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ASSESSMENT OF DOD EFFORTS TO COMBAT TRAFFICKING IN PERSONS

PHASE II -- BOSNIA-HERZEGOVINA AND KOSOVO

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ASSESSMENT OF DOD EFFORTS TO
COMBAT TRAFFICKING IN PERSONS

PHASE II -- BOSNIA-HERZEGOVINA AND KOSOVO

I. INTRODUCTION AND SUMMARY

In June 2002 the Inspector General of the Department of Defense initiated a Human Trafficking Assessment Project in response to concerns expressed by 13 Members of Congress regarding media reports that “U.S. military personnel, particularly those stationed in South Korea, are engaged in activities that promote and facilitate the trafficking and exploitation of women.” The first phase of that project addressed concerns involving United States Forces Korea (USFK). Our Phase I report dated July 10, 2003, identified several opportunities to build on the aggressive efforts taken by USFK leadership to combat human trafficking in Korea. In response to our Phase I report, 26 Members of Congress (including the original 13), signed a letter to the Secretary of Defense dated October 13, 2003 (Attachment A), concluding with the following admonition:

Combating trafficking in human beings is an ongoing and worldwide issue. Commanders and service members at all levels must understand their role in helping to eradicate the scourge of human trafficking and to avoid giving any indication that DOD turns a blind eye to this barbaric practice.

Noting the “vast scope of the problem of trafficking in human beings” and the need to “achieve international cooperation to combat trafficking,” the original Members of Congress who expressed concerns emphasized that any investigation into the issue of DoD complicity in human trafficking must be “thorough, global, and extensive.” Accordingly, after completing the assessment in Korea, we turned our attention to the European theater, specifically Bosnia-Herzegovina and Kosovo, based on various indicia that human trafficking was a growing menace in those regions. In this second phase, we undertook to determine the extent to which commanding officers and other DoD officers and employees in authority were being “vigilant in inspecting the conduct of all persons who are placed under their command” (10 U.S.C. §§ 3583, 5942, 8583) and otherwise suppressing human trafficking, and whether Service members assigned to North Atlantic Treaty Organization (NATO) peacekeeping forces were engaged in any activities that promoted or facilitated the trafficking and exploitation of women.

We found negligible evidence that U.S. Armed Forces in the Balkans patronized prostitutes or engaged in other activities on a wide-spread basis that supported human trafficking. Rather we found that top United States military leaders in both the Stabilization Force, Bosnia-Herzegovina (SFOR), and the Kosovo Force (KFOR) implemented force protection policies that restricted contact between U.S. Service members and local establishments and effectively prohibited them from engaging in illegal prostitution or other activities associated with human trafficking. Further, we found that military leaders recognized the inherent dangers that human trafficking posed to good order and discipline, security, and mission accomplishment.

Those generally favorable findings with respect to U.S. Service members were tempered by the testimony of two witnesses who observed possible involvement by U.S. forces (infrequent observations of Service members patronizing local bars). Further, some representatives of non-DoD organizations, which monitored human trafficking in the Balkans, opined that U.S. Service members contributed to the human trafficking problem at some, undefined, level. Moreover, we found potential weaknesses on the part of U.S. military leadership in the Balkans in addressing human trafficking issues -- neither SFOR nor KFOR has implemented a program designed to educate Service members regarding human trafficking issues and there are no specific prohibitions on patronizing prostitutes or engaging in other activities that may directly support human trafficking. We believe those potential weaknesses warrant a general reinforcement of the U.S. approach to human trafficking in the Balkans.

We obtained testimonial evidence from embassy officials, United Nations officials, and representatives from organizations that monitor human rights issues, which indicated Service members from other countries involved in NATO-led peacekeeping operations do not face the same restrictions on off-base movement imposed on U.S. Service members and were contributing to the human trafficking problem. For example, testimony indicated that Russian, Romanian, African, and Pakistani soldiers were the worst offenders with respect to human trafficking incidents in the past, including assaults of trafficked women. Accordingly, we recommend the Secretary of Defense support efforts to institute NATO policy that prohibits conduct on the part of NATO-led peacekeeping forces which could contribute to human trafficking.

With regard to DoD contractors, we found that contract employees, while considered members of the SFOR and KFOR community, are not subject to the same restrictions that are placed on U.S. Service members. For example, contractor employees are sometimes permitted to live outside U.S.-controlled military installations and, with few restrictions, to circulate in host country communities. Additionally, we determined that DoD contractors also employ many host country nationals, all of whom live in local communities and whose behavior is neither restricted nor monitored by DoD authorities. As members of SFOR and KFOR, contractor employees are forbidden from patronizing establishments designated by the United Nations or the European Union Police Mission as off-limits because of illegal prostitution and human trafficking concerns. However, we found that while some contractors make an effort to monitor their employees' activities and address employee misconduct, contractor behavior in this regard is not uniform. Not surprisingly, anecdotal evidence suggested some level of DoD contractor employee involvement in activities related to human trafficking in Bosnia-Herzegovina and Kosovo.

Based on these findings, we recommend that the Commander, United States European Command, consider the following actions:

- Continue to exercise vigilance to ensure military personnel adhere to laws and restrictions regarding activities related to human trafficking, such as prostitution. In

particular, this should include regular reviews of the “Fighter Management Pass Programs” and inspections of rest and relaxation locations.¹

- Amend General Order #1 to include provisions prohibiting engagement in all facets of prostitution and other activities related to human trafficking. These provisions should include punitive language to enable their enforcement through Article 92, UCMJ. For instance, the following subparagraph might be added to paragraph 3, “Prohibited Activities,” of General Order #1: “Engaging in any activities associated with human trafficking. Such activities include obtaining the services of a prostitute, purchasing individuals for the purpose of indentured servitude or prostitution, or patronizing establishments that are suspected of involvement in human trafficking.”
- Implement a training program designed to educate military personnel, contractor employees, and law enforcement personnel regarding human trafficking. Such a program should provide information on the legal, societal, and moral implications of engaging in activities that support human trafficking. In addition, law enforcement personnel should receive instruction in the provisions and application of the Military Extraterritorial Jurisdiction Act (MEJA), and especially in law enforcement measures necessary to support implementation of extraterritorial jurisdiction.
- Incorporate standard clauses in all contracts for work to be performed in Bosnia-Herzegovina and Kosovo that prohibits contractor employee involvement in activities that may support human trafficking and requires contractors to report to U.S. military authorities any information regarding involvement of their employees in such activities. Contractors should also be contractually bound to take appropriate measures to address such misconduct on the part of their employees. An example of a contract clause recently provided by this office to a contracting office is provided at Attachment B. Contracting officers should be charged to aggressively enforce such provisions.
- Implement policies to promote regular communication between U.S. military authorities, local judicial and law enforcement authorities, and the Trafficking and Prostitution Investigative Unit. Such communication would include the exchange of information regarding involvement by members of SFOR and KFOR in human-trafficking related activities, and would facilitate investigations and prosecutions.

The remainder of this report provides detailed findings and conclusions of our on-the-ground assessment in Bosnia-Herzegovina and Kosovo.

We believe that our assessments in Korea and the European theater, as well as our coordination with various offices in DoD, Congress, and other Federal agencies, provide the basis at this point for making recommendations for DoD-wide efforts to implement the

¹ As discussed in greater detail below, the Fighter Management Pass Programs offer Service members stationed in the Balkans an opportunity to travel on pass to three alternative locations in Europe for rest and relation.

President's "zero tolerance" policy on human trafficking.² As an essential first step in laying the groundwork for future efforts to eliminate DoD complicity in human trafficking, we recommend that the Secretary of Defense issue a policy statement on human trafficking that clearly and unambiguously sets forth DoD opposition to any activities that promote, support, or sanction human trafficking. We recommend that the policy statement encourage Military Departments and commanders at all levels to:

- Educate all Service members and DoD civilians serving overseas on the worldwide trafficking menace, national policy with respect to trafficking in persons, and attendant personal responsibilities consistent with military core values and DoD ethical standards. Our assessment in Korea found that, while many Service members recognized the inherent immorality of activities associated with human trafficking, they received no official training or guidance on that issue until USFK leadership took action following unfavorable media depictions of Service members engaged in off-duty activities. Such training should be given early and often to all Service members who are subject to overseas deployment. This recommendation is consistent with NSPD-22 which requires that Federal agencies "adopt policies and procedures to educate, as appropriate personnel and contract employees on assignment or official travel abroad about trafficking in persons."
- Increase efforts by command and military police authorities worldwide to pursue indicators of trafficking in persons in commercial establishments patronized by DoD personnel, place offending establishments off-limits, and provide support, within their authority to do so, to host country authorities involved in the battle against trafficking in persons. Military police, together with courtesy patrols that may be used to augment law enforcement efforts, should be empowered to take such action as appropriate to place offending entertainment establishments off-limits to U.S. personnel and to encourage local authorities to enforce local sanctions on human trafficking activities. The obvious step of placing local establishments off-limits for human trafficking violations was not taken in Korea until the Commanding General, USFK, directed such action.
- Incorporate provisions in overseas contracts that prohibit any activities on the part of contractor employees that support or promote human trafficking and that imposes suitable penalties on contractors who fail to enforce appropriate standards of employee behavior. Contracting officers should be charged to aggressively enforce such provisions. With few exceptions, DoD contracts do not reflect the "zero tolerance" policy that extends to contractor personnel under NSPD-22.

