint force staff actively participates in the management of the supporting APSCs. Additional detail on staff responsibilities is contained in Appendix D, “Common Military Staff Tasks When Employing Armed Private Security Contractors.” The following joint force staff sections have specific responsibilities in dealing with APSCs supporting a joint force:

(a) The J-1 coordinates personnel accountability and casualty reporting processes and therefore, requires timely, complete, and accurate information on the disposition and status of APSCs to fulfill contractual obligations.

(b) The J-2 coordinates intelligence support, including warning of enemy activity along the route, for contractor movements in coordination with US or multinational forces. Requests for support will be submitted and processed through normal channels.

(c) The J-3 is normally responsible for the overall coordination and deconfliction of daily operations involving APSCs. While this is normally a movement control issue worked through the respective movement control centers, the J-3 must maintain visibility over APSC activities to minimize the risk of fratricide and provide armed support to APSC convoys under attack. The J-3 should also ensure that end-of-mission spot reports and post-mission information for each APSC-escorted convoy are filed with the JFC CONOC – this is normally required in the contract or FRAGORD governing convoy movements.

(d) The J-4 coordinates APSC support for logistic and convoy movements in the operational area. To support combatant command and JFC management of APSCs, the J-4 monitors current and evolving theater logistic capabilities and advises the JFC/J-3 of the supportability of proposed operations or courses of action.

(e) The J-5 coordinates the preparation JFC plans that require APSC support.

(f) The J-6 will coordinate with operations centers for integration of required communications support between the APSCs and the operations centers.

(g) The SJA is an essential participant in APSC management. The SJA plays a key role in developing and updating the command’s RUF training packages that are used to orient APSC personnel and for providing advice to the operations center during incident investigations.

(h) The PMO can assist the contracting officer in conducting inspections of APSC operations and recommending modifications to the employment of APSCs.

(i) Representatives from the CA, PA, security management, and medical support offices need, at a minimum, adequate situational awareness, contact information, and capabilities to satisfy contractual requirements for APSC support. CA and PA have

specific responsibilities with regard to the management of APSCs and occasional response to repercussions of serious incidents. For instance, should an APSC mistakenly injure a civilian, the PA office has the media lead for the command. The security manager needs to address clearances/access for APSCs and the staff surgeon conducts planning for required medical support for treatment of APSCs.

(j) The contracting staff/office provides the requisite contracting expertise and contracting authorities to coordinate contracting support requirements among Service components to procure supplies or services to obtain effective utilization and advantageous prices through consolidation of joint force requirements and to preclude inter-Service competition. Only contracting officers can enter into negotiations with the APSC and make subsequent modification to the terms.

(k) The resource manager or comptroller advises the JFC and staff on the funding sources and guidance on the appropriate use of funds, to include APSC operations.

c. Defense Contract Management Agency (DCMA)

(1) The DCMA is the combat support agency responsible for ensuring major DOD acquisition programs (systems, supplies, and services) are delivered on time, within projected cost or price, and meet performance requirements. In contingency operations DCMA provides contingency contract administration services (CCAS) to LOGCAP when CCAS is delegated by the principle KO. Because of numerous APSC incidents negatively impacting US operations in Iraq and Afghanistan, DCMA was called upon to improve APSC CCAS efforts. This resulted in the following initiatives:

(a) Incorporation of “trafficking in persons” instructions into FRAGORDs and contract-specific training requirements.

(b) Establishment of quality assurance surveillance plans (QASP) and specific audit checklists for APSC contracts.

(c) Enhanced communication capabilities for convoy escort contracts.

(d) Completion of property control systems analyses

(e) Use of APSC audit checklists to initiate independent quality assurance representative (QAR) audits.

(f) Institution of dynamic and on-going monitoring and training assessments of COR performance through scheduled and unscheduled monthly audits.

(2) DCMA continues to actively administer APSC contracts and task orders in Iraq and Afghanistan and remains responsive to the contract oversight needs of DOD. Specifically, DCMA works to:

(a) Enhance QAR and COR checklists.

(b) Forward position additional QARs to better support CORs.

(c) Promote the inclusion of lessons-learned into new contracts to clarify the understanding of contractual requirements.

(d) Develop methods to track COR re-deployments and replacements which is critical to promoting continuity of service and facilitating personnel transitions.

(e) Pursue geographic delegations of contracts/task orders.

(f) Track force re-posturing and the closure of forwarding operating bases.

(g) Monitor periods of performance (PoPs) of existing contracts to foster the timely closure of contracts and increase the efficient delegation of new contracts.

CHAPTER IV

JOINT FORCE COMMANDER COORDINATION WITH NON-DOD ARMED PRIVATE SECURITY CONTRACTORS

1. General

DOD's interests in sharing information and increasing coordination to improve USG APSC support in an operational area continue to expand. This is especially true when it comes to APSC employed by non-USG entities present in the GCC's AOR (coalition, HN, international, and private sector).

2. Coordination Mechanisms

a. In a country with an established COM, the country team will coordinate the planning, management, and oversight of non-DOD APSCs contracted by the USG agencies operating in the AOR. In a country without a COM, and where DOD has the lead, all USG, non-DOD APSC support should be coordinated with appropriate DOD planners prior to their deployment.

b. For the many other non-USG APSCs operating in an operational area over which a JFC has no authority, a CMOC provides a viable option to acquire visibility and situational awareness of these non-USG activities. Described in JP 3-57, *Civil-Military Operations*, a CMOC as depicted in Figure IV-1, can share information with participating non-USG organizations employing APSCs and establish direct relationships that would enable supporting coordination authorities and operations centers, i.e. non-USG and USG/JFC CONOCs, to collaborate and deconflict APSC planning and activities.

(1) A CMOC is an established coordination mechanism that can serve as the primary coordination interface between the JFC and other entities operating in the operational area. Members of a CMOC may include representatives of US military forces, non-DOD USG agencies, IGOs and other international organizations, NGOs, coalition military forces, and private-sector organizations that have contracted APSCs.

(2) The CMOC functions as a forum where participants can coordinate and deconflict non-USG APSC activities in an operational area. For political and philosophical reasons, many non-USG organizations will reject the opportunity to participate in the CMOC in order to maintain the perception of their neutrality. Therefore, informal, indirect coordination between the CMOC and individual non-USG APSCs, may be required to exchange information to support security requirements for convoy movements, etc.

(3) A JFC could use the CMOC to coordinate with the following non-USG APSCs:

- (a) TCNs/third countries;
- (b) Multinational participants; and
- (c) HN authorities (through the AMEMB).

(4) The CMOC, with appropriate host nation representation, could be used to sensitize the HN to the need to establish standardized rules for the operations of APSCs in its territory with a goal of having the HN adopt rules for APSC conduct that will reduce adverse effects on local civilians and minimize the potential for fratricide between security forces. When it comes to the activities and movements of non-USG sponsored APSCs, the CMOC can act as an information conduit to the JFC CONOC to provide situational awareness and minimize potential opportunities for fratricide.

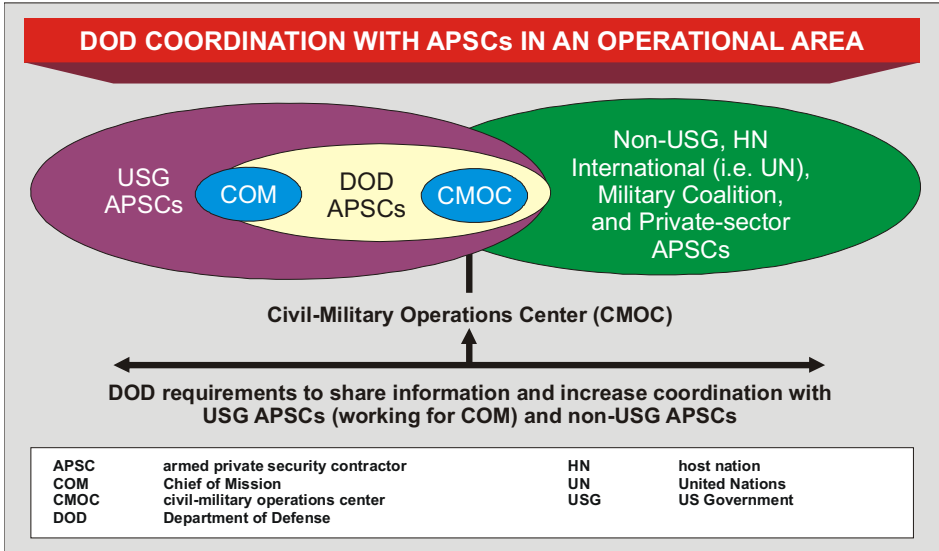


Figure IV-1. DOD Coordination with APSCs in an Operational Area

APPENDIX A

LEGAL FRAMEWORK FOR THE JOINT FORCE AND ARMED PRIVATE SECURITY CONTRACTORS

1. General

DOD affiliated APSCs are currently subject to three types or systems of legal authority.

a. **International law** and usage of war, and resolutions of the United Nations Security Council, along with other treaties or agreements to which the US is a party to and applies to a particular operation;

b. **United States law**, including military and civilian laws and other regulatory authorities or requirements issued by the Executive Branch. This list of authorities includes, but is not limited to:

- (1) UCMJ in certain circumstances (time of war or contingency operation);
- (2) MEJA;
- (3) Certain other federal criminal statutes with extraterritorial application; and
- (4) Civil law, which provides another legal option to hold APSCs accountable.

c. **Host nation law**, depending on the functioning of the system, rule of law within the nation, and the existence of international agreements on the status of US forces, including the civilian component, may have jurisdiction to prosecute non-citizen civilians, including APSCs, without the permission of the United States. Proceeding under HN civil law is also possible (for example, civil actions in HN courts for wrongful detention or battery).

