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FUTURE WAR PAPER

Private Security Companies and Their Impact on the Commander's Battlespace

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Since the creation of the nation state, armed forces for hire have continued to exist in addition to nation state controlled forces. However, the results from contracting armed forces have varied drastically. An infamous example is the British use of Hessian “mercenaries” during the American Revolution, whose tactics in the Hackensack Valley greatly alienated the populace and arguably did more harm than good. Although improper tactics are not limited to contracted forces, several steps are necessary to leverage and coordinate Private Security Companies (PSCs) in order to maximize positive effects (and minimize negative ones) at the strategic, operational, and tactical levels of war in the future. First there is some dispute across the international sector about PSC’s official status. International law states that mercenaries are illegal yet the United Nations have largely avoided taking on the question of the legality of PSCs within international law.¹ This is essential to clarify that PSCs acting under contracts of an accepted nation state are not mercenary organizations or classified as mercenaries. Regardless the issue is not to get bogged down on PSCs and their status, but to inform the reader how to maximize the advantages and minimize the disadvantages associated with PSCs across the levels of war. Thus, through addressing specifics of the current situation in Iraq the author will identify advantages and disadvantages and determine how to leverage and maximize the benefits of PSCs acting in a commander’s battlespace.

Any scenario that involves the conquest of a nation state or a failed state for whatever reason will require significant amounts of occupation forces to ensure victory. Unfortunately, in a democratic society this requirement occurs when the victorious nation’s populace wants their Marines, airmen, soldiers, and sailors to return home. However, insufficient occupation troops or early withdraw can easily prolong the

reconstruction process as well as exacerbate potentially unstable situations. Furthermore, the organization and structure required to support extensive nation building scenarios is not resident within the U.S. armed forces. The use of PSCs can reduce friction during this politically sensitive time. PSCs can assist government forces through providing border security forces, site and installation security forces, crime prevention, SWAT/special operations missions against international criminal elements, intelligence gathering, personnel security, security force training (both our forces and host nation forces), as well as nation building requirements such as police force training, and creation of a justice and prison system.

In examples like contemporary Iraq, PSCs can provide services that free up thousands of military troops to focus on fighting the insurgency, creating a secure environment, and engaging the populace. PSCs' ability to affect the battlespace through provision of personnel security detachments and trainers for internal and external security forces warrants particular attention.

Without the PSCs' ability to perform many military functions, the United States Armed Forces would have to train and maintain significant numbers for occupation duty, which would currently require significant restructuring or the creation of imperial/constabulary type forces, an expensive and highly politically sensitive task at best. Below is an example of the current amount of forces providing armed assistance in Iraq.

By the Spring of 2004, it was estimated that in excess of 20,000 private security personnel...from countries as varied as Chile, Fiji, Israel, Nepal, South Africa, the United Kingdom, and the United States...worked for the US Government, British Government, the Coalition Provisional Authority (CPA), private firms, and International Non-governmental Organizations (INGOs) in [Iraq].²

PSCs tend to be a much leaner organization logistically than a military unit. Obvious one to one conversion of line troops represented above to a relative sized military unit would result in a much larger number due to inherent logistic and support structures organic to a unit.

In 2002, the late Colonel Kevin Cunningham, Dean of the Army War College, stated, “The US cannot go to war without contractors.”³ Specifically, without PSCs to perform essential security tasks, DoD forces would have to provide support for all convoys, installation security at each reconstruction site, security for all host nation VIPs, and training of the host nation’s internal and external security forces. Current military police and special operations forces force structure in all the services would still not be able to fill current worldwide requirements and the obligations that over 100 PSCs perform in Iraq.⁴ It is unlikely that NGOs, unless they have no other options, would use DoD forces especially when their interests typically require disassociation with military forces, yet these organizations provide an important role in reconstruction efforts.

