

ENFORCING U.S. POLICIES AGAINST TRAFFICKING IN PERSONS: HOW IS THE U.S. MILITARY DOING?



September 21, 2004

An Issue Forum Jointly Convened by
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AND
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The OSCE Secretariat is in Vienna, Austria, where weekly meetings of the participating States' permanent representatives are held. In addition, specialized seminars and meetings are convened in various locations. Periodic consultations are held among Senior Officials, Ministers and Heads of State or Government.

Although the OSCE continues to engage in standard setting in the fields of military security, economic and environmental cooperation, and human rights and humanitarian concerns, the Organization is primarily focused on initiatives designed to prevent, manage and resolve conflict within and among the participating States. The Organization deploys numerous missions and field activities located in Southeastern and Eastern Europe, the Caucasus, and Central Asia. The website of the OSCE is: <www.osce.org>.

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The Commission consists of nine members from the United States Senate, nine members from the House of Representatives, and one member each from the Departments of State, Defense and Commerce. The positions of Chair and Co-Chair rotate between the Senate and House every two years, when a new Congress convenes. A professional staff assists the Commissioners in their work.

In fulfilling its mandate, the Commission gathers and disseminates relevant information to the U.S. Congress and the public by convening hearings, issuing reports that reflect the views of Members of the Commission and/or its staff, and providing details about the activities of the Helsinki process and developments in OSCE participating States.

The Commission also contributes to the formulation and execution of U.S. policy regarding the OSCE, including through Member and staff participation on U.S. Delegations to OSCE meetings. Members of the Commission have regular contact with parliamentarians, government officials, representatives of non-governmental organizations, and private individuals from participating States. The website of the Commission is: <www.csce.gov>.

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SEPTEMBER 21, 2004

PARTICIPANTS

	Page
Hon. Duncan Hunter, Chairman, House Armed Services Committee	1
Hon. Christopher H. Smith, Chairman, Commission on Security and Cooperation in Europe	2
Hon. Benjamin L. Cardin, Ranking Member, Commission on Security and Cooperation in Europe	4
Hon. Hillary Rodham Clinton, Commissioner, Commission on Security and Cooperation in Europe	5
Hon. Mike McIntyre, Commissioner, Commission on Security and Cooperation in Europe	5
Amb. John R. Miller, Director, Office to Monitor and Combat Trafficking in Persons, U.S. Department Of State	6
Joseph E. Schmitz, Inspector General, U.S. Department of Defense	8
Hon. Charles S. Abell, Principal Deputy Under Secretary of Defense for Personnel and Readiness, U.S. Department of Defense	10
Gen. Leon J. LaPorte, Commander, United States Forces Korea	11
Hon. Roscoe G. Bartlett, Member, House Armed Services Committee	13
Hon. John Kline, Member, House Armed Services Committee	18
Hon. Madeleine Z. Bordallo, Member, House Armed Services Committee	21
Dr. Sarah E. Mendelson, Senior Fellow, Center for Strategic and International Studies, Washington, DC	27
Martina E. Vandenberg, Attorney, Jenner and Block	30

APPENDICES

Prepared Statement of Hon. Benjamin L. Cardin	43
Materials Submitted for the Record by Hon. Hillary Rodham Clinton	
• Prepared Statement of Hon. Hillary Rodham Clinton	44
• <i>Congressional Record</i> Statement of July 16, 2004	46
Prepared Statement of Amb. John R. Miller	51
Prepared Statement of Hon. Charles S. Abell	54
Materials Submitted for the Record by Joseph E. Schmitz	
• Prepared Statement of Joseph E. Schmitz	56
• Assessment of DOD Efforts to Combat Trafficking in Persons	
Phase I—United States Forces Korea	59
Phase II—Bosnia–Herzegovina and Kosovo	72
• “Inspecting Sex Slavery through the Fog of Moral Relativism”	102

APPENDICES (CONT'D)