² See National Security Presidential Directive (NSPD)-22, Combating Trafficking in Persons," of December 16, 2002, which is further described in the "Standards" section of this report. That Directive states, "The United States hereby adopts a 'zero tolerance' policy regarding United States government employees and contractor personnel representing the United States abroad who engage in trafficking in persons."

- Devise a systemic method to evaluate the effectiveness of efforts to combat human trafficking as part of established inspection and evaluation programs carried out by their Inspector General organizations.

Additionally, we recommend that, consistent with President Bush's address to the United Nations General Assembly on September 23, 2003, the Secretary of Defense continue efforts to implement policy that prohibits conduct on the part of NATO-led peacekeeping forces which could contribute to human trafficking.³ In his address President Bush emphasized,

“The victims of this industry [human trafficking] also need help from members of the United Nations, and this begins with clear standards and the certainty of punishment under the laws of every country.”

This office will continue to evaluate DoD efforts to combat human trafficking on a global basis as part of a regular inspection and assessment program.

II. BACKGROUND

Background on Peacekeeping Forces in the Balkans

In Bosnia, a NATO-led multinational peacekeeping force, known as the Implementation Force (IFOR), began operations on December 20, 1995. IFOR consisted of approximately 65,000 uniformed personnel with the mission of establishing and maintaining a nonhostile environment. One year later NATO replaced IFOR with the Stabilization Force, Bosnia-Herzegovina (SFOR), which consisted of approximately 32,000 Service members in Bosnia-Herzegovina, approximately half that of IFOR. Over the past 6 years, SFOR forces have been reduced to approximately 12,000 Service members, divided into 3 multinational brigades. Both SFOR and its predecessor, IFOR, worked closely with the United Nations International Police Task Force (IPTF). The IPTF was replaced by the European Union Police Mission (EUPM) in January 2003.

With its headquarters in Sarajevo at Camp Butmir, SFOR is commanded by Lieutenant General (LTG) William E. Ward, U.S. Army. The bulk of U.S. Service members in Bosnia are assigned to Multinational Brigade North (MNB North), which has a total of 2,900 personnel and is headquartered at Eagle Base, located in Tuzla, Bosnia-Herzegovina. MNB North is commanded by Brigadier General (BG) James R. Mason, U.S. Army National Guard, and is comprised of Service members from Denmark, Finland, Poland, Portugal, Russia, Slovenia, Sweden, and Turkey, as well as the United States.

MNB South East, headquartered in Mostar, Bosnia, is commanded by BG Gian Marco Chiarini, Italian Army, and is comprised of soldiers from Albania, France, Germany, Italy, Morocco, and Spain. MNB North West, headquartered in Banja Luka, Bosnia, is commanded by

³ We understand that the Office of the Under Secretary of Defense for Policy is already working with the North Atlantic Council of NATO to adopt standards of conduct for NATO-led forces.

Brigadier B.W. Barry, British Army, and is comprised of soldiers from Bulgaria, Canada, Czech Republic, The Netherlands, Romania, and the United Kingdom.

The Kosovo Force (KFOR), a NATO-led international force responsible for establishing and maintaining security, entered Kosovo on June 12, 1999 under a United Nations mandate. At full strength KFOR consisted of about 50,000 personnel, but now is manned by approximately 20,000 uniformed personnel. KFOR is headquartered in Pristina, Kosovo, and is commanded by LTG Fabio Mini, Italian Army, with Service members divided into five multinational brigades throughout Kosovo as follows.

- The Multinational Specialized Unit (MSU), headquartered in Pristina, commanded by Colonel CC Georg Di Pauli, Italian Army, and comprised of soldiers from Italy, France, and Estonia.
- MNB (East), headquartered in Urosevac, commanded by BG Daniel J. Keefe, U.S. Army, and comprised of soldiers from the United States, Greece, Lithuania, Russia, Poland, and Ukraine. Originally, the United States provided approximately 7,000 Service members to MNB East, but that number decreased to about 3,500 at present.
- MNB (Central), headquartered in Pristina, commanded by BG Paavo Kiljunen, Finnish Army, and comprised of soldiers from Finland, Czech Republic, Ireland, Latvia, Norway, Slovakia, Sweden, and the United Kingdom.
- MNB (Northeast), headquartered in Mitrovica, commanded by General Marc Bertucchi, French Army, and comprised of soldiers from France, Belgium, Denmark, Greece, Lithuania, Luxemburg, Romania, Morocco, and Ukraine.
- MNB (Southwest), headquartered in Pritzren, commanded by Brigadier General Robert Bergmann, German Army, and comprised of soldiers from Germany, Austria, Argentina, Azerbaijan, Bulgaria, Georgia, Italy, Romania, Spain, Switzerland, and Turkey.

Background on Human Trafficking in the Balkans

A plethora of information is available regarding human trafficking in the Balkans. Hundreds of articles have appeared in well-respected publications. Reporters for a variety of news agencies have interviewed trafficking victims and documented their personal stories. The International Organization for Migration (IOM) tracks trends in Human Trafficking and also interviews victims.

Congressman Christopher Smith has met personally with trafficking victims. Under Attorney General John Ashcroft's leadership, the Department of Justice now treats the fight against human trafficking as a top civil rights priority. In a recent speech, the U.S. Ambassador to Moldova announced, "We often hear that trafficking is a form of slavery. That is not simply a

cliché . . . Trafficking in humans is the second most lucrative illicit business in the world after arms trafficking.”⁴

One of the most comprehensive studies of human trafficking in the Balkans was published in November 2002 by Human Rights Watch (HRW), entitled “Hopes Betrayed: Trafficking of Women and Girls to Post-Conflict Bosnia and Herzegovina for Forced Prostitution” (hereinafter referred to as HRW report). The HRW report provided significant evidence that members of the IPTF engaged in human trafficking. The report stated that “Human Rights Watch investigators also found evidence that some Stabilization Force (SFOR) contractors -- civilians hired to provide logistical support for military forces based in Bosnia and Herzegovina -- engaged in trafficking-related activities.” The HRW report cited evidence that “some civilian contractors employed on U.S. military SFOR bases in Bosnia and Herzegovina engaged in the purchase of women and girls.”

Addressing jurisdictional issues, the HRW report stated, “Although these U.S. employees [DoD contractor personnel] enjoyed only ‘functional’ immunity (immunity only for acts related to their official duties), as of October 2002, not one had faced prosecution in Bosnia and Herzegovina for criminal activities related to human trafficking. Instead, when they came under suspicion, they returned to the United States almost immediately.”

HRW investigators concluded that the “brisk repatriation” of U.S. personnel implicated in human trafficking “precluded Bosnian prosecutions and prevented the SFOR contractors from serving as witnesses in criminal cases against the owners of the establishments engaged in trafficking.” The report then noted that “under a U.S. law passed in 2000, the U.S. government gained jurisdiction over these citizens but had not brought any prosecutions as of October 2002.”⁵

HRW found that “since the end of the war in 1995, Bosnia and Herzegovina has become a major trafficking destination.” Significantly for the DoD, HRW investigators concluded that, “while trafficked women and girls [in Bosnia-Herzegovina] have reported that approximately 70 percent of their clients were local citizens . . . local NGOs [nongovernmental organizations] believe that the presence of thousands of expatriate civilians and soldiers has been a significant motivating factor for traffickers to Bosnia and Herzegovina.” In other words, HRW concluded that the mere presence of multinational personnel in the region financially incentivized human trafficking, giving the implication that presence of U.S. personnel contributed, at some level, to the human trafficking problem.

⁴ Ambassador Pamela Hyde Smith's remarks at the NATO Euro-Atlantic Partnership Council Meeting of July 24, 2003, in Brussels (as delivered).

⁵ In November 2000, the Military Extraterritorial Jurisdiction Act of 2000, Public Law 106-523, was enacted. This Act was designed to close some of the jurisdictional loopholes that, in some instances, had rendered U.S. citizens essentially immune from prosecution for crimes committed overseas. The scope of the Act, however, is limited to “certain members of the Armed Forces and . . . persons employed by or accompanying the Armed Forces outside the United States.”

HRW's analysis of financial incentives represented by the U.S. presence in Bosnia-Herzegovina was supported by a report published by the United Nations Children's Fund (UNICEF), the United Nations (U.N.) Office of the High Commissioner for Human Rights, and the Organization for Security and Cooperation in Europe Office for Democratic Institutions and Human Rights. This report noted that "international clients pay higher rates and spend more money in the bars than local men," including accounting for an "estimated . . . 70 percent of all profits from prostitution."

In a Hearing before the Subcommittee on International Operations and Human Rights of the Committee on International Relations House of Representatives, a former United Nations Human Rights Investigator in Bosnia testified:

U.N. peacekeepers' participation in the sex slave trade in Bosnia is a significant, widespread problem, resulting from a combination of factors associated with the U.N. peacekeeping operation and conditions in general in the Balkans. More precisely, the sex slave trade in Bosnia largely exists because of the U.N. peacekeeping operation. Without the peacekeeping presence, there would have been little or no forced prostitution in Bosnia.⁶

In its report, HRW stated that it "did not find direct evidence that SFOR soldiers engaged in trafficking of women and girls in Bosnia and Herzegovina. Substantial evidence, however, pointed to involvement by SFOR U.S. civilian contractors, who had more freedom to move around Bosnia and Herzegovina than the SFOR peacekeepers and did not face the same prohibitions on visiting nightclubs." HRW recommended that SFOR take the following actions:

- Investigate thoroughly all allegations of SFOR soldiers', contractors', and expatriate civilian employees' involvement in trafficking or the purchase of women or girls and their passports.
- Investigate thoroughly allegations of physical or sexual abuse of women or girls by SFOR soldiers, expatriate civilian employees, or contractors in Bosnia and Herzegovina.
- Ensure that the records of all investigations are delivered to the country of origin of each SFOR soldier or contractor under investigation. Ensure that prosecutors and police in the countries of origin receive all records necessary to bring charges against soldiers and contractors found to have engaged in trafficking or other illegal activities related to trafficking in persons.
- Prosecute personnel accused of participation in trafficking to the fullest extent of the law.