2. Laws and Regulatory Guidance that Apply to Armed Private Security Contractors

The following subparagraphs summarize the body of law, regulations, and directives that applies to APSC contracting.

a. International Law and Agreements

(1) The Third Geneva Convention (GC III) provides legal standards pertaining to the classification and treatment of prisoners of war. The Fourth Geneva Convention (GC IV) relates to the protection of civilians during times of declared war, armed conflicts and undeclared wars, when civilians are “in the hands” of an enemy and under military occupation by a foreign power. It also defines “protected persons,” and more controversially, “unlawful combatants.” APSCs providing services during times of armed conflict are subject to rules found in international humanitarian law. GC IV and the two

“Additional Protocols” outlaw certain acts, whether committed by state or non-state participants. For example, Common Article 3 to the Geneva Conventions prohibits certain acts and Additional Protocol II applies to armed conflicts. International tribunals and national courts have found non-state participants criminally and civilly accountable for war crimes, so APSCs may remain subject to prosecution. The application of international human rights law to APSCs is more complicated than international humanitarian law because much of international human rights law contains “state action” requirements limiting liability for violations to state participants.

(2) The International Committee of the Red Cross (ICRC) *Montreux Document* of 17 September 2008, provides a model of international obligations, standards, and practices for nations who have APSCs present in a theater of conflict. The *Montreux Document* is the first international document to describe international law as it applies to the activities of APSCs when they are present in an armed conflict. It also contains:

- (a) A compilation of potential APSC practices;
- (b) A model selection process for contracting an APSC;
- (c) Responsibilities through the terms of contracts;
- (d) Compliance and accountability monitoring; and
- (e) Proper authorizations to operate.

(3) The ICRC describes the document and the process, which produced the document, i.e., A meeting in the Swiss town of Montreux has reaffirmed States’ obligations regarding private military and security companies in war zones. Two key points contained in the document agreed upon by 17 nations are that delegating tasks to a contractor does not relieve a State of its responsibilities, and that governments should not let contractors take part in combat operations.

b. Law of War. The law of war governs international conflict between nations. In the view of the United States, these laws are binding on the nation and each citizen, including treaties and agreements to which the United States is a party. When DOD forces deploy for operations, each component and their contractors are responsible for observing and enforcing the laws. Each Service secretary develops internal policies and procedures for carrying out those responsibilities and obligations.

c. Customary Law and Usage. The body of law governing armed conflict also has unwritten portions. Civilian status and the treatment of civilians encountered on the battlefield require particular attention since there are several other categories of non-military-but-hostile, into which they may fall. The APSC contract should require training on the status of individual contractors and provide them with an understanding of their US and international legal rights.

d. United States Law. Prior to 2000, if a civilian accompanying the force abroad committed a felony, the military was often unable to prosecute the civilian under the US

legal system. Subsequent action by Congress extended the legal authority of the United States to cover citizens accompanying US armed forces as civilians, contractors, and family members. Moreover, the 2007 NDAA modified Article 2 of the UCMJ to prescribe court-martial jurisdiction over civilians accompanying the force abroad in time of war or for contingency operations, regardless of the level of the offense.

e. **Contractor's Legal Status.** Contractors may support military contingency operations in a noncombat role if they have designation as contractors authorized to accompany the force (CAAF) by the military force they accompany. They require an appropriate identification card under the provisions of the *1949 Geneva Convention Relative to the Treatment of Prisoners of War* and DODD 4500.54. If captured on the battlefield, only contractors with CAAF status are entitled to treatment as prisoners of war. The 1949 Geneva Convention covers all contractors. Contractors may support contingency operations through indirect participation such as providing communications support; transport of logistic supplies; performing maintenance on equipment; providing security services; and providing logistic services. Each service performed by contractors in a contingency operation requires individual review and discussion with personnel and legal offices for compliance with applicable laws and international agreements.

f. **UCMJ**

(1) Historically, private contractors have not been subject to criminal prosecution under the US military justice system. However, in 2006, Congress enacted legislation that would place APSCs under the authority of the UCMJ in some circumstances.

(2) Secretary of Defense Memorandum, "UCMJ Jurisdiction over DOD Civilian Employees, DOD Contractor Personnel, and Other Persons Serving With or Accompanying the Armed Forces Overseas During Declared War and in Contingency Operations," March 10, 2008, addresses concurrent authority and defines the authorities and policies for the implementation of UCMJ authority over DOD civilians and DOD contractor personnel. The Memorandum reaffirms the commander's traditional authority to investigate violations of the UCMJ and apprehend suspects. It also reaffirms DOD policy of offering the Department of Justice (DOJ) the opportunity to prosecute violators in federal courts. If DOJ declines jurisdiction, the DOD can proceed with appropriate legal action. In late September 2007, the Deputy Secretary of Defense signed a memorandum to commanders emphasizing the importance of accelerating the implementation of UCMJ authority over DOD contractors, as authorized under Section 552, "Clarification of Application of Uniform Code of Military Justice During a Time of War," of the NDAA for FY 2007. The current laws or policies apply to all operations.

(3) A notable shortfall in this legislation is that it does not apply to non-DOD contractors accompanying and supporting non-DOD USG departments and agencies outside the US but operating in the JFC's operational area. These contractors are subject to other provisions of federal criminal law but questions of investigation and enforcement remain. DOS and DOJ believe additional action to strengthen legal accountability of non-DOD contractors deploying with non-DOD USG departments and agencies will eventually occur.

g. **MEJA**

(1) APSCs are subject to federal criminal prosecution under MEJA, which allows felony criminal charges to be brought against US contractors working for DOD or in support of a DOD mission. Federal authorities have not strongly enforced the statute for a variety of reasons, including the fact that many contractors are not under contract with the DOD, but instead are employed by the Central Intelligence Agency (CIA), DOS, or other agencies to which MEJA does not apply. Moreover, DOJ also has unreviewable discretion over whether to bring cases under MEJA. MEJA prosecutions can be expensive and require a US Attorney's Office (USAO) to expend valuable resources to prosecute cases which did not occur in the USAO district and which may not have any nexus to the district at all.

(2) This law extends legal jurisdiction over people employed by, a member of, or accompanying US forces outside the US. The MEJA does not apply to all crimes and offenses but only to those offenses punishable by at least one year in prison based on US law. The authority of this Act covers offenses which are felonies and under the jurisdiction of a federal district court. Arrest authority rests with any member of DOD serving in law enforcement, with swift delivery to law enforcement officials within the United States.

(3) The MEJA statute has been used rarely. From its enactment in 2000 through March 2008, DOD referred 58 cases involving APSCs and other contractors to DOJ. Federal prosecutors brought charges in 12 of those cases, and state prosecutors brought charges in one other case. Of those, eight resulted in a conviction and five await trial.

h. USA PATRIOT Act. The USA PATRIOT Act addresses APSC issues to some extent by expanding the United States' Special Maritime and Territorial Jurisdiction (SMTJ) to include US-operated facilities overseas. For example, a federal prosecutor might bring charges against employees of APSCs that mistreat detainees if the abuse constitutes a crime within the SMTJ and was committed within a US facility. A federal district court convicted one private contractor who worked for the CIA for detainee abuse at a US facility in Afghanistan.

i. Other Federal Statutes. Several other federal statutes have extraterritorial applicability, vesting jurisdiction in US federal courts over offenses, which occur outside the United States and outside the special maritime and territorial jurisdiction of the United States. For example, torture, certain frauds against the US, and war profiteering can be prosecuted regardless of the site of the offense.

j. Civil Law Liability. Tort and contract claims may be another way to hold APSCs accountable, either individually or corporately. The use of domestic tort and contract claims in international humanitarian law is a relatively new concept. In the US, plaintiffs could bring claims against APSCs under the Alien Tort Claims Act (Title 28 USC § 1350), which confers jurisdiction on the federal courts to consider "torts in violation of the law of nations" brought by non-citizens.

k. SOFA

(1) A SOFA clarifies terms for US military operations within a HN. The SOFA addresses legal issues regarding foreign military members, family members, property, and their dealings with local citizens. SOFAs generally address issues pertaining to border entry and exit; customs, duties, and taxes; and employment of family members, HN and third country nationals by the foreign military. Over time, the most difficult issue has been of civil and criminal jurisdiction and adjudication over incidents on the bases or in the country by foreign military members. has been the most difficult. In civil cases, a SOFA normally provides a procedure for the settlement of civil damages caused by the forces. Jurisdiction over criminal issues varies and is usually the subject of intense negotiation, and will vary by country. Typical positions taken by the US in a SOFA are that US courts have jurisdiction over crimes committed either by a Service member against another Service member, or by a Service member as part of his or her military duty, but the HN retains jurisdiction over other crimes. In a typical SOFA, the US will seek to introduce terms extending legal jurisdiction over family members, CAAF workers, and non-CAAF US citizens working for other USG agencies.

(2) During pre-operational deployment phases, planners, including contracting representatives and the SJA, should review applicable SOFAs and other agreements affecting contracting operations and the status of individual contractors within the contingency area.

l. HN and TCN Laws

(1) Laws of the HN country may apply directly to the APSCs. Joint force staff members charged with operational planning and contracting functions must consider not only international and US laws, but also the laws of the HN and other countries with citizens under contract to the USG. Generally, the SJA provides advice and monitoring of applicable laws, codes, or regulations limiting contracting and hiring of contractor support. In some cases, these limitations may delay timely contracting for needed capabilities, and in others may prohibit it completely.

(2) Within the HN, two basic conditions may exist: either the governmental systems remain functional and capable, or they do not. In the former case, the JFC coordinates with the COM to identify the HN laws and regulations that may impact on the conduct of contractor operations, especially APSCs. In the absence of a HN government, where a provisional governmental authority may be temporarily in charge, the provisional authority will establish a SOFA like document governing the military, government civilian, and contractors while performing their duties. The terms of the SOFA for legal jurisdiction of APSCs needs to be examined and communicated to all pertinent parties.

(3) The hiring of contingency contractor personnel must also comply with applicable local and/or third country laws. Contractor personnel **may be hired from US, HN, or TCN sources and their legal status may change (e.g., from non-CAAF to CAAF) depending on where they work or the provisions of the contract. CCDRs, their subordinate commanders, Defense agencies, and DOD field activities, need to be cognizant of limiting factors regarding the employment of HN and TCN personnel.** Limiting factors

include imported labor permits; workforce and hour restrictions; **insurance coverage; taxes, customs, and duties; cost of living allowances; hardship differentials; access to classified information; and hazardous duty pay.**

(4) Third country national laws may contain additional requirements or limitations on their citizens performing work for the USG or in a contingency operations area. Primarily these requirements are the responsibility of the hiring company; however, the JFC must be knowledgeable about these areas as well. Directly concerning the JFC is the ability of the TCN government to assist in vetting their citizens sufficiently and quickly. Long term, any TCN changes to law or business regulations affecting the hiring and use of their citizens need monitoring and legal compliance. The joint force legal office will provide expertise concerning interpretation and specific points of law.

m. **Provisions of the Contract and the Federal Acquisition Regulations (FAR).** The contract and the FAR have specific requirements with regard to contractor activities and individual contractor conduct. Penalties for violation of those requirements can be imposed for shortfalls in contractor performance and for non-felonious misconduct by individual contractors.