Prepared Statement of Gen. Leon J. LaPorte 113

Prepared Statement of Dr. Sarah E. Mendelson..... 118

Prepared Statement of Martina E. Vandenberg 125

Materials Submitted for the Record by Hon. Christopher H. Smith

- The White House Press Release on National Security Presidential Directive [NSPD-22] regarding Trafficking in Persons, dated February 25, 2003 132
- Memorandum from Deputy Secretary of Defense Paul Wolfowitz on Combating Trafficking in Persons in the Department of Defense, dated January 30, 2004 135
- Memorandum from Secretary of Defense Donald Rumsfeld on Combating Trafficking in Persons, dated September 16, 2004 137
- NATO Policy on Combating Trafficking in Human Beings, adopted June 28, 2004 138
- U.N. Department of Peacekeeping Operations Position Paper on Trafficking in Persons, adopted July 2004 148
- UN Secretary General’s Bulletin: Special Measures for Protection from Sexual Exploitation and Sexual Abuse, dated October 9, 2003 158
- OSCE Parliamentary Assembly Edinburgh Declaration’s Resolution on Combating Trafficking in Persons, adopted July 2004 161

**ISSUE FORUM:
ENFORCING U.S. POLICIES
AGAINST TRAFFICKING IN PERSONS:
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SEPTEMBER 21, 2004

COMMISSION ON SECURITY AND COOPERATION IN EUROPE AND
HOUSE ARMED SERVICES COMMITTEE,
WASHINGTON, DC

The Issue Forum was held at 3 p.m. in Room 2118, Rayburn House Office Building, Washington, DC, Hon. Christopher H. Smith, Chairman, Commission on Security and Cooperation in Europe, and Hon. Duncan Hunter, Chairman, House Armed Services Committee, moderating.

Commissioners and Members present: Hon Christopher H. Smith, Chairman, Commission on Security and Cooperation in Europe; Hon. Duncan Hunter, Chairman, House Armed Services Committee; Benjamin L. Cardin, Ranking Member, Commission on Security and Cooperation in Europe; Hon. Mike McIntyre, Commissioner, Commission on Security and Cooperation in Europe and Member, House Armed Services Committee; Hon. Hillary Rodham Clinton, Commissioner, Commission on Security and Cooperation in Europe; Hon. Roscoe Bartlett, Member, House Armed Services Committee; Hon. John Kline, Member, House Armed Services Committee; and Hon. Madeleine Z. Bordallo, Member, House Armed Services Committee.

Panelists present: Ambassador John R. Miller, Director, Office to Monitor and Combat Trafficking in Persons, U.S. Department of State; Joseph E. Schmitz, Inspector General, U.S. Department of Defense; Charles S. Abell, Principal Deputy Under Secretary of Defense, Personnel and Readiness, U.S. Department of Defense; General Leon J. LaPorte, Commander, United States Forces Korea, U.S. Department of Defense; Dr. Sarah E. Mendelson, Senior Fellow, Center for Strategic and International Studies; and Martina E. Vandenberg, Attorney, Jenner and Block.

Mr. HUNTER. The forum will come to order.

This joint issue forum is an opportunity for members of both the House Armed Services Committee and the Helsinki Commission to better understand the Department of Defense [DOD] efforts to carry out U.S. policies against trafficking in persons.

The joint session grew out of a discussion that Representative Chris Smith, my great colleague from New Jersey, and I had earlier this year, in which we agreed there was a need to have the Department of Defense explain how it was going to carry out this anti-

trafficking policy. Broad guidance for implementation of that policy was issued in January 2004 by Deputy Secretary of Defense Paul Wolfowitz. We also agreed that we should pay particular attention to U.S. Forces Korea [USFK] since so much public attention has been focused on trafficking issues there.

Therefore, today we are going to hear briefings from two panels that will provide a range of Department of Defense, Department of State and nongovernmental perspectives.

So before I introduce our first panel, let me recognize my great friend from New Jersey, Representative Chris Smith, Co-Chair of the Helsinki Commission, for any opening remarks he might want to make.

Mr. SMITH. Thank you very much, Chairman Hunter. It is a privilege to join you in convening this very important meeting to examine the Department of Defense's response to the problem of trafficking in persons. I want to thank you personally. During the course of this engagement that we have had on trying to see what the DOD can possibly do, you have been a steadfast friend of those who are exploited to make sure that we can stop and end this terrible practice, but also of our men and women in uniform, because this is a very small number of our men and women in uniform, and that should be made very clear, but we want zero. We do not want anybody being involved in this nefarious enterprise.

As you know, Chairman Hunter, I was the prime sponsor of two landmark U.S. laws to end trafficking both here and abroad: the Trafficking Victims Protection Act of 2000 and the Trafficking Victims Protection Reauthorization Act of 2003.

I have for years focused attention on the problem of human trafficking. Our Commission has done so. We have had a number of congressional hearings. But this is the first that we have had on this part of it. So, again, I want to thank you for doing this.