⁶ Statement of Mr. David Lamb, Former U.N. Human Rights Investigator in Bosnia, before the Subcommittee on International Operations and Human Rights of the Committee on International Relations, House of Representatives, April 24, 2002.

Background on Human Trafficking Cases Involving U.S. Contractors in the Balkans

Ms. Kathryn Bolkovac was an employee of DynCorp Aerospace Technology U.K., Ltd. (DynCorp), a Department of State contractor providing personnel to serve as Police Monitors attached to the IPTF in Bosnia. In the course of her duties as a Police Monitor, Ms. Bolkovac became concerned regarding the trafficking of women and girls by organized criminal groups in Bosnia. Specifically, Ms. Bolkovac was concerned that some United Nations personnel in Bosnia were participating in human trafficking and that the police monitors and their supervisors (DynCorp employees) were facilitating, rather than combating, human rights abuses.

In July 2000, and on October 9, 2000, Ms. Bolkovac sent e-mails to multiple recipients in the United Nations and DynCorp detailing the abusive nature of human trafficking. Ms. Bolkovac also asserted that SFOR and IPTF personnel, among others, were involved in human trafficking and witness intimidation.

In April 2001 DynCorp fired Ms. Bolkovac, who subsequently alleged that her firing was in reprisal for the complaints she had made about coworkers engaged in human trafficking. Ms. Bolkovac filed suit in a U.K. Employment Tribunal for unfair dismissal.⁷ Ms. Bolkovac prevailed at trial in 2003. Her case received international publicity and drew attention to issues of U.S. personnel involved in human trafficking in Bosnia and Kosovo.

A second case involved Mr. Ben Johnston, who was a helicopter mechanic employed by DynCorp under a United States Air Force contract in Bosnia.⁸ In spring 2000 Mr. Johnston notified DynCorp and the U.S. Army Criminal Investigation Command (CID) that DynCorp employees were engaging in sex slavery, including the buying and selling (through purchase of passport) of underage women to use for sex and as domestic servants.⁹

According to HRW, a CID investigative report indicated that, during an interview with a CID agent, one DynCorp employee confessed to purchasing a woman from a brothel near the military base and gave a sworn statement giving details of the human trafficking operation. In addition to providing the sworn statement, the employee also “provided investigators with a pornographic videotape that appeared to document a rape” committed by a DynCorp employee involving a trafficked woman. According to the HRW, it was clear from the videotape that the woman told the employee “no” prior to and during the sexual intercourse. Further, the HRW report presented verbatim testimony, taken from the CID report, of the DynCorp employee wherein he admitted having sexual intercourse with a trafficked woman after she said “no” and he admitted that “it is wrong to force yourself upon someone without their consent.” However, HRW reported that CID investigators did not “properly delve into allegations that [the DynCorp employee] may have raped one of the victims on the videotape or that the women were trafficking victims. . . . Instead, the CID referred the matter to the local police for

⁷ Ms. Bolkovac brought suit under the (U.K.) Public Interest Disclosure Act of 1998.

⁸ Air Force contract number F34061-97-D0422.

⁹ Because of the possibility of retaliation by DynCorp employees and the Serbian mafia, CID placed Mr. Johnston and his wife in protective custody.

investigation.” None of the contractor employees accused of trafficking-related crimes faced prosecution, according to HRW, because “local police denied to Human Rights Watch that they had authority to arrest, detain, or prosecute SFOR contractors for crimes committed in Bosnia and Herzegovina¹¹.”

DynCorp fired Mr. Johnston on June 9, 2000, for bringing “discredit to the Company and the U.S. Army while working in Tuzla, Bosnia and Herzegovina.” In August 2000, Mr. Johnston filed suit in federal district court in Texas for damages arising from his termination. After Ms. Bolkovac won her case at trial, DynCorp settled with Mr. Johnston.

According to publicly available testimony in Mr. Johnston’s lawsuits, Bosnia police investigated DynCorp employees for human trafficking in 1999, several months prior to Mr. Johnston’s and Ms. Bolkovac’s complaints. The Bosnia press reported that DynCorp employees were accused of “harboring illegal immigrants and participating in organized crime activities to buy ownership (passports) of women.” Reportedly, in August 1999, the Commander, Task Force Eagle, Multi-National Brigade North, located in Tuzla, Bosnia-Herzegovina, informed DynCorp of the names of the accused employees and requested the employees be removed from Bosnia within 48 hours. DynCorp complied. A few days later DynCorp reportedly fired these employees.

As a result of the Johnston case, DynCorp began requiring employees assigned overseas to sign an additional letter of agreement regarding a prohibition on human trafficking.¹⁰ On April 24, 2002, the Subcommittee on International Operations and Human Rights, U.S. House of Representatives, held hearings on the sex slave trade in Bosnia. Mr. Johnston testified before that committee. Ms. Martina E. Vandenberg, of Human Rights Watch, provided testimony that corroborated the participation of DynCorp employees in sex slavery in Bosnia.

III. SCOPE

Our assessment team traveled to the SFOR Headquarters at Camp Butmir in Bosnia and to KFOR Headquarters and MNB East Headquarters, at “Film City” and Camp Bondsteel, in Kosovo in June 2003. The team was accompanied by an advisor to the U.S. Mission to the United Nations, representatives from the Center for Strategic and International Studies with a grant from the State Department, and a U.S. European Command representative. We focused our efforts on gathering information relevant to the possible involvement of DoD personnel in human trafficking and illegal prostitution and reviewing pertinent policies and procedures.

We conducted discussions with 40 officials including U.S. military commanders, members of their staffs, and representatives from various agencies and nongovernmental

¹⁰ The letter of agreement also required DynCorp employees to notify DynCorp management of any employee engaging in human trafficking. The letter, however, did not include any indication that DynCorp would protect, and not reprise against, such whistleblowers. See, for example, 10 U.S.C. 2409, which states, “An employee of a contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing . . . information relating to a substantial violation of law related to a contract . . .” DynCorp also indicated to this Office that it has placed 234 business establishments in Bosnia off-limits to all its employees, and that it has instructed the IPTF to inform DynCorp of any employee who visited the off-limits establishment.

organizations. The following summary of individuals with whom we discussed human trafficking issues is provided:

- U.S. European Command (EUCOM) Headquarters, Stuttgart, Germany. LTG John B. Sylvester, Chief of Staff; representatives from the Offices of the EUCOM Staff Judge Advocate and EUCOM Inspector General; the EUCOM Bosnian Desk Officer.
- Camp Butmir located in Sarajevo, Bosnia-Herzegovina. BG Kenneth Quinlin, U.S. Army, SFOR Assistant Chief of Staff for Operations, and his Inspector General and Legal Advisor.
- Sarajevo, Bosnia-Herzegovina. Officials from the Organization for Security and Cooperation in Europe, the U.S. Embassy; the Office of the United Nations High Commissioner for Human Rights; the International Organization for Migration, and the European Union Police Mission.
- Eagle Base, Tuzla, Bosnia-Herzegovina. BG James R. Mason, Commander, Task Force Eagle, Multinational Brigade North (MNB-North); the MNB Staff Judge Advocate and Inspector General; an Army CID Special Agent, Organization for Security and Cooperation in Europe representatives, a DoD contractor Project Manager; military personnel from the Comptroller office.
- Prishtina, Kosovo. Representatives from the Government of Kosovo (Office for Good Governance, Human Rights, Equal Opportunities and Gender Issues and the Office of the Prime Minister); the Bureau for International Narcotics & Law Enforcement Affairs (U.S. Department of State); the U.S. Office Prishtina (otherwise referred to as the U.S. Embassy); the IOM; the U.S. Department of Justice; the Civilian Police Trafficking and Prostitution Investigation Unit; the Organization for Security and Cooperation in Europe; and nongovernmental organizations (NGOs).
- “Film City,” Kosovo. BG Rick Lynch, U.S. Army, Chief of Staff, KFOR, and his operations chief.
- Camp Bondsteel, Kosovo. BG Daniel J. Keefe, U.S. Army, Commander Multinational Brigade-East; the staff judge advocate; a Special Forces commander; an intelligence officer; Army CID agents; a regional chief of police; a DoD contractor representative; and a Defense Contract Management Agency representative.

IV. FINDINGS AND ANALYSIS

Standards

Title 10, United States Code (U.S.C.), Sections 3583, 5947, and 8583, “Requirement of Exemplary Conduct,” enacted November 18, 1997. (In the case of the Navy, the 1997 legislation reaffirmed standards that have applied to Naval and Marine Corps officers since they were first set forth in regulations drafted by President John Adams and approved by the Continental Congress in 1775.)