APPENDIX B

ARMED PRIVATE SECURITY CONTRACTOR COMPLIANCE WITH JOINT FORCE COMMANDER AND HOST NATION REQUIREMENTS

1. Joint Force Commander Requirements

a. A JFC has a variety of tools to control the actions of APSCs within an operational area, including: establishing operational area entry requirements, drafting contractual language specifically detailing APSC conduct and activities connected with APSC operations; and, by exercising operational control per the terms of the APSC's contract once in the operational area.

b. The JFC establishes requirements for APSC individual training, selection, accountability, and vetting of individual contractors before they begin work. Once in the operational area, the APSC and their employees must also comply with HN licensing requirements.

c. The JFC is concerned with legal requirements affecting APSCs to include contractually and HN imposed compliance with insurance, arms, vehicles, coordination, licensing, legal jurisdiction, and other obligations. Ideally, the JFC, COM and HN will agree to a standardized set of requirements for the employment of contractors supporting USG activities.

d. While contract requirements may set a high degree of professionalism, training, and preparation for actual conditions in the operational area; legal issues regarding the responsibility for actions by HN or TCN APSCs hired by US companies may be unclear. For commanders dealing with US contracted APSCs, the best tool is a detailed contract with specific requirements for preparation, training, operating, and coordination with the joint force.

e. While the JFC seeks military style command and control over APSC activities in the operational area, the various types of APSCs, and the specific legal relationships among USG and non-USG agencies, their contractors and grantees make this impossible. Control through contracted requirements, tasks, and obligations specified when hired are much more direct and practical but is limited to contractors hired by the USG. The ability to control APSCs from non-DOD organizations and agencies or other governments, organizations, or commercial entities may not be possible. The JFC can try to establish a level of cooperation for mutual advantage through the assurance of shared intelligence and emergency aid in the form of a quick reaction force (QRF) to provide rescue or security, logistical support, maintenance recovery, or medical evacuation. Establishing an informal relationship with APSCs at the individual level remains an effective method of gaining some measure of cooperation and coordination.

2. Host Nation Requirements

a. **HN Governmental Agencies and the Joint Force.** In cases where the HN government retains significant governmental functions and capabilities, the joint force

coordinates operations with counterpart HN authorities. For some situations where the HN is not currently functional, the joint force may be forced to assume certain quasi-governmental functions, or assist in maintaining general order and security at some level. While countries differ, the JFC must ensure DOD contracted APSCs conform to local laws for legal contracts and proper documents for operating in the operational area. If the JFC has control or significant influence on a HN counterpart, establishing favorable, coordinated requirements for movement coordination and control of APSCs is the goal.

b. HN Licensing Requirements. Client organizations within a HN need to ensure there is proper documentation from the government for the APSCs to operate. This may include licensing from the MOI and other HN government agencies for weapons, vehicle, tax, and import/export permits. Going through the procedure offers clients some measure of assurance they actually hired a legitimately licensed company. Licensing also provides the JFC with a method for reporting crimes or other misconduct to the appropriate authorities. Within the JFC's operational area, there should be an awareness of the capability of the HN government to process requests quickly and fairly for operations. An additional challenge that cannot be overlooked are visas and work permits for the APSC's individual employees. If a company provides documentation issued by the proper authorities, there is some level of confidence in the APSC's abilities to meet contractual requirements.

c. Professional Standards and Behaviors

(1) Both the International Peace Operations Association (IPOA) and the *Montreux Document* signatories have recommended a set of professional standards and behaviors for APSCs. These recommendations are in reality goals for APSCs to meet, there are no real enforcement mechanisms. Potential clients provide the means to enforce an industry-wide set of standards or requirements by either incorporating the IPOA and Montreux standards into their contracts and hiring companies who sign on; or by using companies contracted by other organizations with high standards.

(2) For an APSC, or any other contract service company, the terms of the contract establishes the requirements for complying with military orders, standards of behavior, and any specific additional requirements imposed by directives, regulations, and laws governing the operational area. The APSC has a professional and contractually required duty to establish and maintain standards of conduct for their employees. Standards of training, established by the JFC and included in the contract, must be adhered to not only to comply with the contract but also to ensure the safety of the individual contractors and joint force personnel. This includes a certain level of assurance that individuals are qualified to carry weapons, understand the RUF, and are trained in applicable laws or other agreements in the nation they operate in. The JFC has a continuous requirement to monitor APSC activities and ensure that they are not counterproductive to the USG mission.

d. Certification

(1) By adhering to standards of practice and training, clients of APSCs gain a level of assurance about contract performance. Certification by an outside agency that

represents the industry as a whole permits a client to have some minimal expectations of the contractor's professional standards. Adherence to outside high standards imposed by other or previous clients also provides prior knowledge about the APSC and their employees. Self-certification to a published standard, internal or external, remains an option that may be all that is available. The DOS diplomatic security standards are as an example of a high standard that the joint force can use to measure the performance of particular companies and evaluate their relative reliability.

(2) In the opening stages of an operation, the JFC may be required to certify companies for non-DOD agencies since access into the operational area will be limited. As the situation matures, these agencies will contract for their own needs and use their own standards. As the HN operates, or begins to operate again, their requirements for employment and use of APSCs needs consideration. In some cases, the joint force will work closely with its counterparts to guide the development and implementation of these requirements, standards, and legal obligations.

e. Vetting

(1) Vetting armed security personnel remains difficult for APSCs and for USG employers. Within the US, certain criminal convictions prevent citizens from possessing weapons. These statutory limitations on employment apply to persons hired as APSCs; even when those US citizens are employed to work outside US territory. Processing individuals for hire requires screening individuals to meet these requirements. Assumed names or counterfeit documents are also a problem, particularly when the individual comes from a country with lax identity rules. Querying a common name through national or international criminal databases, assuming the country has a criminal tracking system, may not produce usable returns.

(2) In countries without central registries or capabilities to accomplish background checks, other methods must be used to produce required results. As an example, establishing a required level of surety for particular job assignments may be necessary to allow contracting through multiple layers of TCN or HN companies and employees. Assisting companies with background checks in the operational area may become necessary for the JFC to have some assurance of trustworthy personnel in certain jobs. A risk assessment for particular positions, duties, or with physical proximity to vital personnel or assets should guide the JFC and staff for the amount and type of assistance offered or provided. Depending on the circumstances, it may be necessary to preclude hiring TCNs from countries unable to perform an adequate background check.

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APPENDIX C

UNITED STATES CENTRAL COMMAND CONTRACTOR OPERATIONS CELL COORDINATION PROCEDURES

1. Contractor Operations Cell Tasks

a. CONOCs (Figure C-1) are established at the joint task force level and at the major subordinate commands (usually division headquarters). They are embedded with the JOCs and have access to the full range of US military communications systems.

b. When sufficiently manned and equipped, a CONOC can coordinate APSC activities and perform the following tasks:

(1) Receive movement requests from APSCs and disseminate to subordinate battlespace owners for approval/disapproval. Provide positive confirmation of mission approval/disapproval to the higher headquarters and the APSC.

(2) Maintain situational awareness of APSCs operating and moving within the operational area, including tracking APSCs entering, transiting, and departing the assigned area.

(3) Facilitate QRF/MEDEVAC support upon request by APSC TOC, logistics movement coordination center (LMCC) or Commercial Movement Division (CMD), or AMEMB, or other TOC. After receiving an incident alert from an APSC, confirm the alert is real and not false with appropriate subordinate unit or APSC involved. In Iraq, the LMCC is now called the Commercial Movement Division (CMD).

(4) Report APSC SIRs and all other activities in accordance with current reporting standards.

(5) Collect and develop reports and products pertaining to APSC operations as required in orders or SOPs.

(6) Coordinate with staff to maintain awareness of threat information and military activities affecting APSCs and convoys within the area of operations. When appropriate, disseminate information or direct mission cancellation to APSCs, USG agency's TOC, and LMCC in order to prevent incidents.

(7) Serve as the local SME for military units on capabilities; limitations; requirements; and tactics, techniques, and procedures (TTPs) for APSCs.

(8) Monitor and provide ground QRF and medical evacuation (MEDEVAC) support to all APSCs, as available or required, during an incident requiring military support.

(9) Be prepared to coordinate directly with the AMEMB TOC on DOS armed private security detachment (APSD) movements and provide recommendations regarding movement adjustments or cancellation based on the threat levels along selected routes

or disposition of friendly forces. **Per the MOA between DOD and DOS:** the RSO LNO is responsible for the real-time monitoring of all AMEMB Baghdad and USF-I PSD movements throughout Iraq using shared electronic systems data and linked Command Post of the Future (CPOF) terminals.

(10) Be prepared to coordinate directly with the AMEMB TOC to provide QRF; MEDEVAC; and intelligence, surveillance, and reconnaissance support for approved AMEMB movements transiting or operating within the operational area.

(11) Be prepared to assist in coordinating investigations and visits to the scene of a serious incident in order to facilitate a proper investigation.