There are some non-DoD agencies with forces specialized in personnel security, installation security, and with the capacity to provide training for constabulary type forces. However, their current force structure still does not meet the enormous requirement filled by PSCs. For example, the Department of State (DoS) Diplomatic Security Services (DSS) (about 1500 personnel worldwide) performs personnel security work overseas, to include Iraq and Afghanistan.⁵ The DSS has Regional Security Officers at each embassy, or as an agent stationed at an embassy or consulate on a temporary duty basis, which are responsible for the security of all U.S. government personnel not under the authority of the Chief of Mission (Ambassador). All other

individuals fall under the authority of the geographic combatant commander. The DoS and DoD have Force Protection Memorandums of Understanding (MOUs) signed between each individual embassy and the geographic combatant commander in which the embassy is located, as well as an overall Force Protection MOU signed by DoD and the DoS from the late 1990s.⁶ Although DSS agents perform protection operations for personnel, they are limited to the ambassador or senior USG official. Iraq and Afghanistan are a little different. Although DSS agents work on the ambassador's detail, contractors and military personnel who provide a wide range of support operations supplement them greatly. In order for this force to expand if tasked to assist DoD in occupation force scenarios, reorganization would have to start several years ahead of the requirement. DSS has approximately 1500 agents worldwide to carry out its overall mission of embassy security, criminal investigations, and dignitary protection. Simply put, DSS could not staff full protection details overseas to carry out current protection mandate without the use of contractors.⁷ Expansion will be extremely costly. Even though contractors are an expensive option, DoS does not have to carry contractors as full time employees in its personnel system, does not pay benefits, contribute to their pension fund, or provide them force protection. Based upon the United States budgetary system, a conscious legislative change would be required that would be more expensive in the short term and long term. For example, once the situation has dissolved a PSC's contract expires with no need to maintain the force structure that would be required with a permanent change in any US government agency. However, contractors are expensive. "Between 1994 and 2002 US-based PSCs received more than 3,000 contracts worth over

\$300 billion from the US DoD, an average of just over 35 billion a year.⁸ The DoS's requested budget for military training alone in FY 2005 was 5.2 billion dollars.⁹

Although the exact figures are well past the scope here, it is not difficult to foresee how expanding the DSS to handle billions of dollars worth of contracts with its own organic structure would result in astronomical costs. The PSC industry is well over a \$100 billion a year industry.¹⁰ Even with a drastic transformation of U.S. agency and armed forces to provide the amount of required constabulary or imperial type forces one cannot expect the U.S. based PSC industry to lie down and watch huge amounts of profits slip through their hands. Expect PSCs to lobby and fight aggressively to maintain their role on future battlefields and to expand business as well as increase profits. PSCs are undoubtedly in the immediate and long-term future. Understanding this leads to the advantages and disadvantages across the levels of war.

Specific tactical advantages include economy of force, flexibility for NGOs, intelligence, advanced training, and longevity in the area of operations. When PSCs are contracted to train host nation forces and secure personnel, vice DoD forces, PSCs provide the local commanders with more troops to fight insurgency and secure the populace which allows more ground combat troops to focus on creating a secure environment for the populace. For example, there are over 20,000 private security personnel working in Iraq, or an additional twenty-one infantry battalions worth of personnel.¹¹

NGOs can be very difficult for DoD to work with, as many NGOs do not want their actions associated with DoD forces. PSCs allow NGOs to conduct their mission while limiting their exposure to danger and maintaining a necessary separation from the

DoD troops. Reducing friction between DoD and NGOs can provide the commander with possibilities that may not have been available without PSCs. Such opportunities include penetration into areas that would not be possible with DoD security, an additional information collection source through the PSCs and a positive affect on populace based on NGO assistance. Depending on the contract, NGOs may also be responsible for paying for PSCs. However, if the NGO is performing services at the request of DoD or DoS, the cost of the PSC will undoubtedly be rolled into the bill from the NGO.

PSCs accumulate an enormous amount of information during the routine execution of their duties. In fact, PSCs can travel through areas that DoD forces are restricted from entering and could be an advanced force information collection asset for DoD forces.¹² Due to the sheer magnitude of convoy operations PSCs partake in, a wealth of information is available for the local commander depending on the relationship he creates with the PSCs operating throughout his area of operations. A large majority of PSC members are former Special Operations Forces (SOF) individuals and share a common background with the forces performing the mission. More importantly, they typically hold clearances and can provide information for the commander depending on the command climate.