But as such, as someone who has followed this and worked on this, along with my staff and other members for so many years, I want to say at the outset that I am deeply grateful to President Bush for his deep and abiding commitment, both in words and deeds, to ending this cruel exploitation of women. President Bush's leadership is making a profound difference throughout the world in abolishing this modern-day slavery.

It is a sad fact, as you know, Chairman Hunter, that prostitution has historically coexisted alongside large populations of military forces. This is not a new problem, nor is it a uniquely American problem.

In recent years, however, researchers, the press, and concerned individuals have documented that in certain locations, such as South Korea and Southeastern Europe, women and girls are being forced into prostitution for a clientele consisting largely of military service members, government contractors and international peacekeepers.

The need for a strategy to prevent the emergence of prostitution and human trafficking in post-conflict areas is made abundantly clear by the experiences in Bosnia and Kosovo. In both areas, prostitution and human trafficking were allowed to develop and thrive due to the arrival of large numbers of multinational personnel involved in post-conflict reconstruction and peacekeeping.

The United States and the international community failed to address these issues at the outset in Bosnia.

The Dayton Agreement, perhaps unwittingly, enabled peacekeepers-turned-traffickers to be above the law. In like manner, international peacekeepers in Kosovo have been implicated in trafficking, but face mere repatriation as a sanction for their unlawful and despicable actions. We need to close the legal loopholes that allow this to happen.

In the spring of 2002, *Fox News* reporter Tom Merriman, who, it turns out, is here today, showed me an investigative report indicating that U.S. troops in South Korea were patronizing bars and other establishments where women from the Philippines and the former Soviet states were trafficked and forced to prostitute themselves.

U.S. soldiers on courtesy patrol were captured on video by the investigation patrolling these establishments at which U.S. soldiers are the primary customers. While recognizing, again, that the vast majority of U.S. service members would never engage in such reprehensible conduct—I was outraged, and I know you, too, Mr. Chairman, because you watched it as well—to learn that some service members may be creating a demand for trafficking of women into prostitution while stationed abroad.

I immediately led a dozen Members of Congress in calling for an investigation by the DOD Inspector General into the allegations made by *Fox News*. Inspector General Joseph Schmitz aggressively and thoroughly undertook a global investigation, starting with South Korea. His two reports identified institutional weaknesses in our military's understanding of and response to the crime of human trafficking and made numerous concrete recommendations for action.

U.S. Government policies against trafficking have progressed tremendously since the *Fox News* report aired a couple of years ago.

In November 2002, for example, President Bush issued a National Security Presidential Directive establishing a zero-tolerance policy on involvement in trafficking activities by U.S. Government employees and contracted personnel representing the United States abroad.

In January 2004, Deputy Secretary of Defense Wolfowitz issued an anti-trafficking policy specifically for DOD.

In June 2004, at the NATO Istanbul summit, with strong leadership from the Bush administration through Ambassador Nicholas Burns, the heads of NATO Member States adopted an anti-trafficking policy for all troops participating in a NATO-led operation.

Last Friday, on September 16, Secretary Rumsfeld issued a strongly-worded statement indicating to the highest level of military leaders that he expects the problem of trafficking, both sex and labor trafficking, to be addressed.

Now that these policies are set, the Department of Defense has a major task before it to ensure faithful implementation.

Inspector General Schmitz and General Leon LaPorte, the commander of the United States Forces Korea, are personally committed to combating trafficking, and, I believe, deserve an enormous amount of credit for speaking forcefully about the incompatibility of trafficking and prostitution with military core values.

In South Korea, General LaPorte is taking strong and decisive action to curb the involvement of U.S. Service members in activities that could facilitate trafficking.

General LaPorte, your leadership has literally spared many women the cruelty of human trafficking. I, for one, want to thank you. Such leadership is indispensable in this fight. It must be the rule, however, and not the exception. It should be intolerable to military and civilian leaders that service members, peacekeepers or government contractors who are entrusted to protect civilians in destabilized regions would participate in or encourage human trafficking activities.

Instead of supporting the rule of law in post-conflict regions, those who engage in or facilitate trafficking grossly violate human rights, strengthen the criminal networks that destabilize fragile democracies, and undermine their own mission.

When any U.S. Government representative engages with impunity in actions that allow prostitution and human trafficking industries to prosper, the efforts of Congress and the State Department to combat this criminal scourge are severely undermined.