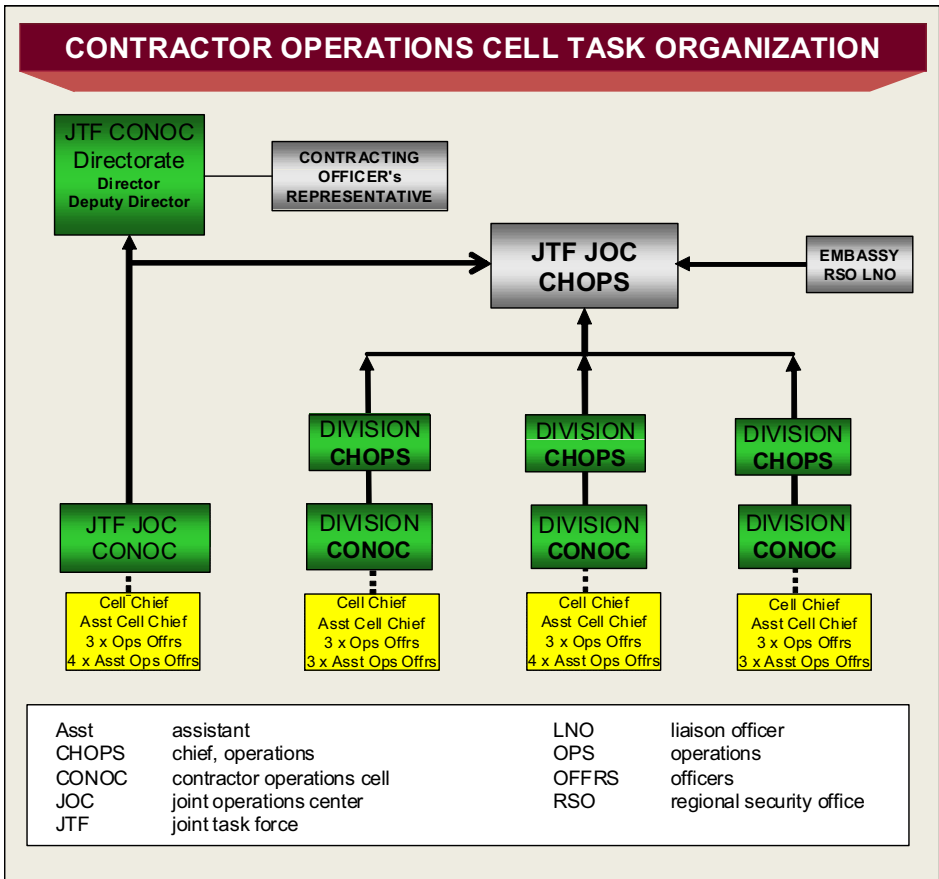


Figure C-1. Contractor Operations Cell Task Organization

2. J-3 Management Responsibilities

a. Coordinate military support as available with the appropriate division after receiving an incident alert and required information from the AMEMB or non-DOD agency TOC, LMCC, or APSC element involved in the incident.

b. In accordance with SOPs, collect and forward reports and products pertaining to APSC operations to the multinational force office dealing with armed contractors. Maintain a process for collecting statistics on APSC operations and incident types.

c. Coordinate and assist AMEMB representative personnel to revisit the scene of a serious incident in order for them to conduct an investigation and interview witnesses.

d. Limit distribution of COM personnel movements, or other movements as designated by AMEMB, to only US personnel with a need to know, and coordinate with AMEMB TOC to ensure such information is compartmentalized.

e. Review all DOS PSD movements and provide recommendations to the RSO TOC regarding movement alterations or cancellations based on the threat levels along selected routes or disposition of coalition forces.

f. Review all DOD PSD movements and direct cancellation or alteration based on the threat levels along selected routes or disposition of coalition forces.

g. Coordinate with LMCC to receive their logistics movement notifications in order to process through the appropriate operational area owner.

h. Provide necessary support for liaison officers from agencies or units in the JOC.

i. Identify reporting requirements during battle drills and shift change briefs.



APSC Team Secures the Immediate Area while Transporting USAID Staff

j. Provide a representative to attend the joint incident review board (JIRB) to provide input regarding APSC incidents.

k. Ensure the necessary automation and communications equipment (excluding equipment that must be supplied by the contractors, if they are present) is available and operational. Note: The communications array deployed by APSC's is usually dictated by the contract. At a minimum, each APSC convoy should have:

(1) Two satellite transponders on separate vehicles with a refresh rate of four minutes or less;

(2) Two commercial satellite phones;

(3) Two very high frequency (VHF) radios per convoy with a minimum range of 3000m, compatible with single channel ground and airborne **radio** system (SINCGARS); and

(4) Commercial cellular phones.

3. Armed Private Security Contractor Convoy Operations

a. A CONOC coordinates and submits, as appropriate, APSC convoy movement requests through the designated operations center and cells within specified time limits prior to movement. APSCs associated with non-DOD USG agencies or the LMCC should utilize existing movement request procedures for those organizations. In Iraq, the AMEMB requires all APSCs conducting personal security missions to coordinate their movements with either the RSO's TOC or the CONOC. In all cases, APSC's must have a movement plan that is approved by the RSO. Non-USG APSCs are encouraged to coordinate convoys with the CONOC. **The CONOC can establish a web page that can be used to submit movement requests, FRAGORDS, and spot reports.** Figure C-2 provides an overview of CONOC-managed processes and procedures for movement requests.

b. Listed below are specific CONOC functions and processes involved in convoy management:

(1) With the submission of a movement request form to an operations center, an APSC (DOD or non-DOD-contracted) implicitly agrees to abide by the rules and guidance established in policies, directives, or orders issued by the JFC. This includes providing all required reports and SIRs. Subordinate units will provide QRF and MEDEVAC support, as available, to participating APSCs.

(2) APSCs will contact their respective operations center(s) at requested movement start time for final coordination and at movement end time. Other APSCs should report to their controlling organization.

(3) For reportable incidents, i.e. the discharge of weapons, etc., contact the operations center with responsibility for the area in which operating and submit the report in accordance with established procedure, format, detail, and timelines. Reportable

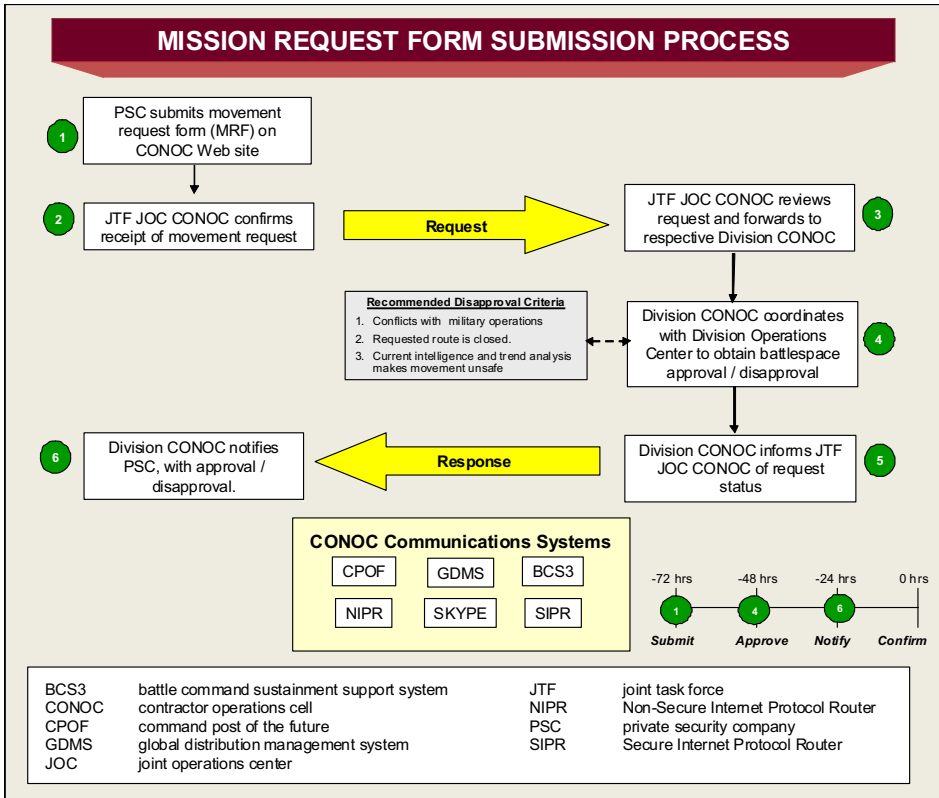


Figure C-2. Mission Request Form Submission Process

incidents during convoy operations should be reported to the LMCC. For example, initial reports should be submitted within four hours with interim reports, as required, and final reports within 96 hours. Figure C-3 summarizes the SIR process in Iraq. Figure C-4 provides a format for a SIR.

(Note: In May 2008, AMEMB Baghdad issued a set of policy directives that provided guidelines applicable to all APSCs operating in Iraq under either a contract or subcontract with any federal agency under COM authority. Although these new policy directives were considered to be aligned for the most part with the guidance contained in the US Forces-Iraq operational orders, they contained a few key differences. One, specified in the policy directives, required APSCs to start reporting serious incidents directly to both CONOC and RSO/TOC, rather than only to CONOC as previously required under the US Force’s reporting procedures. However, subsequent audits of these procedures discovered that they were not being adequately supervised by the responsible USG agencies and incidents were not being reported.)

(4) APSC movement itineraries should adhere to the established request format and indicate the route for each movement leg. Convoy movement itineraries will adhere to the LMCC request format. Multi-day movement requests must indicate the individual daily movement leg(s) and overnight location(s). When stating routes, use the joint force convention such as the route name only.