These sections establish a standard of conduct for commanding officers and others in authority in the Army (3583), Air Force (8583), and Naval Service (5947) to:

“(1) show in themselves a good example of virtue, honor, patriotism, and subordination;

“(2) be vigilant in inspecting the conduct of all persons who are placed under their command;

“(3) guard against and suppress all dissolute and immoral practices, and to correct, according to the laws and regulations of the Army, Air Force, and Naval Services, all persons who are guilty of them; and

“(4) take all necessary and proper measures, under the laws, regulations, and customs of the Army, Air Force, and Naval Service, to promote and safeguard the morale, the physical well-being, and the general welfare of the officers and enlisted persons under their command or charge.”

These provisions are of significance here, because, in our view, they impose on commanders a responsibility to lead by example in fighting human trafficking, to be “vigilant in inspecting the conduct of all persons who are placed under their command,” and to take proactive measure to discourage and punish conduct that contributes to human trafficking. In other words, no DoD person “in authority” should ever “turn a blind eye” to human trafficking.

Public Law (P.L.) 106-386, Division A, 114 Stat. 1464, “Trafficking Victims Protection Act of 2000,” dated January 24, 2000

The purposes of the Act are to “combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims.”

The Act requires the President to establish an Interagency Task Force, chaired by the Secretary of State, to “monitor and combat trafficking.” While DoD is not named as one of the agencies to be included on the Task Force, the Act enables the President to designate Federal agencies in addition to those named.

The Act directs the Task Force to, among other things,

- “coordinate the implementation of” the Act;
- “measure and evaluate . . . progress . . . in the areas of trafficking prevention, protection, and assistance of victims . . . prosecution and enforcement against traffickers;” and
- “expand interagency procedures to collect and organize data, to include significant research and resource information on domestic and international trafficking.”

The Act empowers the President and Executive Agencies to take acts to fight trafficking in persons, to include imposing economic sanctions on countries that do not act to curb trafficking, providing assistance to victims of trafficking, such as special work visas and education programs, and amends U.S. criminal laws to better define, investigate, prosecute, and punish trafficking and related offenses.

National Security Presidential Directive (NSPD)-22, “Combating Trafficking in Persons,” dated December 16, 2002

NSPD-22 exhorts Federal agencies to “strengthen their collective efforts, capabilities, and coordination to support the policy to combat trafficking in persons.” It further states: “The policy of the United States is to attack vigorously the worldwide problem of trafficking in persons, using law enforcement efforts, diplomacy, and all other appropriate tools,” and directs relevant agencies of the U.S. Government to work together to address human trafficking.

The Directive details five areas of effort in fighting trafficking: vigorous prosecution of traffickers; raising awareness of the problem; protecting victims of trafficking; reducing vulnerability of potential victims through education, economic opportunity, and protection of human rights; and encouraging cooperation of other nations in the fight against human trafficking.

The Directive states “our policy is based on an abolitionist approach to trafficking in persons, and our efforts must involve a comprehensive attack on such trafficking, which is a modern day form of slavery. . . . [T]he United States Government opposes prostitution and any related activities, . . . as contributing to the phenomenon of trafficking in persons,” and takes the position that these activities should not be regulated as a legitimate form of work.

The Directive implements the Victims of Trafficking and Violence Protection Act of 2000 by creating a Task Force that includes the Departments of State, Justice, Labor, Homeland Security, Health and Human Services, Defense, and Treasury, and the Agency for International Development, the Central Intelligence Agency, and the Office of Management and Budget to cooperate in developing a coordinated strategy for “active diplomatic engagement, marshalling law enforcement resources, gathering and sharing intelligence, obtaining international cooperation, and providing specialized law enforcement training as necessary to combat trafficking in persons.” Under the direction of the Secretary of State, the Office to Monitor and Combat Trafficking in Persons in the Department of State will advise the Task Force as to the

implementation of the Victims of Trafficking and Violence Protection Act of 2000, as well as any Task Force Initiatives.

The DoD, together with other agencies, is given the task of developing and implementing relevant training programs. The agencies must review their internal procedures, capabilities, programs, and resources necessary to implement the Directive and, within 90 days of the effective date of the Directive (December 16, 2002), promulgate plans to implement it. The Under Secretary of Defense for Policy is currently staffing the required plan.

Annex D, Agreement between the Republic of Bosnia and Herzegovina and the North Atlantic Treaty Organization Concerning the Status of NATO and its Personnel, Dayton Accords, Appendix B to Annex 1-A. Wright Patterson Air Force Base, Dayton, Ohio, November 21, 1995, and Brussels, November 23, 1995, 35 ILM I (1996) 102)

Annex D establishes the Status of Forces Agreement (SOFA) between the Republic of Bosnia and Herzegovina and the North Atlantic Treaty Organization as part of the Dayton Accords in November, 1995.

Headquarters Peace Stabilization Force, Sarajevo, Bosnia-Herzegovina, Office of the Commander, "Interpretation of the Agreements between NATO and the Republic of Bosnia and Herzegovina and Croatia Concerning the Status of NATO and its Personnel," September 24, 1998.

This document, signed by the Commander, Peace Stabilization Force in Sarajevo, Bosnia-Herzegovina, interprets the SOFA and addresses the status of U.S. contractors and their employees deployed in support of the Peace Stabilization Force. We consider it significant because it makes clear that, "Personnel employed by contractors . . . other than personnel locally hired are to be considered NATO personnel." That is, restrictions intended to curb complicity in human trafficking that are imposed on NATO military personnel may also be imposed on contractor personnel. Also, "In the case of contractors and their personnel, any immunity from the criminal jurisdiction of the Republic of Bosnia-Herzegovina or the Republic of Croatia extends only to acts or omissions occurring within the scope of their official duties as determined by the SFOR legal advisor."

Factual Findings

Facts Concerning Service Member Complicity in Human Trafficking

Most witnesses acknowledged the existence of a serious human trafficking problem in the Balkans that many individuals believed started, or dramatically increased, after cessation of combat operations and the influx of foreign nationals -- both contractors and NATO peacekeeping forces. However, with few exceptions, none of the witnesses we interviewed provided any first-hand observations or other evidence that U.S. Service members patronized or supported entertainment establishments that engaged in prostitution or other activities related to human trafficking. A United Nations representative in Sarajevo, who monitored the human trafficking situation there and is recognized as an expert in human trafficking, believed that U.S.

Service members contributed to the human trafficking problem. She indicated that her opinion in that regard was based on information obtained from a variety of sources, as well as her observation that many of the bars around Tuzla had American-sounding names such as “Texas” and “Virginia.” However, the representative did not provide additional, more specific, evidence to support that opinion other than a videotape which allegedly depicted American soldiers in clubs with trafficked women. We examined the video, but did not observe any indication of participation by U.S. forces.

Representatives from the International Organization for Migration (IOM) in Sarajevo and Kosovo, an organization which has sheltered hundreds of women over the past few years, had no information concerning possible participation by U.S. forces. According to IOM statistics, obtained primarily from interviews with women seeking shelter, about 20 to 30 percent of those who solicit prostitutes are from the international community; the remainder are local nationals. However, the IOM representatives pointed out that the nationality of individuals who solicit prostitutes is often not recognized by the women involved. Victims can typically distinguish only between local patrons and customers from the international community (peacekeeping forces and outside contractor personnel).

The representative in Sarajevo told us that, while soldiers from other countries were known to have sexually assaulted prostitutes who were trafficked women, she knew of “nothing [no violent incidents] with the Americans.” Similarly the representatives in Kosovo believed that NATO peacekeeping forces contributed to the human trafficking problem but was not able to provide any specific information concerning the involvement of U.S. forces. Staff judge advocates, who handled disciplinary infractions by U.S. Service members in Bosnia and Kosovo, knew of no incidents where Service members had been accused of activities related to human trafficking.

Two witnesses told us that they had observed U.S. Service members in brothels. One individual, an intelligence agent, indicated that as part of his intelligence gathering activities he was made aware of U.S. Service member presence in brothels on occasion. However, he did not pursue that information as possible misconduct because it was not related to his intelligence gathering mission. A local police officer told us that he knew of three U.S. Service members who were found in a bar in October 2002 that was listed on the United Nations “off-limits” list. Other than testimony from those two witnesses, we obtained no information concerning possible involvement in human trafficking by U.S. Service members.

We determined that the primary reason for the lack of involvement in off-base entertainment activities by U.S. Service members was the strict “walk out” policy adopted by U.S. military commanders, primarily for force-protection purposes. Walking out policies define the terms under which Service members may leave their bases, which are typically well secured by guards, high fences, and coiled barbed wire, for unofficial or recreational purposes. Generally, U.S. Service members were restricted to their military bases and had limited exposure to the outside economy except during official business or infrequent, controlled visits in the company of others.

For example, at Eagle Base in Tuzla, Bosnia, a key staff officer told us that military personnel are restricted to the base except when on official business (patrol). He noted that obtaining transportation (a non-tactical vehicle) required supervisor approval and a minimum of three people in the vehicle. Alcoholic beverages on the base were prohibited. BG Mason, Commander, MNB-North, told us he kept off-post restrictions strict, noting that occasionally soldiers could participate in a local sightseeing program, “A Taste of Tuzla,” while in uniform. Similarly in Kosovo, U.S. Service members are prohibited from leaving Camp Bondsteel for any personal business. At Film City in Kosovo, Service members must receive permission to leave the base from their supervisor, may leave only on Sunday between 10:00 a.m. and 6:00 p.m., must stay in groups of three or more, and may visit only approved areas outside the base. Restrictions are imposed on peacekeeping forces at other (non-U.S.) bases, but those restrictions are somewhat more liberal, permitting walking out during certain hours or in groups.

