

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

Hearing:

How Good Is Our System for Curbing Contract Waste, Fraud, and Abuse?

Room G-50, Dirksen Senate Office Building, Washington, DC
9:30 a.m., May 24, 2010

Good morning. I am Christopher Shays, co-chairman of the Commission on Wartime Contracting in Iraq and Afghanistan. Thank you for attending this hearing, which addresses the important question, “How Good Is Our System for Curbing Contract Waste, Fraud, and Abuse?”

This opening statement is made on behalf of Co-Chairman Michael Thibault, our fellow Commissioners, and myself. The other Commissioners at the dais today are Clark Kent Ervin, Grant Green, Robert Henke, Katherine Schinasi, Charles Tiefer, and Dov Zakheim.

One task of today’s hearing is to revisit the theme of the Commission’s first hearing, “Lessons from the Inspectors

General,” which convened in the Senate Caucus Room on February 2, 2009.

That session, held before I joined the Commission, included opening comments from Senators Webb, McCaskill, and Collins, and the release of the “Hard Lessons” report by the Special Inspector General for Iraq Reconstruction. We heard testimony from Stewart Bowen, who directs the SIGIR operation, and from officials of the departmental inspector-general offices at Defense, State, and the U.S. Agency for International Development.

Testimony at that first hearing established that billions of taxpayer dollars have been lost to waste, fraud, and abuse. The inspectors general told us that contributing causes included:

- lack of planning for the post-invasion periods in Iraq and Afghanistan,
- the need for speed in a cash-basis environment,
- insufficient numbers of adequately trained contract officers and auditors,
- poorly written contracts with haphazard record keeping,
- too many projects that lacked sustainability and local support, and
- as the DoD witness put it, “continual exposure to offers of bribes, gratuities, and kickbacks.”

This Commission has heard a great deal about waste. Vast sums of money have been wasted on shoddily constructed buildings, on facilities too technical or too costly for local people to sustain, on programs that have too many staff for their workload, and on projects that simply aren't needed.

These well-documented failings are not altogether surprising. In the urgency of contingency operations, where mission requirements put a premium on speed, where oversight personnel may be

scarce, where coordination among organizations and nations is a challenge, some degree of waste is a predictable byproduct of operations — even if everyone is acting with the best of intentions.

Fraud and abuse, on the other hand, involve people who are *not* acting with the best of intentions. They are people who are deliberately breaking their word for personal gain. They may have given their word in a military oath, or while agreeing to a departmental code of conduct, or in signing a contract. However they made a pledge, their deliberate betrayals of trust undermine our mission and corrode the framework of civil society.

Acts of fraud and abuse — especially if they go unpunished — erode morale, invite cynicism, encourage others to cheat, and undermine America's standing among allies and host nations. That is why Congress directed this Commission us to determine the extent not only of waste, but also of fraud and abuse, and the extent to which perpetrators have been held accountable.

Let me emphasize that our outrage is not directed solely at misbehaving

contractor employees. More than a third of the 477 subjects of open investigations tabulated by the International Contract Corruption Task Force in May were U.S. government employees or military personnel.

Unfortunately, this is not a new problem. For example, U.S. Army historians have written that in southern France in 1944, “an estimated 20 percent of the supplies landed at Marseilles was stolen and sold by members of the armed forces and their followers.”

Abuses in Iraq and Afghanistan are also outrageous, and illustrate that there is plenty of blame to go around among contractors, federal civilians, and the military. Here are just a few examples:

- A U.S. Army captain pled guilty to theft involving \$690,000 in Commander’s Emergency Response Program funds in Iraq.
- A former Department of Defense civilian employee was sentenced to 110 months in prison and fined for failing to report \$2.4 million of income and foreign bank accounts he established while working as a contracting officer in Kuwait.

- A former KBR contractor employee was sentenced for supplying false receipts and taking payments from truck drivers who were stealing fuel from an airfield in Afghanistan.
- A Kuwaiti firm that supplies food for American troops in Iraq has been indicted for allegedly defrauding the U.S. government of at least \$68 million.

Hundreds of other examples could be cited. Meanwhile, nearly 5,500 members of the American military have now died in the Iraq and Afghanistan operations, as well as at least 1,700 contractors and several dozen U.S. government civilian employees. More will die before we leave the Southwest Asia theater. It is sad and infuriating to think that while these brave men and women are sacrificing their lives, others busy themselves in squalid bouts of greed and corruption.

In addition to cutting waste, therefore, America must do a better job of preventing, detecting, and punishing fraud and abuse. Toward that end, today’s hearing will pursue two main objectives:

One, reviewing the challenges and issues that confront law-enforcement officials as they attempt to discover and successfully prosecute fraud in a contingency environment, and

Two, updating the Commission on the work of the Inspectors General for Defense, State, and USAID since they appeared at our February 2009 hearing.

Today's first panel follows up numerous interviews and Commission meetings with criminal investigative organizations and the Department of Justice. These interviews addressed the organizations' successes and challenges related to investigating and prosecuting wartime contracting fraud. Key themes of our discussions included the coordination — or lack thereof — among criminal investigative organizations and Department of Justice prosecutors; challenges in preparing successful criminal prosecutions in a war zone; and policy actions that need to be taken to prevent, identify, investigate, and prosecute fraud in contingency environments.

The second panel will provide an update on the departmental IGs' work over the

past year, their forecast of key issues ahead, and their assessment of trends in wartime contracting and project management issues related to Iraq and Afghanistan.

The law-enforcement organizations represented here today are doing vital work on behalf of our country, our citizens' tax dollars, and our warfighters' safety and success. The Commission honors their efforts, wants to understand the challenges they face, and assist in obtaining any additional authority, direction, coordination, and resources they need to bolster their attack on fraud and abuse to hold wrongdoers accountable.

We are particularly interested in seeing expanded anti-fraud initiatives and actions, unity of effort among federal agencies, recognition that many peacetime ways do not work in wartime, balancing between accelerated contracting and appropriate safeguards, and greater accountability. We look to our witnesses for information and counsel that will assist us in pursuing these themes in our work to reform contingency contracting for current and future operations.

Our guests for Panel One are:

- Mr. James Burch, Deputy Inspector General for Investigations, Department of Defense.
- Mr. Kevin L. Perkins, Assistant Director, Criminal Investigative Division, Federal Bureau of Investigation, Department of Justice.
- Mr. Raymond J. DiNunzio, Assistant Inspector General, Criminal Investigations Directorate, SIGAR, and
- Ms. Ginger Cruz, Deputy Inspector General, SIGIR. She is accompanied by Jon E. Novak, SIGIR's Assistant Inspector General for Investigations.

Witnesses for Panel Two are:

- Mr. Donald A. Gambatesa, Inspector General, U.S. Agency for International Development.
- Mr. Harold W. Geisel, Deputy Inspector General, Department of State, and
- Ms. Mary L. Ugone, Deputy Inspector General for Auditing, Department of Defense.

I will observe that Ms. Cruz, Mr. Gambatesa, and Mr. Geisel are all veterans of our February 2009 hearing. We thank them for returning, and we welcome the other witnesses to this proceeding.

We have asked our witnesses to summarize their testimony in 5 to 7 minutes in order to ensure adequate time for questions and answers. We also ask that witnesses submit within 15 business days responses to any questions for the record and any additional information they may offer to provide. The full texts of their written statements will be entered into the hearing record and posted on the Commission's website.

On behalf of the Commission, we thank all of today's witnesses for participating in what we view as a very important hearing. After the swearing in, we will begin by hearing from Mr. Burch about the work of the DCIS.

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