For example, a Triple Canopy employee interviewed for this paper stated how he video-taped every route he had traveled, highlighting start and end points, choke points, bypass routes, unusual activity, and enemy tactics, techniques, and procedures if captured on the video. All of which was downloaded to a compact disc and actively shared with DoD forces in the area free of charge. This type of combat information is invaluable to any convoy traveling the same routes or portions of those routes and obviously enhances

force protection.¹³ The commander can create or deny this type of information sharing with his personal relationships with the PSCs in the area (provided the PSCs feel the same way).

PSCs can be contracted by DoD to provide advanced tactical training that can maximize experiences in theater and keep troops on the cutting edge of their skills. This alleviates strain on institutional school manpower as well as deployed forces for providing this type of training. Contract stipulations can easily dictate the type of individual that will conduct the training, for example, recently retired U.S. SOF with combat experience in Iraq or Afghanistan. The German Army headquarters during World War I established a school just behind the front lines to analyze and compile current tactics, techniques, and procedures that were useful. PSCs can replicate this system, with obvious associated costs, providing innovative training without the added drain on force structure.

PSCs provide longevity and greater stability that unit rotation plans or competing mission requirements may not allow. For example, the same PSC can stay in an area working with indigenous personnel and provide a longer continuous presence than the military unit in the same area of operations can provide.¹⁴ This enables the implementation of a system without the necessary “re-learning” of the procedures that typically takes place with a transfer of authority between military units. Friction and frustrations are minimized and both the host nation and local commander benefit.

Some tactical disadvantages the commander must understand include personnel friction, negative impact on the indigenous populace, and the varying quality of contractors. PSCs can create friction with DoD troops because they typically are paid

exponentially more for exposing themselves to the same threat while not being held to the same legal standards or forced to abide by the same policies as ground combat troops.¹⁵ Ground troops realize this it can result in resentment and morale issues. A new DoD instruction, “Contractor Personnel Authorized to Accompany the U.S. Armed Forces,” answers some of the legal standards during a declaration of war, however, in a state like contemporary Iraq there is still a drastically different standard of accountability for actions. Statements like the one below from a March 2005 article are an obvious portrayal of a broken in place in Iraq.

Not one private contractor has been prosecuted or punished for a crime in Iraq (unlike dozens of U.S. Soldiers who have), despite the fact that more than 20,000 contractors have now spent almost two years there. Either every one of them happens to be a model citizen, or there are serious shortcomings in the legal system that governs them.¹⁶

The shortcomings in the legal regulations of PSCs influence the populace as well. Put a poorly disciplined individual with a cavalier attitude and you will have a front-page story like the one in the September 10th, 2005 Washington Post titled “Security Contractors in Iraq Under Scrutiny After Shootings.” That article relates how shootings of civilians by contractors are eroding progress made with relationships between military forces and Iraqi civilians. Brigadier General Karl R. Horst, deputy commander of the 3rd Infantry Division kept an account of contractor shootings once they came to his attention. “Between May and July [2005], he said, he tracked at least a dozen shootings of civilians by contractors. Two days after the [bloodiest] incident, American soldiers patrolling the same block were attacked by a roadside bomb.”¹⁷ Situations like the previous scenario are arguably the exception rather than the rule, but they do happen and they negatively affect the commander’s efforts to accomplish his mission.

The PSC industry is extremely vulnerable to a “catastrophic success” effect on the quality of their employees. Success creates more contracts that require more contractors. The selection process of those contractors is now in private vice public hands and as evidenced in the Abu Ghraib scenario, contractors can cut corners to meet demands. “For example, U.S. Army investigators of the Abu Ghraib prisoner-abuse scandal found that approximately 35 percent of the contract interrogators [hired by the firm CACI] lacked formal military training as interrogators.”¹⁸ PSCs that win contracts amounting to millions and sometimes billions of dollars will obviously do all they can to keep from losing the contract. In order to keep that contract, especially in a time where the recruitment pool of highly qualified personnel has a limited depth, the quality of selected personnel will diminish. Poor quality leads to irresponsible behavior and only exacerbates disadvantages listed above. This is not a foregone conclusion but it is a definite disadvantage reflected in contemporary Iraq depending on the company and the contract.