The European Union Police Mission and United Nations monitor and maintain the off-limits establishment lists in Bosnia and Kosovo respectively. Since military members are already constrained by the unique and strict walking out policies, the off-limits list is an extra measure of prevention. It should be noted, however, that the walking out policies were implemented for force protection purposes and not to prevent involvement in human trafficking. The walking out policy issued at KFOR HQ specifically states that the “policy only applies when the threat state in the [area of operations] AO is ALPHA.”¹¹

Despite strict walking out policies, a large number of off-limits establishments are situated directly outside military installations, including those occupied by U.S. military. In an article issued in September 1999, the Organization for Security and Cooperation in Europe reported that “most women and girls trafficked for the sex industry are trafficked to large cities, vacation and tourist areas, and areas near military bases in Europe.” This suggests that a market for human trafficking does exist in proximity to U.S. military personnel. However, there are members of other nations’ militaries, contractors, large numbers of local nationals, and businessmen from throughout the international community who live and/or work in or around the U.S. military bases.

In both SFOR and KFOR we did not find any formal education program regarding human trafficking for military personnel. In particular, we found no indication that newly assigned personnel, law enforcement personnel, and persons overseeing contract operations were given explicit guidance regarding the human trafficking situation in the Balkans or their responsibilities with respect to human trafficking.

Further, General Order #1, which outlines prohibited activities in Bosnia and Kosovo, does not specifically address human trafficking issues. General Order #1 applies to “all U.S. military personnel (U.S. and NATO) and civilian personnel serving with or accompanying the armed forces of the United States.” Its purpose is to establish restrictions upon certain activities for the purpose of ensuring the readiness, force protection, security, health, and welfare of U.S. forces; preventing conduct prejudicial to good order and discipline or of a nature to bring discredit upon the U.S. forces; and enhancing U.S. relations in the regions. General Order #1

¹¹ Threat level Alpha is the highest level of threat.

addresses personal use firearms, alcohol, gambling, unexploded ordinance, currency transactions, religious shrines or mosques, artifacts and national treasures, political activity, and taking souvenirs. Illegal prostitution and human trafficking are not addressed in General Order #1.

Our discussions with senior U.S. military personnel revealed that the military leaders in Bosnia-Herzegovina and Kosovo have a comprehensive understanding of human trafficking and the impact that it is having the primary peacekeeping mission. They acknowledged that human trafficking is flourishing in their areas of operation and that, because it is linked to organized crime, it undermines their ability to maintain the safety and security in the region. For example, LTG Sylvester described the human trafficking routes from Moldova and Romania, through the Balkans, and to other destination countries. Recalling his service in Bosnia, LTG Sylvester stated that raids by multinational forces on suspected human trafficking operations were thwarted after traffickers were alerted -- which he believed gave indication of organized crime involvement. BG Quinlin, Assistant Chief of Staff for Operations, SFOR acknowledged that human trafficking was pervasive, but opined that human trafficking was "a symptom of a much larger problem" -- the current difficulty encountered by local law enforcement authorities in dealing with organized crime. He emphasized that by succeeding at peacekeeping and stability operations, U.S. forces would enable local governments to assert a stronger role in combating organized crime and human trafficking.

We found similar emphasis on human trafficking by military commanders in Kosovo. LTG Mini, Commander, KFOR, recently required a briefing from all subordinate commanders regarding prostitution and the human trafficking situation in their areas. We considered this a clear demonstration of command emphasis on the issue. At the briefings, conducted in February 2003, the MNB commanders provided an assessment of human trafficking as well the manner in which peacekeeping forces were restrained by walking out policies. Of interest here, the briefing slides used by BG Keefe, Commander, MNB-East, provided the following information:

- The United Nations Mission in Kosovo-Police (UNMIK-P) reported no incidents of KFOR soldiers being arrested for solicitation of prostitutes. However, there is no apparent UNMIK-P focused effort against prostitution.
- MNB East has no reports of KFOR soldiers soliciting prostitutes and there is no evidence to indicate any significant KFOR soldier involvement.
- UNMIK-P has reported instances of civilians with KFOR identification being observed in off-limits areas (no record of arrests in MNB East).

In their discussions with us, senior leaders in SFOR and KFOR acknowledged that human trafficking and prostitution is morally wrong and reprehensible. Commanders expressed a willingness to take recommended actions to prevent their personnel from contributing to these activities. They asserted that any allegation of human trafficking against a Service member would be investigated thoroughly and quickly, and that offenders would be appropriately punished.

We also examined the potential for involvement in human trafficking activities by U.S. Service members while they were on authorized recreational travel outside of their immediate area of operation. In that regard, we found that controlled leave programs, known as “Fighter Management Pass Programs (FMPP)” were implemented in both SFOR and KFOR pursuant to Army Regulation 600-8-10, “Leaves and Passes.” Beginning in April 1996, eligible SFOR military personnel could take rest and relaxation trips to Budapest, Hungary, or to Lake Balaton, Hungary. Eligible KFOR personnel could travel to Sophia, Bulgaria.

In determining the FMPP site, force protection and travel time are the top concerns. Other considerations include safety and sanitation, availability of appropriate medical facilities, existence of a Status of Forces Agreement (SOFA) between the U.S. and the country in which the site is located, ability to coordinate with local officials, and availability of appropriate entertainment outlets including historical sites, museums, English language theaters, shopping, and restaurants. We were advised that the FMPP Noncommissioned Officer in Charge maintains an “off limits” list which includes establishments that harbor prostitutes, scam Service members, or would otherwise be considered unsuitable for patronage by military personnel.

Soldiers participating in the FMPP program are supervised during their visits and limited to the places they can visit and the activities in which they can participate. Fragmentation Order (Frago) to U.S. Army Europe Campaign Plan 40105 outlines the policy requirements for the FMPP. The Frago requires that noncommissioned officers in the rank of staff sergeant or above supervise soldiers during FMPP trips and that personnel on such trips tour in pairs. The Frago also requires unit commanders to designate group leaders and to brief soldiers prior to departure from their unit of assignment. The Morale, Welfare, and Recreation FMPP handbook reminds participants that prostitution is illegal and instructs them to “Think UCMJ [Uniform Code of Military Justice]. DO NOT go to off-limits establishments.” The handbook also contains valuable information warning of gambling scams, but does not mention human trafficking.

We found that in June 2003, a field grade officer accompanied by a first sergeant and a CID representative, conducted an assessment of the KFOR FMPP program in Sophia, Bulgaria. That assessment found no evidence that U.S. military personnel participated in illegal prostitution or human trafficking. The officer in charge of the assessment found that participants were briefed verbally that prostitution can be prosecuted under the UCMJ and reminded of the dangers of sexually transmitted diseases. Each participant read and signed a written acknowledgment of the briefing.

Finally, in addition to establishing a FMPP, we found that SFOR has taken steps to make soldiers’ quality of life on post as attractive as possible, including building a well-equipped gym, a running track, and a computer center. KFOR has not progressed as far in providing on-base recreational facilities, but has taken several steps to improve soldiers’ quality of life, including building an excellent dining facility.

Facts Concerning U.S. Contractor Personnel

We determined that, although no DoD contract employee has been prosecuted for human trafficking-related crimes, evidence indicates that DoD contractor employees were involved in

activities associated with trafficking. In the Bolkovac and Johnston cases, the evidence suggested that the problem of contractor employee participation was not an isolated one. We were told raids have been conducted on the homes of U.S. contractor employees and that women suspected of being trafficked have been found inside contract employees' homes. Employees have been fired by contractors for discipline reasons involving illegal prostitution, human trafficking, or being in off-limits establishments. In short, anecdotal evidence indicates that contract employee participation in human trafficking has been and continues to be an issue. A key factor is that DoD contractor personnel may not live on the military bases that they support and are not subject the type of walk out restrictions that are imposed on Service members.

In general, contractors do not report, nor are they required to report, allegations against their employees regarding involvement in human trafficking to U.S. military commanders (SFOR or KFOR). As a result, we found commanders were unaware of any contract employees being punished for, or accused of, human trafficking violations, except insofar as those commanders were aware of media accounts of the DynCorp cases.

The degree to which contractors monitor and act upon misconduct of their employees appears to vary greatly from contractor to contractor, and even from program manager to program manager within the same company. We identified one DoD contract program manager who proactively sought information concerning possible employee human trafficking involvement and told us that he fired several employees for illegal prostitution and human trafficking-related activities during the last year. We found that this program manager personally coordinated with local law enforcement personnel and instructed them to call him if any of his employees were found at off-limits establishments or were suspected of involvement in human trafficking. We found that not all program managers are this aggressive. Therefore, the absence of information on illegal activities of a contractor's employees does not necessarily mean such activities are not occurring.