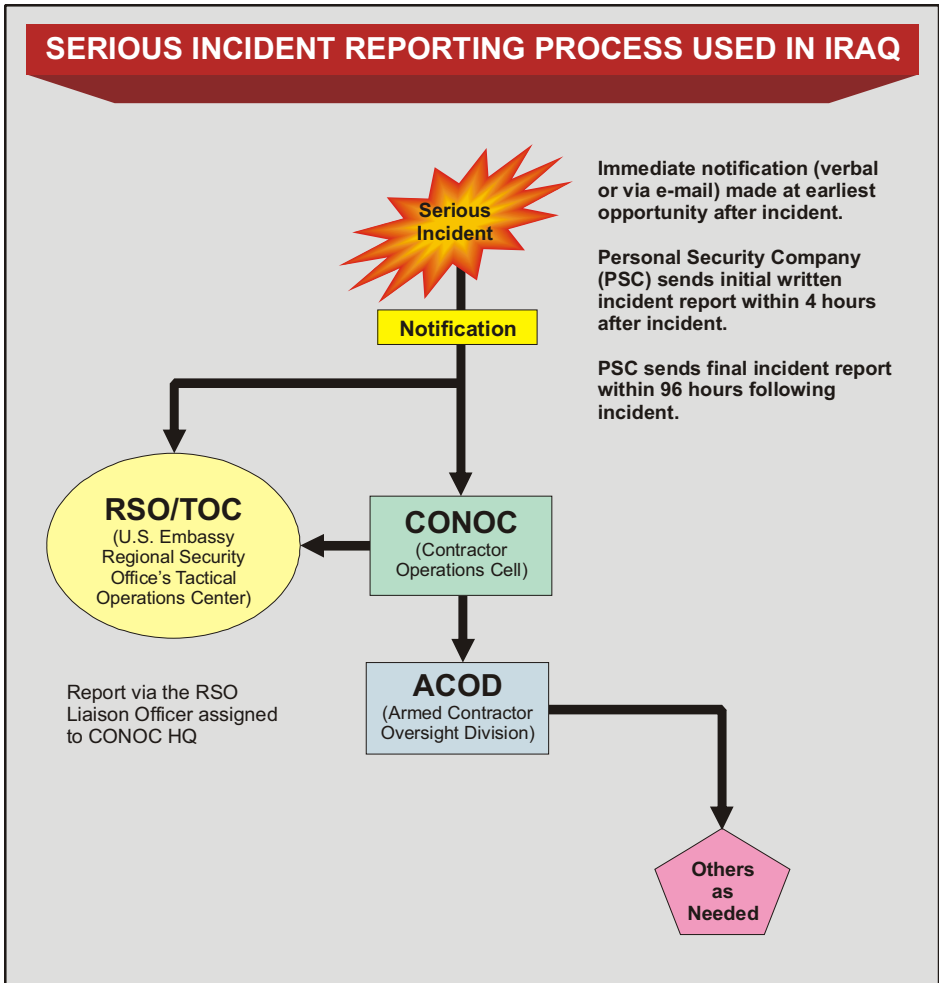


Figure C-3. Serious Incident Reporting Process Used in Iraq

FROM:

TO:

DATE TIME GROUP (DTG):

REPORTNUMBER:

SUBJECT: (U) (PSC Company Name)(Type of Incident) REPORT

Highlight/Bold APPROPRIATE REPORT DESIGNATION: FIRST – INTERIM -
FINAL

1. WHO (was involved)? Include PSC Name, Movement Notification Form #, and any coalition forces involved. Also, include name of USG Agency, contractor for which the PSC provides security.

2. WHAT HAPPENED? Include small arms fire, IED, indirect fire, PSC weapons discharges, traffic accidents, RUF and graduated force response incidents.

3. WHERE IT HAPPENED? (Grids, place, description)

4. WHEN DID IT HAPPEN? (Date Time Group)

5. IMPACT ON OPERATIONS? Route closures, infrastructure damage and casualties.

6. OTHER (Information relevant to incident or considered valuable during mission)

7. ACTIONS REQUIRED (List any actions that are required, who should take the action, and what you are doing about it).

8. NAME OF PERSON TAKING REPORT.

9. SPONSORING AGENCY, CONTRACT NUMBER, NAME OF COR.

10. CONTACT INFORMATION OF PERSON TAKING REPORT
(Email and phone #).

Figure C-4. Serious Incident Report Format

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APPENDIX D

COMMON MILITARY STAFF TASKS WHEN EMPLOYING ARMED PRIVATE SECURITY CONTRACTORS

1. Common Requirements Concerning APSC Monitoring

a. The JFC will maintain a designated cell, watch duty officer, or other structure at its operations center and designated subordinate units to monitor APSC operations and movements. The designated cell may use contracted personnel to coordinate and control APSCs in the operational area. The designated cell will report directly to the JOC CHOPS. DOD-contracted APSCs will be required to request permission to conduct operations within the operational area. Mission requests will be approved at subordinate units or multinational forces (referred to as “Divisions”) by the appropriate area commander. APSC incident management will be controlled by a designated officer and coordinated through the appropriate division and by CONOC, AMEMB or USG agency, and APSC (company TOC), as required.

b. Designated subordinate unit headquarters retain authority to approve/disapprove APSC movements. APSC missions should be disapproved according to criteria such as:

- (1) APSC mission or timing would directly interfere with a military operation.
- (2) Intelligence and trend analysis indicates APSC mission, area, or objectives make the movement risky or otherwise unsafe.
- (3) Route closure has or will occur before/during the APSC mission.

c. Following approval/disapproval, the subordinate headquarters will inform the higher headquarters, APSC concerned, and CONOC of the final decision on the mission(s).

d. All changes to operations prior to APSC mission execution causing a disapproval of a previously approved movement must be coordinated through the approval system in order to alert the APSC(s) to reschedule the movement. All changes to APSC movements inside the required time window must be coordinated through the system in order to alert subordinate operations centers via their representatives.

e. All division level cells will be supervised by a military officer (or equivalent civilian security specialist), who will provide contract performance input to the joint force COR for contract management purposes. The officer will integrate the operations and tracking processes in order to accomplish the tasks listed below. Divisions will provide the military oversight officer’s name and contact information to the joint force COR when required and upon change.

f. All MSCs initiating future contracts for APSCs will include mandatory contract language required by law, DOD regulations, and the pertinent joint force directives.

2. Joint Staff Section Tasks

a. Intelligence Staff

(1) Be prepared to coordinate intelligence support for AMEMB movements in coordination with divisions or multinational forces. Requests for support will be submitted and processed through normal channels.

(2) Coordinate with the JOC officer for contractor operations in order to maintain a process to receive spot reports and post-mission information from USG contracted APSCs.

b. Operations Staff. Serves as overall lead agency for establishing military control over APSCs operating in the operational area.

(1) **Operations Integration Office.** Provides military oversight for JOC officer for contractor operations. Ensures it remains capable of controlling APSC movements within the operational area. Coordinates military oversight at the divisions and multinational forces.

(2) Current Operations Office

(a) Supervise operational performance of contractor oversight tasks.

(b) Screen for accuracy and disseminate movement requests to divisions for APSC movement and operations approvals at the appropriate level.

(c) Monitor APSC movements throughout the operational area.

(d) Be prepared to coordinate military support as available with appropriate division after receiving an incident alert and required information from the AMEMB or other USG agency TOC, CONOC, or APSC element involved in the incident.

(e) Receive and disseminate intelligence and threat information from divisions to APSCs, AMEMB and other USG agency TOC(s), and CONOC as appropriate in order to prevent incidents.

(f) Provide coordination of APSC movements via secure and non-secure military and commercial voice, data, and chat communications systems. A commercial chat system with both audio and text may be required in order to maintain communications with APSC TOCs.

(g) In accordance with SOPs, collect and forward reports and products pertaining to APSC operations to the multinational force office dealing with armed contractors. Maintain a process for collecting statistics on PSC operations and incident types.

(h) Be prepared to coordinate and assist AMEMB representative personnel to revisit the scene of a serious incident in order for them to conduct an investigation and interview witnesses.

1. Submit initial or final “Shots Fired” SIR to appropriate AT/FP office(s).

2. Limit distribution of COM personnel movements, or other movements as designated by AMEMB, to only US personnel with a need to know, and coordinate with AMEMB TOC to ensure such information is compartmentalized.

3. Review all DOS PSD movements and provide recommendations to the RSO TOC regarding movement alterations or cancellations based on the threat levels along selected routes or disposition of coalition forces.

4. Review all DOD PSD movements and direct cancellation or alteration based on the threat levels along selected routes or disposition of coalition forces.

5. Coordinate with CONOC to receive their logistics movement notifications in order to process through the appropriate area commander.

6. Provide necessary support for liaison officers from agencies or units in the JOC.

7. Continue to provide a liaison to the AMEMB TOC for coordination concerning movements; QRF, MEDEVAC, or ISR support; and for convoy reports.

8. Maintain two seats in the JOC for APSC watch officer personnel. Identify reporting requirements for the joint force during battle drills and shift change briefs.

9. Provide a representative to attend the quarterly JIRB in order to provide the joint force’s input regarding PSC incidents.

10. Ensure the necessary automation and communications equipment (excluding equipment that must be supplied by the contractors, if they are present) is available and operational.

(i) Perform duties as the operations COR for assigned contractor oversight.

1. In accordance with appropriate joint contracting command guidelines, current operations office will appoint an officer to perform duties as the COR for the contract/task order if contractor movement cell is a contracted function in the JOC. The appointed COR shall hold a grade commensurate with the contract’s oversight responsibilities and have the contract oversight function as a primary duty.

2. The COR will complete a training course found online at the Defense Acquisition University website and provide the successful completion certificate to the JCC representative. See appendix H, “References,” for the links to these course materials.

3. Review and approve contractor requisitions and expenditures in order to stay within the annual budget.

4. Submit funding request to the joint force finance office to maintain the contractors and their system(s), if used.

5. Coordinate with division CORs and joint force CHOPS in order to provide reports on contractor performance to the contract specialist representative responsible for the contract/task order at the JCC.

6. Coordinate with contracted leadership to ensure either the contractor director or deputy is present at all times.

(3) **Operations AT/FP Office.** Execute civilian arming program in accordance with appropriate references, orders, or agreements.

(4) Operations Knowledge Management Office

(a) Maintain a capability to record DOS transponder alerts via repeat function maintained by the GCCS server team in JOC.

(b) Maintain the division system integration in respective operations centers.

c. **Logistics Staff.** For APSC operations, the logistics staff coordinates security requirements for convoy movements. To support JFC management of APSCs, the logistics staff monitors current and evolving theater logistic capabilities and advises the JFC/J-3 of the supportability of proposed operations or courses of action. It also acts as the JFC’s agent and advocate to non-theater logistic organizations.

d. Communications and Computers Staff

(1) Coordinate with divisions to ensure continued operation of the commercial Internet line into their respective operations centers for chat system text and audio capability.

(2) Coordinate with operations centers for integration of required communications requirement for APSCs.

e. SJA

(1) Identify legal issues that impact military operations.

(2) Continue to identify a range of legal options intended to increase accountability for PSC actions.

(3) As necessary, update RUF and law of war training packages for use in required training of armed contractors, armed DOD civilians, and APSCs. These training packages should include, at a minimum, the current RUF and the current graduated force response procedures employed throughout the operational area. When updated, disseminate these training packages to subordinate units.

(4) Coordinate with AT/FP for dissemination of the packages to APSCs.

(5) Coordinate with and support operations center as required during APSC incident investigations.

(6) Be prepared to coordinate and assist AMEMB and other USG entities with their distribution of timely and appropriate condolence payments.