Let me just say that DOD's efforts to combat trafficking, I believe, are headed in the right direction. But there is still much work to be done by all of us in Congress and in the Executive Branch.

DOD is in the process of developing its anti-trafficking training materials and faces the challenge of ensuring a quality product that effectively expresses the heinous nature of trafficking. These materials must be effective in changing the hearts and minds of those individuals who might otherwise be part of the problem.

Other challenges that continue to face us include the lack of legal accountability, particularly among U.S. Government contractors, for activities associated with trafficking.

Finally, as he did last September, President Bush spoke this morning to the United Nations General Assembly about this scourge. I will quote him in part when he said, "Because we believe in human dignity, America and many nations have joined together to confront the evil of trafficking in human beings. Women and children should never be exploited for pleasure or greed anywhere on Earth." The Commander-in-Chief's outrage at this problem must set the tone for the Department of Defense for their aggressive implementation of U.S. anti-trafficking policy.

Again, I want to thank Chairman Hunter for leading this effort. I am very appreciative of his efforts. I yield back the balance of my time.

Mr. HUNTER. I want to thank the gentleman from New Jersey. The gentleman from Maryland, Mr. Cardin, is the ranking Democrat on the Helsinki Commission. The gentleman is recognized.

Mr. CARDIN. Well, let me thank Chairman Hunter and Chairman Smith for convening this forum. It is somewhat unique to see the Commission on Security and Cooperation in Europe, the Helsinki Commission, meeting with our Committee on Armed Services. I think this is very healthy. I particularly want to thank the leadership of the committees for convening this forum so we have an opportunity to review what the Department of Defense is doing in regards to human trafficking.

I want to acknowledge the extraordinary leadership of our Chairman, Chris Smith, on focusing the OSCE Member States on the problems of trafficking. It was the priority of the U.S. delegation to the Parliamentary Assembly, supported by our government, that elevated the significance of this problem and encouraged the OSCE to develop a policy in regards to the trafficking issue and an action document.

We have seen that every one of the critical meetings, including the ministerial meetings in which this issue has been on the agenda, an action item has been followed up. I also want to thank Senator Clinton, a member of our Commission, for her leadership in the United States Senate, on making sure that we have a bicameral and a bipartisan effort in regards to the trafficking issue.

We thank her for her leadership.

Mr. Chairman, let me just point out: I joined Chairman Smith at a meeting with our NATO leadership this past February to review with our NATO command and allies as to what efforts they were taking with the military under NATO control.

We asked them to take action. I am pleased to state that in June, they did adopt a policy of zero tolerance with regards to operations to help combat trafficking in persons.

The military has a specific responsibility here. There is no question about it. It can be very helpful in our efforts to stop trafficking, or it can just be, say, not a priority. It will add to the trafficking problems.

We made a commitment internationally that when we said that we wanted to combat this problem that all countries needed to be engaged and review its policies, including the United States.

Chairman Smith introduced legislation which has become the law of our land with regards to trafficking. It is now incumbent for this Congress to review the actions of all of the critical agencies, including the Department of Defense, to make sure that we are following up on a strategy that we have encouraged the international community to follow.

I look forward to hearing from our guests today and to continue to work with our committees to make sure that the United States maintains its leadership on this very important issue.

Mr. HUNTER. I thank the gentleman. I want to add my words, Mr. Cardin, to express my sentiments and support for Chairman Smith, one Member of Congress who came to Congress in 1980, came in with me, and has always been a man of great principle and integrity and always so concerned about the most basic of human rights. It is appropriate that Chris Smith has been leading this charge.

So thank you, Chairman Smith, for your efforts.

We have also with us Senator Clinton, who has joined us from the Senate and is a member of the Helsinki Commission.

Senator, do you have any remarks you would like to make?

Sen. CLINTON. Well, Mr. Chairman, I want to thank you and Chairman Smith for holding this important joint issue forum on this critical matter.

I have followed and been involved in this for a number of years.

I am very pleased that the work started in the Clinton administration, has been carried on and furthered in the Bush administration. The more we work on this, I think the more we realize how difficult a problem it is and how much needs to be done.

This particular issue forum, focusing on the role that our armed services can play, our allies, in a united way to take on not only the scourge of trafficking, but the companion scourge of prostitution, which feeds the trafficking, is a very critical agenda item and one that I am delighted that our Department of Defense and our military leadership and the very able leadership of Ambassador Miller are bringing to public light. I hope that this joint effort will lead to even further action.