We were able to obtain two local police reports documenting the arrests of DoD contractor employees under suspicion of illegal prostitution and human trafficking in Bosnia.¹² One police report documented a local police raid on the home of a U.S.-citizen DoD contractor employee in February 2003. Two U.S.-citizen DoD contractor employees were found in the home. Another U.S. citizen, who had formerly worked for a DoD contractor and who had chosen to remain in Bosnia after his employment ended, arrived at the home during the raid. Five women from Moldova, Romania, and Ukraine were found in the home. Although none of the women admitted to being trafficked, they were determined to be in the country illegally and were deported. The Army CID confirmed that CID agents had accompanied local police on the raid but did not participate in it. CID did not file a report regarding the raid because none of the women admitted to being trafficked, which led CID to conclude that no crime had been committed. In that regard, senior CID officials told us that their organization lacks jurisdiction

¹² Both of the reports were written in Serbo-Croatian and had to be translated.

to get actively involved in such cases and does not possess sufficient resources to investigate all activities that may be associated with human trafficking.¹³

In that particular case, in large measure because the contractor program manager had coordinated with local law enforcement officials regarding his employees prior to the raid, the contractor program manager was notified of the incident. He fired the two employees of his company who were found at the raided premises, and sent them back to the U.S. The third individual, a former DoD contractor employee, was released by local authorities. There was no evidence to suggest that either the MNB North Commander or the SFOR Commander was informed of the raid. As indicated above, CID did not prepare a written report of the incident.

We also obtained documentation regarding a similar incident that occurred in June 2003. It is unclear how many other raids or arrests were conducted on DoD contract employees, although we were informed that there had been others since January 1, 2003. It is also unclear how many contractor employees were involved in human trafficking activities that were never reported or investigated because of a lack of law enforcement capability prior to the establishment of the EUPM Trafficking and Prostitution Investigative Unit in January 2003. Records from the United Nations International Police Task Force (IPTF) were unavailable.

Because DoD contractors are part of SFOR in Bosnia and KFOR in Kosovo, U.S. contractor employees are prohibited from patronizing establishments that have been placed off-limits by cognizant authorities. As of April 1, 2003, the United Nations had placed 203 establishments off-limits in Kosovo, an area just under 11,000 square kilometers. However, neither contractor supervisors nor military law enforcement personnel monitor the establishments to ensure contractor employees are not patronizing them.

DoD contractors rely on local police to monitor their employees' activities. However, until recently, local law enforcement authorities did not pursue contractor employees because of their status as SFOR or KFOR personnel and because the rule of law had not yet been established.¹⁴ Some progress in this area has been made. In 2000, human trafficking and prostitution became illegal under Bosnia-Herzegovina law, and local law enforcement authorities

¹³ Senior CID officials also noted that DoD Instruction 5505.8, states, "as a matter of investigative priorities and resource limitations, Defense Criminal Investigative Organizations (DCIOs) and other DoD law enforcement organizations will normally refer allegations involving only adult private consensual sexual misconduct to the commander(s) of the Service member(s) for appropriate disposition."

¹⁴ On September 24, 1998, the Commander, Headquarters, Peace Stabilization Force, Bosnia-Herzegovina, issued an interpretation of SOFA applicability to contractor employees. First, the commander interpreted SOFA to permit troop-contributing nations to determine which of their contractors were "accompanying the force," and thus subject to the same status under SOFA as Service members. Secondly, the commander reserved authority to "disapprove [SOFA] coverage in any case where [he] determine[d] such coverage would not contribute to the success of the SFOR operation." Finally, the commander limited immunity from local criminal jurisdiction to acts done by contractor employees in the performance of their official duties. We found, however, that in practice local law enforcement officials perceived that SFOR and KFOR personnel (including contractor employees with SFOR or KFOR identification badges) were immune from all local prosecution.

began to address human trafficking issues.¹⁵ The fact that DoD was able to obtain police reports shows that some local law enforcement is now being conducted with assistance from the EUPM.

Pursuant to the SOFA between NATO and Bosnia-Herzegovina, SFOR personnel are required to respect local laws. We were advised that no U.S. personnel had been charged with any offenses under the Bosnia-Herzegovina criminal code, as amended in 2000, and that there were no instances in which extraterritorial criminal jurisdiction had been exercised by the United States.

Under the Bosnia-Herzegovina criminal code, only a very few local nationals have been prosecuted for human trafficking-related crimes and their sentences were extremely light given the nature of the crimes. It should be noted, however, that the rule of law in Bosnia-Herzegovina was not operating during and immediately following the war and that even now organized crime remains strong. The situation in Kosovo is similar. Currently the Kosovo Judicial Institute is conducting training for judges and prosecutors. The aim of the training is to develop more insight into basic human rights. Legal issues in the region are especially complicated because of the applicability of diverse bodies of law, including laws of Albania, Serbia, former Yugoslavia, and UNMIK.

Recently, the Military Extraterritorial Jurisdiction Act (MEJA) was enacted to close the gap in criminal jurisdiction over civilians employed by or accompanying U.S. Armed Forces abroad. So long as an individual meets the legal definition of “accompanying U.S. Armed Forces abroad,” the MEJA allows U.S. authorities to assert jurisdiction over that person, whether he/she is a DoD contractor or a family member of U.S. military personnel.¹⁶ In Bosnia-Herzegovina, all SFOR operations (law enforcement included) are subject to operational considerations and legal restraints, such as United Nations jurisdictional guidelines.¹⁷ The net

¹⁵ Examples of pertinent provisions of the amended Bosnia-Herzegovina Criminal Code include:

- Article 147: Unlawful Deprivation of Freedom
- Article 172: Crimes against humanity, including enslavement defined as “the exercise of any or all of the powers attached to the right of ownership over a person, and includes the exercise of such power in the course of trafficking in persons, in particular women and children.”
- Article 186: Trafficking in Persons for the purpose of exploitation, defined in particular as “exploiting other persons by way of prostitution or other forms of sexual exploitation.”
- Article 187: International procuring in prostitution.

¹⁶ “Accompanying the Armed Forces outside the United States” is a term of art denoting that a person is officially affiliated with the U.S. Armed Forces in certain overseas situations. This affiliation may be evidenced, for example, by issuance of a license or military identification card, or by contractual or regulatory provisions, depending on the circumstances. See, e.g., Army Regulation 715-9 (defining civilians accompanying the Armed Forces as civilians “in the theater of operations as authorized members of the force”).

¹⁷ One example of such United Nations guidelines is a United Nations policy that delegates responsibility for international law enforcement activities in Bosnia-Herzegovina to the European Community, specifically, the EUPM.

effect of these parameters is that while SFOR cannot prosecute criminal allegations except in limited circumstances, U.S. commanders can and ought to investigate allegations of complicity in human trafficking by “all persons who are placed under their command.”

A specific criticism from human rights groups and prosecutors is that contract employees, when suspected or charged with illegal prostitution or activities associated with human trafficking, typically are repatriated to the United States immediately, thus rendering them unavailable to testify, which can prevent trials from occurring. Contract employees also have the option of repatriating themselves if they come under investigation for alleged wrongdoing.¹⁸

In addition to varied levels of managerial supervision, we found that contractual provisions regarding human trafficking issues varied. One Performance Work Statement (PWS) stated that the Government reserves the right to prohibit the contractor from employing individual employees on the ground they have committed immoral practices or for “violation of security and safety requirements, to include all general orders issued by the Government.” The stipulation that employees can be terminated for immoral practices certainly would be sufficient to address trafficking-related activities. The same PWS prohibited “engaging in prostitution activities with the local nationals. This includes, but is not limited to, the purchase of individuals for the purpose of indentured servitude or prostitution.” Another contractor in Kosovo, however, provided us only with its Code of Business Conduct and a Support Contract, neither of which addressed illegal prostitution or human trafficking.

As a result of the allegations against DynCorp, this office issued an audit report stating, “[DoD] contracting officials did not and, as a general rule, do not, address the moral character of a contractor’s employees.”¹⁹ However, the audit determined that, after a February 2002 magazine article that questioned the moral integrity of certain DynCorp employees working in Bosnia, DynCorp imposed additional requirements regarding personal behavior on its overseas employees. We found that all DynCorp employees assigned in Bosnia as of March 29, 2002, had signed a standard letter of agreement acknowledging that the following activities “are considered illegal by the international community and are immoral, unethical, and strictly prohibited:”

- Any unauthorized involvement in the trafficking of persons.
- Unauthorized frequenting of locations known to be involved with prostitution or the trafficking of persons.
- Any involvement with the soliciting of persons for the purpose of engaging in sexual acts.

¹⁸ It was reported to us that when CID began an investigation into time card fraud, a significant number of contract employees quit and returned to the U.S. at their own expense before the investigation could be completed.

¹⁹ See “Acquisition: Procedures for Selecting Contractor Personnel to Perform Maintenance on Army Aircraft in Bosnia,” dated September 18, 2002 (Report number D-2002-150).

- Any participation in sexual activity in exchange for any monetary or other form of consideration.

The letter of agreement also stated that “any violation of this Letter of Agreement is grounds for termination in accordance with the Terminations Clause of the Foreign Service Agreement, including repatriation, and prosecution in accordance with applicable local, international and U.S. law.” However, the imposition of these additional standards for personal behavior was not mandatory under DoD contract provisions for either DynCorp or other contractors operating in Bosnia, Kosovo, or other parts of the world.

The experience with DynCorp illustrates the existence of an exceptional opportunity for DoD leadership in pursuing the fight against human trafficking. That is, even though military prosecutors may continue to lack criminal jurisdiction over contract employees because those employees are not subject to the UCMJ, military inspectors, investigators, and auditors are not so constrained. For example, IG and contracting officials, consistent with NSPD-22, may examine the conduct of DoD contractors and impose administrative penalties where violations of contractual provisions are found. For that reason, we believe the strengthening of contractual provisions to prohibit complicit activity on the part of contract employees and aggressive oversight of this matter by DoD contract administrators should be a key aspect of DoD efforts to combat human trafficking.