PSCs inherent capabilities (tactical advantages) are operational advantages. PSCs offer another means to assist the operational commander in the achievement of his objectives. It is critical that the operational level commander understands their capabilities, employs them in accordance with their capabilities, and leverages their advantages to assist his bid for victory.

A unique operational advantage PSCs present is the ability of theater commander to shape his battlespace during the pre-hostilities phase. Through Executive level authority, PSCs can set the conditions for success in an operational commander’s area of operations without the commitment of troops and legislative approval.¹⁹ This capability

allows the operational commander to organize for success before crossing the line of departure and quite possibly without the commitment of any forces. PSCs offer a true tactical tool that can have strategic results through proper application by the operational level commander.

The operational disadvantages obviously vary depending on the way an operational level commander utilizes PSCs. Irresponsible use can create a loss in efficiency of his assigned forces. For example, when operational commanders use PSCs in their battlespace to provide services in which U.S. DoD forces are capable, less troops gain experience, therefore the private sector increases in efficiency and experience but the opposite occurs in the public sector, creating even more of a dependency on PSCs.²⁰ PSCs can also refuse to carry out their contract if the situation on the ground drastically changes (threat on the ground is outside of what contract stated). This can easily remove a means for the operational commander after he has already planned on its necessity in execution of the campaign.²¹

Strategically, “privatization of force connects the military with the civilian sector and drives technological change,” which when coupled with competitive contracting will produce cost-efficient technical solutions.²² PSCs also provide strategic level commanders with a surge capability. During Operation IRAQI FREEDOM, the U.S. hired PSCs to help mitigate the collapse of the Iraqi government through training indigenous forces, and providing site and personnel security to coalition facilities and members.²³ PSCs lower the political price paid by an administration. If DoD had to replace the 20,000 plus PSC personnel in Iraq with its own forces the U.S. would have to conduct additional mobilization of reserve and National Guard forces or sacrifice

political flexibility through compromises gained to increase coalition troop support.²⁴

Another caveat to the above is that contractor casualties are not formally tracked by DoD or the media and are not discussed openly by PSCs themselves.²⁵

Foreign policy can be put into place more quickly without so many legislative checks because hiring PSCs is less transparent which reduces need to mobilize public support for foreign engagement activities.²⁶ Foreign nations hiring U.S. PSCs, with U.S. government approval and control over the content of the contract, can further promote foreign policy goals with little expense to the U.S.²⁷

Strategic disadvantages can stem from the very means to leverage the advantages provided by PSCs. The contract mechanism creates a rigidity that may be unable to respond to political changes in the situation. If the U.S. policy changes in midstream of a contract execution, the contractor can resist change, potentially disrupting political gains for maximizing profit.²⁸

Although PSCs allow the government to accomplish tasks that are politically unpalatable at the time, this same process disassociates the public from the nation's foreign policy and removes portions of the check and balance of legislative oversight, challenging the long-term health of American democracy.²⁹ According to the legal scholar, Arthur S. Miller, "democratic government is responsible government-which means accountable government-and the essential problem in contracting out is that responsibility and accountability are greatly diminished."³⁰ PSCs also inhibit transformation of the Military, "...the use of the private sector over time decreases the likelihood that the public sector [DoD] will retain (or gain) capacity in these arenas. The short run flexibility of private solutions may impede public innovation."³¹

The most significant potential strategic disadvantage of PSCs is the eventual diminishment of U.S. military effectiveness through the affect on retention and recruitment of DoD personnel and the transfer of military expertise typically controlled by the state to the private sector.³² Just based on the increasing military capabilities of PSCs, their boasts on the military experience of their employees, and the amount of annual training they actually conduct for special operation forces clearly indicates the validity and gravity of the above disadvantage. A potential step to mitigate this disadvantage is a “year-out” program. Offering troops the opportunity to leave the military for a year to work with a PSC and then rejoin the military without penalty would retain and increase the resident knowledge and expertise. Obvious specifics relating to benefits, time in service, and payback requirements need to support the program for it to work.