(7) Maintain visibility on existing laws, policies, and FRAGORDs regarding contractor operations in the operational area.

(8) In accordance with appropriate references, receive arming request packets from AT/FP and provide a legal review of each packet within 48 hours. A preliminary legal review may be provided if there are concerns or errors that require correction.

f. **PMO.** In accordance with appropriate references, ensure that all individuals applying for arming authorization are not on the barred list for any base or installation in the operational area.

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APPENDIX E

STANDARD CONTRACT CLAUSES THAT APPLY TO ARMED PRIVATE SECURITY CONTRACTORS

This appendix is an extract from the USCENTCOM TWISS II contract that specifically addresses the arming of private security contractors, reporting of serious incidents, and training in RUF/LOAC. While these provisions have been written for the Iraq Theater of Operations, they serve as a good example of what might be found in a typical contract for the employment of APSC personnel. The TWISS format presented below does not conform to the format of appendices contained in this handbook.

Arming Requirements and Procedures for Private Security Company (PSC) Contracts, Personal Security Detachment (PSD) Contracts, and for Requests for Personal Protection in Iraq and Afghanistan (July 2008)

a. **General.** Contractor and its subcontractors at all tiers that require arming under this contract agree to obey all laws, regulations, orders, and directives applicable to the use of private security personnel in Iraq. US Forces-Iraq (USF-I) orders, instructions and directives. Contractors will ensure that all employees, including employees at any tier of subcontracting relationships, armed under the provisions of this contract, comply with the contents of this clause and with the requirements set forth in the following:

(1) DODI 3020.41, *Contractor Personnel Authorized to Accompany the US Armed Forces*;

(2) DFARS 252.225-7040, *Contractor Personnel Supporting a Force Deployed Outside the United States*, (MAR 2008);

(3) Class Deviation 2007-O0010, *Contractor Personnel in the United States Central Command Area of Responsibility*;

(4) CPA Order #17, *Registration Requirements for Private Security Companies*, dated 27 Jun 04; and

(5) USCENTCOM Policy Letter, Mod 1, *Personal Protection and Contract Security Service Arming*, dated 7 Nov 2006.

b. **Required Government Documentation.** The unit requesting the contractor security shall provide a description of the following to the arming approval authority and to the contracting officer:

- (1) The specific location where the PSC will operate;
- (2) The persons and/or property that require protection;
- (3) The anticipated threat;
- (4) The required weapon types; and,

(5) The reason current security/police forces are inadequate.

c. Required Contractor Documentation. Contractors and their subcontractors at all tiers that require arming approval shall provide the following to the contracting officer representative (COR):

(1) Documentation that each employee who will be armed under the contract received the following training:

(a) Weapons Qualification/Familiarization. All employees must meet the qualification requirements established by any DOD or other US government agency.

(b) Law of armed conflict (LOAC);

(c) Rules for the use of force (RUF), as defined in the USCENTCOM Policy, dated 23 December 2005; and

(d) Distinction between the above-prescribed RUF and the rules of engagement (ROE), which are applicable only to military forces.

(2) Completed DD Form 2760 (or equivalent documentation) for each armed employee, indicating that the employee is not otherwise prohibited under US law from possessing the required weapon or ammunition.

(3) One (1) copy of a business license from the Iraqi or Ministry of Trade or Interior;

(4) One (1) copy of an operating license (or a temporary operating license) from the Ministry of Interior.

(5) A communications plan that, at a minimum, sets forth the following:

(a) The contractor's method of notifying military forces and requesting assistance where hostilities arise or combat action is needed;

(b) How relevant threat information will be shared between contractor security personnel and US military forces; and

(c) How the contractor will coordinate transportation with appropriate military authorities.

(6) An acceptable plan for accomplishing background checks on all contractor and subcontractor employees who will be armed under the contract. The contractor shall, at a minimum, perform the following (which will be specifically addressed in its plan and which will be documented and furnished to the COR upon completion):

(a) Use one or more of the following sources when conducting the background checks: International Criminal Police Organization (INTERPOL), Federal

Bureau of Investigation, country of origin criminal records, country of origin US Embassy information request, and/or any other records available;

(b) Verify with USF-I or that no employee has been barred by any commander within Iraq; and,

(c) Certify, after completing all checks that all persons armed under this contract are not prohibited under US law from possessing a weapon or ammunition.

d. Required Contractor Acknowledgements. Contractors and their subcontractors at all tiers that require arming approval will provide written acknowledgement of the following to the COR:

(1) **Penalties for Non-Compliance.** Failure of contractor or subcontractor employee(s) to comply with the laws, regulations, orders, and rules (including those specified herein) governing the use of force may result in the revocation of weapons authorization for such employee(s). Where appropriate, such failure may also result in the total revocation of weapons authorization for the contractor (or subcontractor) and sanctions under the contract, including termination.

(2) **Criminal and Civil Liability.** Arming of contractor or subcontractor employees under this contract may subject the contractor, its subcontractors, and persons employed by the same, to US and Host Nation prosecution and civil liability. “Host Nation” refers to the nation or nations where services under this contract are performed.

(3) **Lapses in Training.** Failure to successfully retrain an employee who is armed under this contract within twelve (12) months of the last training date will constitute a lapse in the employee’s authorization to possess and carry the weapon. All unauthorized employees will immediately surrender their weapon to the contractor and will remain unarmed until such time as they are retrained and the COR determines that the retraining is sufficient.

e. Authorized Weapon & Ammunition Types. Unless the DCDR [Deputy Commander] USCENTCOM (or a designee) provides otherwise, all arming requests and authorizations for contractor or subcontractor employees under this contract shall be limited to US Government-approved weapons and ammunition. This restriction applies to all weapons in the possession of contractor employees, even if such weapons are required for personal protection. The following weapons and ammunition is currently authorized by the US Government for use in Iraq and Afghanistan:

(1) The M9, M4, M16, or equivalent (e.g., .45 CAL, AK-47, PKM with 7.62 ammunition).

(2) The M9 or equivalent sidearm will be the standard personal protection weapon unless other weapons are specifically requested and approved.

(3) US government Ball ammunition is the standard approved ammunition.

f. Requirements for Individual Weapons Possession. All employees of the contractor and its subcontractors at all tiers who are armed under this contract must:

(1) Possess only those US Government-approved weapons and ammunition for which they are qualified under the training requirements of section (c);

(2) Carry weapons only when on duty or at a specific post;

(3) Not conceal any weapons, unless specifically authorized;

(4) Carry proof of authorization to be armed. Employees not possessing such proof will be deemed unauthorized and must surrender their weapon to their employer; and

(5) IAW USCENTCOM General Order #1, consumption of alcohol in Iraq is prohibited. In the event of a suspension or/and exception to G.O. #1, employees shall not consume any alcoholic beverage while armed or within eight (8) hours of the next work period where they will be armed.

g. Weapons/Equipment Restrictions and Responsibilities. Unless otherwise provided, the US Government will not provide any weapons or ammunition to contractors, their subcontractors, or any employees of the same. The contractor will provide all weapons and ammunition to those employees that will be armed under the contract. The contractor and its subcontractors at all tiers will also provide interceptor body armor, ballistic helmets, and the nuclear, biological, and chemical (NBC) protective masks to those employees that require such equipment in the performance of their duties.

h. Rules for the Use of Force (RUF). In addition to the RUF and ROE training referenced in paragraph (c), the contractor and its subcontractors at all tiers will monitor and report all activities of its armed employees that may violate the RUF. Prompt reporting demonstrates a desire by the contractor and its subcontractors to minimize the impact of any violations and, therefore, will be given favorable consideration. Violations of the RUF include, though are not limited to:

(1) Taking a direct part in hostilities or combat actions, other than to exercise self-defense;

(2) Failing to cooperate with Coalition and host nation forces;

(3) Using deadly force, other than in self-defense where there is a reasonable belief of imminent risk of death or serious bodily harm;

(4) Failing to use a graduated force approach;

(5) Failing to treat the local civilians with humanity or respect; and

(6) Detaining local civilians, other than in self-defense or as reflected in the contract terms.

i. **Retention and Review of Records.** The contractor and all subcontractors at all tiers shall maintain records on weapons training, LOAC, RUF and the screening of employees for at least six (6) months following the expiration (or termination) of the contract. The contractor and its subcontractors at all tiers shall make these records available to the contracting officer or designated representative, at no additional cost to the government, within 72 hours of a request.

j. **Contractor Vehicles.** Vehicles used by contractor and subcontractor personnel in the course of their security duties shall not be painted or marked to resemble US/Coalition or host nation military and police force vehicles.

k. **Quarterly Reporting.** The prime contractor will report quarterly (i.e., NLT 1 January, 1 April, 1 July and 1 October for each quarter of the calendar year) to the contracting officer responsible for this contract, and any other organization designated by the contracting officer, the following information under this contract:

- (1) The total number of armed civilians and contractors;
- (2) The names and contact information of its subcontractors at all tiers; and
- (3) A general assessment of the threat conditions, adequacy of force numbers, and any problems that might require a change to force levels. Note: this information is in addition to the information the contractor promises to immediately provide under the communications plan referenced at paragraph (c)(5).

l. **Armed Personnel – Incident Reports.** All Contractors and subcontractors in the USF-I theater of operations shall comply with and shall ensure that their personnel supporting USF-I forces are familiar with and comply with all applicable orders, directives, and instructions issued by the USF-I Commander relating to force protection and safety.

(1) Contractors shall provide an initial report of all weapons firing incidents to the CONOC as soon as practical based upon the situation and shall submit a written report to a CONOC within 48 hours. The initial report will include the name of the company, where the incident occurred, time when the incident occurred, a brief description of the events leading up to the incident, and a point of contact for the company. A follow-up, comprehensive written report of events surrounding the firing of weapons will be provided to the CONOC within 96 hours. Reports shall be submitted to the CONOC (or as otherwise directed).