Facts Concerning DoD Jurisdiction Over Human Trafficking Activities in the Balkans

There are mission restrictions that limit the SFOR’s response to organized crime activities. With two exceptions, the NATO/SFOR operations plan prohibits SFOR to “conduct anti-crime or civil law enforcement tasks” in Bosnia-Herzegovina. The two exceptions are: (1) in support of authorized agencies with a specific law enforcement mandate; and (2) providing peripheral support against human trafficking (specifically, patrols). We determined that both SFOR and KFOR maintain an “assistance only” role in combating crime in general and human trafficking in particular.

SFOR legal authorities stated that an example of SFOR participation in providing peripheral support to fighting human trafficking is the case against Mr. Milorad Milakovic, the owner of an establishment known as the Hotel Sherwood. Mr. Milakovic was suspected of being involved in organized crime, a prostitution ring, and human trafficking. On February 20, 2003, SFOR Service members participated in a raid to search Mr. Milakovic’s premises and seized documentation linking Mr. Milakovic with organized crimes. SFOR provided that evidence to the Republika Srpska Ministry of Internal Affairs. According to SFOR legal authorities, SFOR has also been involved in Special Task Operations for Prostitution (STOP) providing support to United Nations International Police Task Force (IPTF) during a Bosnia-Herzegovina-wide sweep of establishments searching for evidence of exploitation of women. However, for a variety of reasons, including the lack of training in law enforcement and other issues involving the conduct of the raids, none of the raids resulted in prosecutions.

The IPTF was replaced by the European Union Police Mission (EUPM) in January 2003, which then assumed responsibilities for law enforcement operations. Within the EUPM, the

Trafficking and Prostitution Investigative Unit is a group of investigators whose mission reads as follows:

It is the sole responsibility of the [Trafficking and Prostitution Investigative Unit] to gather intelligence information, investigate the crime of Prostitution and Trafficking in humans and to separate the criminal element from the victimized of this crime. It is the goal of the unit to prosecute the criminals and to facilitate assistance to the victims. It is also the goal of this unit to present to the criminal justice system of Kosovo the most prosecutable criminal cases possible. This ensures that the victims will receive help and the criminal element is prosecuted to the fullest extent of the law.

Considering the known links between human trafficking and organized crime, the mission of the Trafficking and Prostitution Investigative Units is extraordinarily ambitious for an organization with limited personnel and meager resources. The Sarajevo office consists of two personnel and there are approximately 30 Trafficking and Prostitution Investigative Unit personnel to cover all of Kosovo. The Trafficking and Prostitution Investigative Unit office covering the American sector in Kosovo consists of approximately 8 personnel and focuses on combating human trafficking in the local population, rather than NATO peacekeeping forces. In Bosnia, SFOR works closely with the Trafficking and Prostitution Investigative Unit and local police. The military leaders in Kosovo told us they have limited contact with the Trafficking and Prostitution Investigative Unit. Although the military leaders indicated that they routinely responded to requests for local law enforcement assistance of all kinds including forensics, they have received no requests for assistance from Trafficking and Prostitution Investigative Units.

Discussion

We found negligible evidence that U.S. military personnel serving tours of duty in Bosnia-Herzegovina and Kosovo patronized prostitutes or engaged in other activities that might have the effect of supporting human trafficking on a wide-spread basis. This represents a significant difference from the situation that existed in Korea before U.S. military authorities took aggressive action to reduce Service member patronage of establishments that engaged in prostitution and to bolster law enforcement efforts to combat human trafficking. We attribute the lack of DoD complicity in human trafficking in the Balkans to three factors:

- Senior military leaders in Bosnia-Herzegovina and Kosovo appreciate the dangers that human trafficking poses to good order and discipline, security, and mission accomplishment.
- Military personnel are kept under relatively tight restrictions that prevent them from moving freely in the civilian community.
- Morale-enhancing developments such as construction of recreational facilities in Bosnia-Herzegovina and a well-organized FMPP program divert military members from prostitution and provide further incentives to avoid off-limits areas. Regarding

the FMPP program, although we did not visit FMPP sites, information we received indicated policies in place ensure U.S. military personnel on FMPP leave are supervised and encouraged to engage in typical sightseeing activities rather than activities that may support human trafficking.

However, there was evidence of possible involvement by U.S. forces (the observations of the intelligence officer and local police officer), as well as the “expert opinions” of United Nations and IOM officials that U.S. Service members contributed to the problem at some, undefined level. We believe this gives basis to reinforce the U.S. approach to human trafficking in the Balkans.

Potential weaknesses of the U.S. military leadership’s approach in Bosnia-Herzegovina and Kosovo include the lack of emphasis to all Service members on the incompatibility of prostitution and human trafficking with military core values and the absence of military legal remedies in the event soldiers do engage in activities supportive of human trafficking. Because human trafficking is approached as a force protection issue, there is no program in place to instruct military members regarding the immorality and inhumanity of human trafficking. NSPD-22 clearly mandates implementation of education programs by all Federal agencies as an important feature of the fight against human trafficking. Because there is no military standard that directly addresses patronization of prostitutes and other activities associated with human trafficking, criminal prosecution of these activities under military law is rendered more difficult. We believe that correcting these weaknesses is consistent with the “abolitionist approach to trafficking in persons” set forth in NSPD-22, which further states, “the United States Government opposes prostitution and any related activities.” The requirement to establish and enforce high standards of conduct for Service members is implicit in the obligation of military commanders to “guard against and suppress all dissolute and immoral practices,” pursuant to Title 10, United States Code.

The available information regarding contractor employee involvement in activities associated with human trafficking in Bosnia and Kosovo is limited and primarily anecdotal. Even this limited information, however, suggests that DoD contractor employees may have more than a limited role in human trafficking. We were unable to gather more evidence of it precisely because there are no requirements and no procedures in place compelling contractors to gather such information regarding their employees or to report it to U.S. military authorities. DoD contractors could be compelled contractually to report misconduct of their employees and to take action to address employee misconduct. Our research revealed there are as yet no standard clauses in DoD contracts that enable the U.S. Government to standardize reporting requirements and measures to fight human trafficking among contractor employees.

With the development of legal systems in Bosnia-Herzegovina and Kosovo, and the establishment of the rule of law in those countries, local efforts to fight human trafficking have strengthened. Coordination between U.S. military leaders and local authorities in these efforts could preclude such problems as U.S. contractor employees being returned too quickly to the U.S., making them unavailable to testify in local courts. With the passage of the Military Extraterritorial Jurisdiction Act (MEJA), U.S. authorities also now have a weapon to address activities by contractor employees that contribute to human trafficking. However, U.S. law

enforcement personnel will be less effective in implementing anti-human trafficking measures unless they receive training on the MEJA, coordinate with prosecutors in the U.S. who will try MEJA cases, and coordinate with local authorities in Bosnia-Herzegovina and Kosovo to enhance evidence gathering efforts.

However, DoD efforts to combat human trafficking do not depend solely on the ability to pursue criminal prosecution against civilian offenders. Investigators, inspectors, and auditors operating in DoD Inspector General organizations are not constrained by the criminal prosecutorial mandate and may properly examine the behavior of DoD contract employees. Those who violate conduct standards imposed by contract may be subject to administrative sanctions, while contractors who fail to enforce standards of conduct in their work force may face severe contractual remedies.

V. CONCLUSIONS

A. With rare exception, U.S. military personnel do not engage in activities that support or sanction human trafficking in Bosnia-Herzegovina or Kosovo. Force protection restrictions effectively eliminate the possibility of involvement in such activities.

B. Service members do not receive training to ensure they are aware of and sensitive to the widespread problem of human trafficking in the Balkans, and its relationship to their peacekeeping mission.

C. Contractor employees are more likely than military personnel to be involved in illegal prostitution and human trafficking activities. DoD contracts do not in all cases impose the “zero tolerance” policy on contract employee behavior that is mandated by NSPD-22.

D. Service members from some of the other countries that participate in the NATO peacekeeping mission are more likely to engage in activities that support human trafficking.

VI. RECOMMENDATIONS

As set forth in the Introduction and Summary section of this report, we believe our assessments in Korea and the Balkans over the past year provide a basis to recommend not only that the Commander, EUCOM, undertake those specific actions we have enumerated, but also that the Secretary of Defense establish a DoD policy on human trafficking that encourages commanders at all levels to: (1) educate Service members on human trafficking issues, (2) increase law enforcement efforts as needed to place offending entertainment establishments off-limits, (3) incorporate anti-human trafficking provisions in overseas contracts, and (4) examine human trafficking matters as part of established IG inspection activities.

We further recommend that the Secretary of Defense continue ongoing efforts through the North Atlantic Council of NATO to implement policy that prohibits conduct on the part of NATO-led peacekeeping forces which could contribute to human trafficking.

Congress of the United States
Washington, DC 20515

October 10, 2003

The Honorable Donald H. Rumsfeld
Secretary of Defense
Department of Defense
The Pentagon
Washington, DC 20301-1000

Dear Secretary Rumsfeld:

In response to a Congressional letter of May 31, 2002, requesting "an investigation into the veracity of a recent news report indicating that U.S. army troops in South Korea are patronizing and guarding houses of prostitution where women are forced to prostitute themselves in order to buy their freedom from sexual slavery at the hands of traffickers," the Inspector General of the Department of Defense has forwarded his initial "Assessment of DoD Efforts to Combat Trafficking in Persons, Phase I - United States Forces in Korea," along with the Inspector General's own Policy Memo of June 16, 2003, titled, "DoD Office of Inspector General on Human Trafficking."