Without a doubt, contractors are here to stay and they do provide significant advantages at all levels of war. Commanders and politicians should educate themselves on the positive and negative effects of privatization and should take steps to mitigate those negative aspects. Effective coordination and regulation of PSCs is a top-down driven process. International heads of state should determine acceptable roles for the privatization of force worldwide. Strategic commanders (Secretary and Joint Chiefs of Staff level) should develop and implement regulations that direct coordination of PSCs operating in a commander’s battlespace. In-depth studies or commissions could research and further develop the above-mentioned disadvantages. Although not listed as an advantage or disadvantage, is the unknown factor of the actual cost of outsourcing. There are so many extenuating circumstances, obscure variables, and hidden costs associated

with each contract that only long-term reflective studies will be able to capture a true cost analysis. Without a doubt, non-competitive contracting which is prevalent in DoD hampers cost savings.³³ Again, this is a top-down solution. Only through Joints Chiefs of Staff level directives will the actual military costs surface.

Legislation is needed to delineate the legal ramifications of contractors who operate above the same rules of engagement that U.S./coalition forces must abide by and holds them accountable to the same standards of conduct. Methods of legislative oversight should be developed to preserve the balance of power but maintain the flexibility for executive foreign policy.

Operational commanders should carefully balance the short-term gains of contractors with the potential long-term effects on their own forces, especially when dealing with irregular warfare scenarios. They should establish regulative policies for contractors in the battlespace and closely monitor their actions to ensure positive outcomes. Interagency coordination is also mandatory to establish policies in theater at the combined force commander level to control PSCs acting in the area of operations where DoD and DoS operate hand in glove. The operational commander holds the key for the success of his tactical level commanders through his ability to conduct interagency coordination and to control the battlespace with respect to DoD and DoS contracted PSCs.

Tactical level commanders should foster an environment that allows for information sharing with PSCs. The amount of exploitable information a PSC can provide could amount to tipping points against an insurgency. Thorough cooperation and understanding by PSCs in respect to the tactical level commander's mission will

synergize efforts vice contradict actions ultimately achieving progress in sensitive irregular warfare environments. Personal and professional relationships or “hand con” with PSCs is crucial to the tactical level commander’s success. Although the author doesn’t believe that the nature of war has changed in the Clausewitzian sense, aspects on how war is fought continuously change of which PSC’s are part of this change and should be accounted for by commanders at all levels.

“Transformations in the nature of war...the growing power of non-state groups, particularly in relation to state forces, will entail massive changes in the dynamics of warfare.”³⁴ PSCs are the embodiment of this change and it is incumbent upon commanders at all levels to understand their impact and effectively deal with the nuances associated with PSCs. Expertise at all levels must be developed in the art of contract writing for PSC type functions. The contract is the single unavoidable quality control tool of the PSC and today’s military is far from mastering the contract writing medium. “However, DoD’s Inspector General recently observed that out of 113 service contracts written in 2003, at least 98% had one or more problems.”³⁵ This expertise should be resident from the Joint Chiefs to the infantry division’s Inspector General staff section.

As throughout history, the effective commander fully understands his battlespace and leverages all factors that he can to positively affect mission outcome. PSCs are just another factor, which when coordinated with and utilized properly, can help the commander achieve success, and ultimately save lives on both sides. As with many actors on the stage in a commander’s battlespace, PSC’s may not be under the control of DoD, especially when they are contracted by DoS, and relationships will be especially important to establish and set standards of conduct. DoD and PSCs must learn to work

effectively with each other and understand the significant advantages each of them provide to overall mission accomplishment.