(2) Contractors will also provide first aid and request MEDEVAC of injured persons, and remain available for Coalition response forces based upon the situation. In the event contractor personnel are detained by US or Coalition Forces, prolonged detention due to lack of proper identification can be alleviated by contractor personnel possessing on their person information that includes the contractors name, the contract number, a POC in the contractor's management team, and the phone number of the CONOC operations desk.

m. **LOAC and RUF.** The contractor's personnel will be trained regarding LOAC and RUF as specified by the contracting officer representative or designated representative

for Iraq in accordance with country specific guidelines and/or laws. The contractor will obtain a signed written acknowledgement from each of their employees authorized to bear weapons that they have been briefed on LOAC, RUF and the differences between ROE and RUF, namely that RUF controls the use of weapons by contractors employed by the United States Government and that the contractor may NOT use ROE at any time for use of force decisions. LOAC and RUF training will be documented as specified by the Contracting Officer or designated representative. The contractor shall brief RUF to all shift employees at every shift and shall provide refresher LOAC training to its employees every six months. In particular, LOAC training will include restrictions on firing on persons who have surrendered or are out of combat due to wounds/injuries. It also will discuss the requirement to render first aid to the best of the contractor's ability and contact medical response units to obtain medical care for wounded, safety permitting. The contractor shall train contractor employees on the requirement to report all escalation of force incidents pursuant to current USF-I orders, presently MNF-I FRAGORD M08-641. The contractor shall train all employees under this contract that they must comply with the provisions of the Geneva Convention Relative to the Treatment of Prisoners of War, August 12, 1949. A copy of the Geneva Convention Relative to the Treatment of Prisoners of War, August 12, 1949 must be given to all employees authorized to carry weapons on this contract at any tier.

APPENDIX F

EXAMPLE MILITARY EXTRATERRITORIAL JURISDICTION ACT JURISDICTION DETERMINATION CHECKLIST

Figure F-1 below provides the “Military Extraterritorial Jurisdiction Act Determination Checklist” used by USCENCOM.

Military Extraterritorial Jurisdiction Act Jurisdiction Determination Checklist

Please provide the following information to assist the Department of Justice in making a determination regarding MEJA jurisdiction
All MEJA referrals from DoD to DOJ must comply with DoDI 5525.11

DoJ: Domestic Security Section - Phone: (202) 616-5731, E-Mail: MEJA@usdoj.gov
 DoD: General Counsel's Office (Mr. Robert Reed) - Phone: (703) 695-1055, E-Mail: reed@dodgc.osd.mil
 DoS: Diplomatic Security Service (Special Agent Scott Banker) - Phone: (571) 345-2270, E-Mail: bankers@state.gov

Part I - Investigator's Information Due to frequent duty station transfers of overseas investigators, please provide complete information. Military investigators may be required to draft and swear to affidavits in front of U.S. based magistrate judges and testify at grand jury proceedings. Due to the overseas location of primary agents in MEJA cases, a U.S. based law enforcement agent should be assigned to assist federal prosecutors in the district with appropriate venue.

Case Agent: _____	Agency: _____
Phone Number: _____	E-Mail Address: _____
Alternate P.O.C.: _____	Agency: _____
Phone Number: _____	E-Mail Address: _____
JAG P.O.C.: _____	Command: _____
Phone Number: _____	E-Mail Address: _____

Part II - Subject's Information Venue is established pursuant to 18 USC § 3238. Generally, appropriate venue is the in the U.S. district of the subject's last known residence. However, in some instances, venue is perfected in the venue where the subject is "first brought" under law enforcement custody. Prior coordination with DoJ is required to determine venue in each MEJA referral.

Name: _____ Status: (at time of offense)

Date of Birth: _____ SSN: _____ Citizenship: _____

Last Known U.S. Residence: _____

How was last known address obtained? (provide a copy of source document) _____

If Active Duty Military:

Branch: _____ Command/Unit: _____

Rank/Rate: _____ Command/Unit Phone Number: _____

If Contractor or U.S. Government Civilian Employee: (provide copy of employment contract and termination paperwork, if applicable)

Employer: _____ Position: _____

Dates of Employment: _____ Supervisor's Name: _____ Supervisor's Phone: _____

If Dependent:

Sponsor's Name: _____ Sponsor's Unit/P.O.C.: _____

Part III - Host Nation Information

Status of host nation investigation/prosecution:

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Figure F-1. Military Extraterritorial Jurisdiction Act Jurisdiction Determination Checklist

Military Extraterritorial Jurisdiction Act Jurisdiction Determination Checklist

Name of U.S. official coordinating with host nation: _____ Phone: _____

Name of host nation official involved in coordination: _____ Phone: _____

Part IV - MEJA / UCMJ Matters Matters subject to both federal statute and UCMJ Art. 2 must be processed pursuant to DOD Memorandum (March 2008)

If the offense is subject to MEJA and UCMJ Article 2(a), does the appropriate command seek alternative UCMJ authority?

Describe the subject's current arrest/detention/restriction status or current location: _____

Location of Arrest: _____ Date of Arrest: _____

If the subject is being removed from the foreign country to the U.S. for prosecution pursuant to MEJA removal procedures (18 USC §§ 3142, 3264-3265), has the subject been medically cleared to travel? (If yes, attach copy of clearance)

Provide subject's travel itinerary: (if applicable) _____

Part V - Documents Enclosed Department of Defense Instruction 5525.11 provides guidance on the investigative material required to be provided to DoJ during the MEJA referral process. Required documents and investigative materials can be submitted via email.

- All documents requested in Parts I-IV (as applicable)
- Preliminary reports of investigation (including a copy of any military police blotter)
- Witness statements (including biographical and current CONUS and OCONUS contact information for each witness)
- Statement(s) of the accused and rights advisal form(s) (if available)
- Photographs taken of injuries/crime scene
- Crime scene sketch/evaluations
- Description of physical evidence obtained, current location of all evidence, and contact information for laboratory/storage facilities where evidence was submitted
- Itemized chain of custody documentation regarding all physical evidence
- Medical records (with appropriate release documentation for the medical records)
- Addendum listing all law enforcement personnel involved and current CONUS and OCONUS contact information
- DRAFT, UNSIGNED affidavit or declaration, prepared by the investigating agent, setting forth the probable cause basis for believing that a violation of MEJA occurred and that the person identified has committed the violation (per DoDI 5525.11, paragraph 6.2.2)

Upon completion of this form:

- E-mail this form and all applicable documents to: MEJA@usdoj.gov, or
- Print and mail this form and all documents to: U.S. Department of Justice, Criminal Division - Domestic Security Section, Attn: MEJA Coordinator, 950 Pennsylvania Ave. NW, Washington, DC 20530

Note: Unless a civilian law enforcement agency formally assumes sole investigative authority regarding an overseas investigation, military investigative agencies are required to continue to investigate and assist DoJ prosecutors with the investigation and prosecution of MEJA referrals.

Signature: _____ Date: _____

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**Figure F-1. Military Extraterritorial Jurisdiction Act Jurisdiction
Determination Checklist (Cont.)**

APPENDIX G

REFERENCES

1. US Government Documents

a. John Warner NDAA for Fiscal Year 2007, 109th Congress, 2d Session. S.2766, 22 June 2006, Section 552, “Clarification of Application of Uniform Code of Military Justice During a Time of War.” Paragraph (10) of section 802(a) of title 10, United States Code (article 2(a) of the Uniform Code of Military Justice), is amended by striking ‘war’ and inserting ‘declared war or a contingency operation.’

b. NDAA for Fiscal Year 2008, 110th Congress, 28 January 2008:

(1) Section 862: Contractors performing private security functions in areas of combat operations. Directs the Secretaries of Defense and State to write regulations to register and record APSCs in combat areas including personnel, those armed, and their vehicles. It includes methods for reporting and investigating incidents, personnel qualifications, and other guidance for combatant commanders.

(2) Section 862(a)(2): Establishes the process for authorizing and accounting the weapons carried by, or available to, APSCs in an area of combat operations.

(3) Section 862(a)(2)(E)(ii): Outlines the process for an independent review and investigation of incidents of alleged misconduct by APSCs in an area of combat operations.

(4) Section 862(b): Directs revision of Federal Procurement Policy Act (41 USC. 421) with specific contract clauses concerning selection, training, equipping, and conduct of APSC under contract to the USG.

c. Duncan Hunter NDAA for Fiscal Year 2009, Public Law 110-417, 14 October 2008. Section 832 directs the military to retain functions and missions where combat would occur and US forces would be fired on first. This section requires that sufficient trained personnel from the military perform these tasks. In Section 854, the Congress directs all USG organizations employing contractors to add language to contracts concerning the reporting of offenses and providing protection to witnesses and victims.

d. Military Extraterritorial Jurisdiction Act of 2000, Public Law 106-523, 106th Congress, 22 November 2000.

e. Title 18, USC, Section 3261, “Military Extraterritorial Jurisdiction Act of 2000,” Washington, DC, 2008. This document describes the US law and jurisdictional authority for prosecuting US citizens who perform illegal acts in a foreign country that would have a sentence of at least one year, if convicted in the United States.

f. Uniform Code of Military Justice as expanded by the National Defense Authorization Act of 2007, Washington, DC, 2007.

g. Congressional Research Service, “Report to Congress, Private Security Contractors in Iraq: Background, Legal Status, and Other Issues,” 25 August 2008.

h. Congressional Research Service, “The Department of Defense’s Use of Private Security Contractors in Iraq and Afghanistan: Background, Analysis and Options for Congress,” 29 September 2009.