We appreciate the thoroughness and objectivity of your Inspector General's "Phase I" report and are especially pleased with his cogent Policy Memo on Human Trafficking. In anticipation of your Inspector General's "Phase II" report, we would offer the following concerns and recommendations. We also appreciate and are particularly encouraged by the aggressive efforts taken under the leadership of General LaPorte to prohibit service member contact with trafficked women, improve training of the military personnel, and strengthen coordination with Korean authorities to control human trafficking. General LaPorte's 'Road Ahead on Trafficking and Prostitution' is an impressive directive, which contains comprehensive recommendations. The LaPorte memorandum could certainly serve as a blueprint for action on the part of all military commanders throughout the DOD.

While we are anxious to see the Phase II report which we understand will be issued shortly, we wanted to make sure that DOD efforts to combat human trafficking do not diminish with completion of the assessments, but continue unrelentingly on a variety of fronts and become part of the DOD institutional fabric. For that reason, we request that the forthcoming IG report include recommendations to continue the aggressive implementation of counter-trafficking measures throughout DOD.

Specifically, we ask that the report address the issue of DOD personnel and contractors in accordance with National Security Presidential Directive 22 (NSPD-22), which states that the "United States hereby adopts a 'zero tolerance' policy regarding United States Government employees and contractor personnel representing the United States abroad who engage in trafficking in persons." This policy should be global, whether in the United States, at posts abroad or designations for rest and relaxation. It is imperative, too, that training on trafficking

Secretary Rumsfeld Letter

Page 2

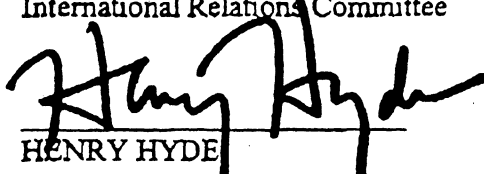
become an integral part of DOD policy and leadership development for all military and contract personnel. We were very surprised to learn that such training was not already a part of DOD curriculum.

Combating trafficking in human beings is an ongoing and worldwide issue. Commanders and service members at all levels must understand their role in helping to eradicate the scourge of human trafficking and to avoid giving any indication that DOD turns a blind eye to this barbaric practice.

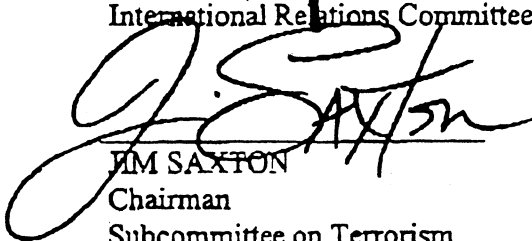
Sincerely,



CHRISTOPHER SMITH
Vice-Chairman
International Relations Committee



HENRY HYDE
Chairman
International Relations Committee



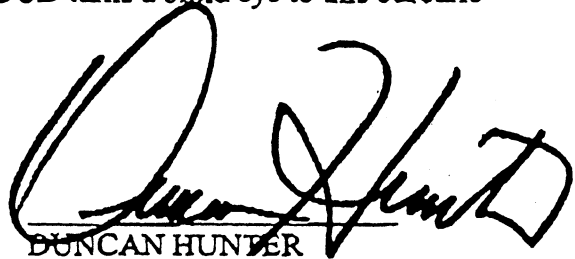
JIM SAXTON
Chairman
Subcommittee on Terrorism



FRANK WOLF
Chairman
Subcommittee on Commerce,
Justice, and State



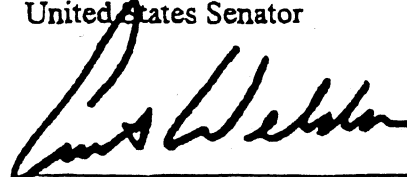
ED ROYCE
Chairman
Subcommittee on Africa



DUNCAN HUNTER
Chairman
Armed Services Committee



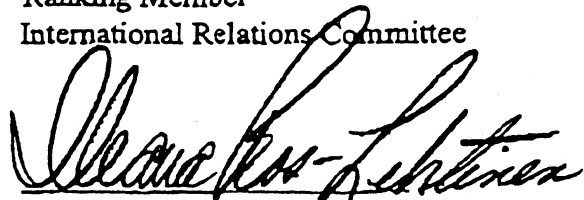
GEORGE VOINOVICH
United States Senator



CURT WELDON
Chairman
Subcommittee on Tactical, Air,
and Land Forces



TOM LANTOS
Ranking Member
International Relations Committee



ILEANA ROS-LEHTINEN
Chairman
Subcommittee on Middle East and
Central Asia

Secretary Rumsfeld Letter
Page 3


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Member of Congress


CASS BALLENGER
Chairman
Subcommittee on the Western Hemisphere


TOM TANCREDO
Member of Congress

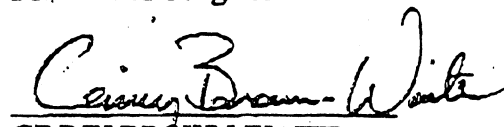

DAVE WELDON
Member of Congress

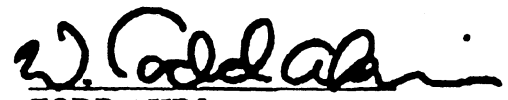

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ROBERT ADERHOLT
Member of Congress

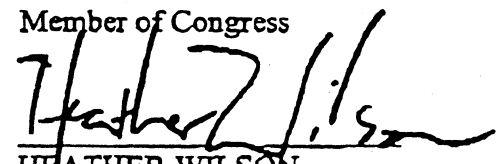

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GINNY BROWN-WAITE
Member of Congress

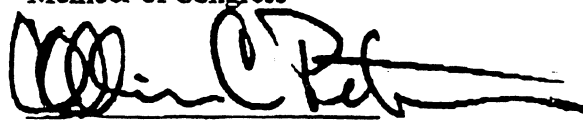

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SCOTT GARRETT
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HEATHER WILSON
Member of Congress


WILLIAM LIPINSKI
Member of Congress


MIKE FERGUSON
Member of Congress


COLLIN PETERSON
Member of Congress


ELTON GALLEGLY
Chairman
Subcommittee on International Terrorism,
Nonproliferation and Human Rights

cc: Paul D. Wolfowitz, Deputy Secretary of Defense
Douglas J. Feith, Under Secretary of Defense for Policy

Attachment A

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Secretary Rumsfeld Letter
Page 2

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Sincerely,

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Vice-chairman
International Relations Committee

//SIGNED//

DUNCAN HUNTER
Chairman
Armed Services Committee

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United States Senator

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Secretary Rumsfeld Letter
Page 3

//SIGNED//

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Member of Congress

//SIGNED//

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Member of Congress

//SIGNED//

ELTON GALLEGLY
Chairman
Subcommittee on International Terrorism,
Nonproliferation and Human Rights

cc: Paul D. Wolfowitz, Deputy Secretary of Defense
Douglas J. Feith, Under Secretary of Defense for Policy

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Human Trafficking and Prostitution Clause Recently Incorporated into a
DoD Contract for Services Overseas

During the performance period of this contract, the Contractor and all contractor employees shall comply with the policy of the United States Government with respect to human trafficking and prostitution as expressed in National Security Presidential Directive (NSPD)-22. Pursuant to NSPD-22, "The United States hereby adopts a 'zero tolerance policy' regarding United States government employees and contractor personnel representing the United States abroad who engage in trafficking in persons." Because it may contribute to the phenomenon of trafficking in persons, the United States Government opposes prostitution and any related activities, including pimping, pandering, or maintaining brothels.

The Contractor shall ensure that its employees are made aware, through training or otherwise, of the United States Government's zero-tolerance policy and of all host nation laws relating to human trafficking and prostitution. The Contractor shall make its employees aware of all United States laws on human trafficking and prostitution which may apply to its employees' conduct in the host nation, including those Federal laws for which jurisdiction is established by the Military Extraterritorial Jurisdiction Act of 2000 (codified at 18 U.S.C. § 3261-3267). The Contractor shall also make its employees aware of directives on human trafficking and prostitution from the military area commander that apply to contractor employees, such as General Orders and military listings of off-limits local establishments. The Contractor is solely responsible for providing the legal guidance and interpretations for its own employees attendant to the requirements above.

The Contractor shall take appropriate employment action including removal from the host nation or dismissal as deemed necessary, in accordance with its own operating procedures and applicable laws and regulations, against an employee who engages in prostitution or any other activity which may support trafficking in persons, or who otherwise violates a law, regulation, or directive described above. The Contractor shall inform the Procuring Contracting Officer (PCO) of any such action. Upon direction from the PCO, the Contractor shall replace any such employee with an employee suitable to the PCO. Further, the Contractor shall inform the PCO of any information it receives from any source (including host country law enforcement) that indicates a contract employee is engaged in conduct that violates United States Government policy concerning prostitution and human trafficking.

Pursuant to NSPD-22, failure to enforce this provision may subject the contractor to debarment and suspension procedures. The Contractor shall ensure that this clause flows down to all subcontracts.