¹ Deborah Avant, The Market for Force (New York: Cambridge University Press, 2005), 230-231. “In 1987, the United Nations Commission on Human Rights appointed a Special Rapporteur on the use of mercenaries to address increasing concerns about their use. A specific aim of this mandate was to encourage states to ratify the “International Convention against the Recruitment, Use, Financing, and Training of Mercenaries. Although the 1990’s demonstrated more mercenary involvement in armed conflict since the 1960’s, according to International Alert, the complexities introduced by the PSC phenomenon fit uncomfortably with the Special Rapporteur’s mandate. Instead of re-defining the mercenary issue to deal with the phenomenon at hand, though, the UN office continued its focus on ratification of the “International Convention” (successfully, it came into force in 2002) and largely sidestepped the issue of PSCs. The passage of the International Convention did clarify the illegality of mercenaries, but it has many loopholes. First is the ambiguous definition of a mercenary. Article 1, paragraph 2 defines a mercenary as someone who is specifically recruited for the purpose of participating in a concerted act of violence aimed at overthrowing a government or undermining the territorial integrity of a state, is motivated by the desire for private gain and material compensation, is neither a national nor a resident of the state against which such act is directed, has not been sent by a state on official duty, and is not a member of the armed forces of the state on whose territory the act is undertaken.”

² Avant, 2.

³ Avant, 115.

⁴ Asad Khan, <asad.khan@shawgrp.com> “no subject.” November 2005.

⁵ Jane Dekay, <DeKayJ2@state.gov> “DSS Agents.” (14 April 2006).

⁶ Ibid.

⁷ Ibid.

⁸ Avant, 8.

⁹ Ibid, 121.

¹⁰ Ibid, 8.

¹¹ Ibid, page 2

¹² Asad Khan, <asad.khan@shawgrp.com> “no subject.” November, 2005.

¹³ Shaun Yancey, interview by author, 7 Dec 2005.

¹⁴ Avant, 123.

¹⁵ Ibid, 134.

¹⁶ Peter W. Singer, “Outsourcing War Foreign Affairs,” The Brookings Institution, 1 March 2005, <<http://www.brookings.edu/>> (1 September 2005).

¹⁷ Jonathan Finer, “Security Contractors in Iraq Under Scrutiny After Shootings,” Washington Post, 10 September 2005 sec. A.

¹⁸ Singer, “Outsourcing War Foreign Affairs.”

¹⁹ Ibid.

²⁰ Avant, 81.

²¹ Singer, “Outsourcing War Foreign Affairs.”

²² Avant, 32.

²³ Ibid, 132.

²⁴ Singer, “Outsourcing War Foreign Affairs.”

²⁵ Matthew Jones, “Inside Blackwater USA,” The Virginian-Pilot. 3 May 2004, <<http://www.hamptonroads.com/>> (8 September 2005)

²⁶ Avant, 133.

²⁷ Avant, 132.

²⁸ Avant, 124. “For instance, as US interests in Bosnia shifted their priority to the development of institutions to oversee defense policy from training the Bosnian Defense Force, per se, MPRI was reluctant to adjust. This was partly due to the investment the contractor had made in the training facilities and efforts. Also, though, the host government had political interests in preserving the status quo and worked in concert with MPRI.” Pentagon officials working in Bosnia argue that the use of contractors impeded the adjustment of the Dayton Accords that was necessary as the peace unfolded. “Pentagon overseers report struggling with these issues constantly in the Balkans and describe private contracts for foreign military training as “rigid tools for fluid environments.””

²⁹ Singer, “Outsourcing War Foreign Affairs.”

³⁰ Singer, “Outsourcing War Foreign Affairs.”

³¹ Avant, 133.

³² Deborah C. Kidwell, Public War, Private Fight? The United States and Private Military Companies, Global War on Terrorism Occasional Paper 12 (Fort Leavenworth, KS: Combat Studies Press, 2005) 40-41.

³³ Ibid.

³⁴ Peter W. Singer, Corporate Warriors (New York: Cornell University Press, 2003), 61.

³⁵ Kidwell, 42.