2. Department of Defense Issuances

a. CJCSI 3121.01B, *Standing Rules of Engagement/Standing Rules for the Use of Force for US Forces*, 15 January 2009.

b. DOD and DOS “Memorandum of Agreement (MOA) Between the Department of Defense and the Department of State on USG Private Security Contractors,” Washington, DC, 5 December 2007. This memorandum of agreement defines the mutual relationship between DOD and DOS on the development of accountability and operations of US employed APSCs operating in Iraq. Exact procedures are to be developed in the theater for management, coordination, legal authority and investigation of PSC actions.

c. DODI 1100.22, *Guidance for Determining Workforce Mix*, with Change 1, 6 April 2007. This instruction provides guidance for determining the correct mix of military and civilian personnel to private sector personnel to support the required mission. Laws, policies, and other regulations of the US government are to be taken into consideration in the calculation, however, this applies only to DOD forces.

d. DODI 2000.16, *DOD Antiterrorism (AT) Standards*, 2 October 2006. This instruction updates and defines the standards in the areas of risk management, planning, training exercises, resourcing, and program review for an AT program in DOD. The standards are set to provide protection for all DOD personnel, their families, DOD information, and facilities from acts of terrorism.

e. DODI 3020.41, *Contractor Personnel Authorized to Accompany the U.S. Armed Forces*, USD(AT&L), Washington, DC, 30 October 2005.

f. DODI 3020.50, *Private Security Contractors Operating in Contingency Operations*, 2009.

g. DODI 5525.11, *Criminal Jurisdiction Over Civilians Employed By or Accompanying the Armed Forces Outside the United States, Certain Service Members, and Former Service Members*, 3 March 2005. This document is a prime source of instructions and responsibilities for US commanders concerning civilians with their forces outside the United States. The jurisdiction over civilians is expressly given since legal jurisdiction of the nation ends at the national borders. DODI 5525.11 provides a means of legally prosecuting crimes outside the borders by citizens who are not covered by another nation’s laws or takes place on a US installation in another country.

h. “Business Rules for the Synchronized Predeployment and Operational Tracker,” Deputy Undersecretary of Defense for Logistics & Material Readiness, Washington, DC, 2009, 2Q.

i. Defense Federal Acquisition Regulation Supplement (DFARS 225.7401), “Contracts Requiring Performance or Delivery in a Foreign Country,” Washington, DC, 15 January 2009. This regulatory supplement provides additional instructions to the military concerning contractors authorized to accompany US military forces outside the US on various missions. The amount and level of support, along with required training of the contractors for a theater, is detailed for the military services. Included in every security contract, is the clause: “The process for arming contractors is regulated by the Defense Federal Acquisition Regulation Supplement (DFARS), specifically DFARS 252.225.7040, and DODI 3020.41.”

3. Joint Publications

- a. JP 3-57, *Civil-Military Operations*, 8 July 2008.
- b. JP 4-10, *Operational Contract Support*, 17 October 2008.

4. Other

a. Dickinson, L.A., “Accountability of Private Security Contractors under International and Domestic Law,” The American Society of International Law, Washington, DC, 2007, retrieved 10 July 2009.

b. “The International Convention against the Recruitment, Use, Financing, and Training of Mercenaries,” UN General Assembly Resolution 34, 44th Session, Supp. No. 43 at 590, UN Doc. A/44/43, 29 I.L.M. 91, New York, NY, 4 December 1989, retrieved 26 March 2009.

c. Montreux Document (Montreux). The Montreux document provides pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict. United Nations; Geneva, Switzerland, A/6 467-S/2008/636.

d. “Armed Contractor Oversight Directorate Performance Work Statement,” Combined Joint Task Force-Afghanistan, 22 November 2008.

e. COR training courses:

(1) Defense Acquisition University: http://icatalog.dau.mil/icatalog_home.aspx.

(2) Army Logistics Management College: <http://www.almc.army.mil/HSV/hsv.htm>.

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GLOSSARY

PART I—ABBREVIATIONS AND ACRONYMS

ACOB	armed contractor oversight branch
ACOD	armed contractor oversight division
AMEMB	American Embassy
AOR	area of responsibility
APSC	armed private security contractor
AT/FP	anti-terrorism/force protection
BCS3	battle command sustainment support system
C2	command and control
CA	civil affairs
CAAF	contractors authorized to accompany the force
CCDR	combatant commander
CHOPS	chief of operations
CIA	Central Intelligence Agency
CMP	contractor management plan
COM	Chief of Mission
CONOC	contractor operations center
CONOPS	concept of operations
COR	contracting officer representative
CMOC	civil military operations center
CPA	Coalition Provisional Authority
CPOF	command post of the future
CSIP	contractor support integration plan
DCMA	Defense Contract Management Agency
DFARS	Defense Federal Acquisition Register Supplement
DOD	Department of Defense
DODD	Department of Defense Directive
DODI	Department of Defense Instruction
DOJ	Department of Justice
DOS	Department of State
FAR	Federal Acquisition Regulations
FP	force protection
FRAGORD	fragmentary order
FY	fiscal year
GCC	geographic combatant commander
GCCS	Global Command and Control System
GDMS	global distribution management system
GFE	government furnished equipment
GoI	Government of Iraq

HN	host nation
ICRC	International Committee of the Red Cross
IGO	intergovernmental organization
INTERPOL	international criminal police organization
IPOA	International Peace Operations Association
ISR	intelligence, surveillance, and reconnaissance
JCASO	joint contingency acquisition support office
JCC	joint contracting command
JCC-I/A	Joint Contracting Command Iraq/Afghanistan
JFC	joint force commander
JIRB	joint incident review board
JOC	joint operations center
JOCSP	joint operational contract support planner
JP	joint publication
KO	contracting officer
LOA	letter of authorization
LOAC	law of armed conflict
LMCC	logistics movement control center
LNO	liaison officer
MEDEVAC	medical evacuation
MNC	multinational corporation
MNC-I	Multi-National Corps – Iraq
MND	multinational division
MNF-I	Multi-National Force – Iraq
MOA	memorandum of agreement
MOI	ministry of the interior
MEJA	Military Extraterritorial Jurisdiction Act
MOU	memorandum of understanding
MSC	major subordinate command
NDAA	National Defense Authorization Act
NGO	nongovernmental organization
NIPR	Non-secure Internet Protocol Router
OCS	operational contract support
OFFRS	officers
OGA	other government agency
PA	public affairs
POC	point of contact
PoP	period of performance
PMC	private military company
PMO	provost marshal office

PSC	private security company
PSD	personal security detachment
PWS	performance work statement
QAR	quality assurance representative
QASP	quality assurance surveillance plans
QRF	quick reaction force
ROE	rules of engagement
RSOI	reception, staging, onward-movement, and integration
RSO	regional security office
RUF	rules for the use of force
SA	stationing agreements
SIPR	Secure Internet Protocol Router
SIR	serious incident report
SJA	staff judge advocate
SME	subject matter expert
SMTJ	Special Maritime and Territorial Jurisdiction
SOFA	status of forces agreement
SOP	standing operating procedure
SPOT	Synchronized Predeployment and Operational Tracker
TCN	third country national
TOC	tactical operations center
TWISS	Theater Wide Internal Security Services (USCENTCOM)
UCMJ	Uniform Code of Military Justice
USAID	United States Agency for International Development
USCENTCOM	United States Central Command
UN	United Nations
USAO	US Attorney's Office
USG	United States Government

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PART II—TERMS AND DEFINITIONS

armed contractor oversight branch (ACOB). An office created in Iraq, and subsequently Afghanistan, to assist the military in policy, tracking the movements, and other issues concerning APSCs. Oversees the contractor operations cell (CONOC) and acts as the link to the military chain of command for policy, problem solving, and support. Formerly known as the Armed Contractor Oversight Division (ACOD).

armed private security contractor (APSC). Same as private security company (PSC) personnel (DOD). Any individual performing private security functions under a covered contract.

contracting officer. The Service member or Department of Defense civilian with the legal authority to enter into, administer, modify, and/or terminate contracts.

contracting officer representative (COR). A Service member or Department of Defense civilian appointed in writing and trained by a contracting officer, responsible for monitoring contract performance and performing other duties specified by their appointment letter.

contractor operations cell (CONOC). The staff located within the overall structure of the joint operations center(s) in Iraq, and subsequently Afghanistan, to receive APSC movement requests, coordinate them with subordinate military units, relay approval or disapproval, track the movement when it occurs, take reports on incidents, coordinate assistance if there is an incident, and close out the movement on completion.

covered contract. A DOD contract for performance of services in an area of contingency operations or a contract of a non-DOD Federal agency for performance of services in an area of combat operations, as designated by the Secretary of Defense; a subcontract at any tier under such a contract; or a task order or delivery order issued under such a contract or subcontract. Also includes a grant (including a contract under a grant, or a sub-grant or subcontract at any tier) from a federal agency for performance in an area of combat operations as designated by the Secretary of Defense.

fragmentary order (FRAGORD). A military set of instructions that provide partial information as updates to past instructions, changes to past instructions, or as preparation for a future full set of instructions. Sometimes pertinent information that has not changed from previous orders is included. Generally these are brief and of immediate concern to the receivers.

letter of authorization (LOA). A document issued by the procuring contracting officer or designee that authorizes contractor personnel authorized to accompany the force to travel to, from, and within the operational area; and outlines Government-furnished support authorizations within the operational area, as agreed to under the terms and conditions of the contract.

private security company (PSC). During contingency operations, “PSC” means a company employed by the Department of Defense, performing private security functions under

a covered contract. In a designated area of combat operations, the term “PSC” expands to include all companies employed by US Government agencies performing private security functions under a covered contract (DOD). [In common usage, the terms PSC, Private Military Company (PMC), and Private Military and Security Company (PMSC) are used interchangeably even though they are different.] A private commercial business which has been registered, licensed, and authorized to operate in a country seeking commercial success through providing various armed security services to individuals, businesses, and other organizations. In the broadest sense, these companies may also provide training, advising, or operational forces to clients.

private security company personnel. Same as an armed private security contractor personnel. Any individual performing private security functions under a covered contract.

rules of engagement (ROE). A set of orders for military units and/or individual soldiers for initiating, concluding, or ending a combat engagement with other forces or individuals encountered. They cover general and specific situations; how, when, and where force may be used to accomplish a task, and permissions concerning individual actions. Restrictions to the inherent right of self-defense are also detailed.

rules for the use of force (RUF). A set of instructions to non-military security forces or civilians accompanying military forces concerning the use of force for self-defense, defense of other persons, or to defend specific locations. Generally there are a set of rules concerning a graduated response to hostile actions, but also concerns interactions with civilians, possession and use of weapons, and any legal concerns for detaining those engaged in illegal actions.

serious incident report (SIR). A formatted message containing immediate, critical information on a designated event a higher headquarters has marked as important to decision makers. There may be several of these sent as a notification followed by additional information as it becomes known.

State Department Directives. A similar method to the FRAGORD of instructions to contractors and others used by the DOS. Provides instructions for current or future requirements for DOS employees and contractors.

Uniform Code of Military Justice (UCMJ) Authority. The body of law governing military criminal offenses. Specific to APSCs, only commanding officers and, in certain cases, commissioned officers have authority to order the arrest or confinement of members of the US Armed Forces or civilians accompanying armed forces in the field during a declared war who have violated the UCMJ.



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