Mr. HUNTER. I thank the gentlelady for her statement.

Mr. Kline, do you have a statement you would like to make? Do you have any remarks?

Mr. McIntyre and Ms. Bordallo, do you have any remarks you would like to make?

Mr. MCINTYRE. I will just say briefly, as a member of both the Armed Services Committee and the Helsinki Commission, I am especially thrilled we would have this joint effort, because the issues involved can affect, obviously, both jurisdictions. I commend our leaders, both you, Mr. Chairman, and Chairman Smith, for calling this meeting today. Thank you.

Mr. HUNTER. Well, I want to say to my colleague that we appreciate your service, both on the committee and on the Helsinki Commission. Thank you for being with us today.

Mr. MCINTYRE. Thank you, sir.

Mr. HUNTER. At this point, Ms. Bordallo, did you have any remarks you wanted to make?

Okay. I thank the gentlelady.

Let me just say to our briefers today on both panels, there is going to be a record created in the forum, so without objection, your written statements will be included in that record. I would also ask that in your opening statements today you summarize your written submission so that we can move to Member questions. So you are free to give us a summary, and we will include those, your full written statement, in the record.

We would like to welcome our first panel.

Ambassador John Miller, as a former colleague, a great member of this body, we appreciate you being here as the Director of the Office to Monitor and Combat Trafficking in Persons for the Department of State.

Charlie Abell, you have testified before this committee many times. We appreciate your presence here today as the Principal Deputy Under Secretary of Defense for Personnel and Readiness. Thank you for your service and for being with us.

Joseph Schmitz, thank you for being here as Inspector General, Department of Defense.

Of course, General Leon J. LaPorte, Commander of United States Forces Korea, you have an enormous burden and oversee a very critical operation, most important part of America's forces in the world today. Thank you for taking time from your very busy schedule, so we appreciate you being with us.

Ambassador, do you want to lead off here?

Amb. MILLER. Mr. Chairman, thank you for holding this hearing. Every time Congress holds a hearing on the slavery issue, you indirectly help free victims and put traffickers in jail. I want to thank all of you for coming.

Congressman McIntyre, Congresswoman Bordallo, Senator Clinton, my old colleague, Congressman Cardin, Congressman Chris Smith, who was a leader in this issue long before I ever heard of it, Congressman Bartlett, Congressman Kline, Mr. Chairman, we appreciate your attention to this issue.

Congress started putting the spotlight on this issue with the passage of the Trafficking Victims Protection Act. That is really what started the ball rolling. That is what led to the creation of my office, which as you know tries to spur action on behalf of the United States on this issue throughout the world, including publishing annual reports, running programs. Of course I also have the privilege of chairing an interagency group, including Mr. Abell and other representatives from different departments, to try to help bring coordination to government policy in this area.

We are dealing here, broadly speaking, with what is emerging as a primary human rights issue of the 21st century. But it is not only a human rights challenge. It is a health challenge. It is a national security challenge. We are talking here about a major source of revenue for organized crime.

Because it is a national security challenge, it relates to the task facing our military because they are trying to create secure, stable situations in several countries in this world.

Overall, the picture tells us there are huge numbers of victims. We estimate 800,000 men, women and children trafficked annually every year across international borders. That does not count internal trafficking, in the millions. Victims do not line up and raise their hands, so the estimates are, by nature, not exact. But we know the problem is huge.

That brings us to the issue today. The Presidential Task Force on Trafficking, chaired by Secretary Powell, earlier this year charged me and my office with working with a renewed focus on the demand side of this issue. We talk a lot about the sources of the slave victims.

But what creates the demand, sometimes in less developed countries, sometimes in very developed countries, including advanced, wealthy democracies such as our own?

The demand when you are talking about the sex trafficking part of trafficking, and there are many parts we deal with—child soldier trafficking, the domestic servitude trafficking, factory and farm labor trafficking—but when you are talking about the sex trafficking part of trafficking, demand is created by the so-called customers.

It is an unfortunate fact that historically when you have national forces going from one country to another, this leads to increased prostitution and increased trafficking in the number of slave victims.

When I say national forces, I am not just including military. I am talking about peace-keeping, I am talking about contractors, I am talking about aid workers. But obviously the military is an important component, and that means the U.S. military in this day and age.

Your letter in 2003 recognized this issue. You called for action. This started a chain of events, including the IG investigations that you have referred to by a very dedicated foe of slavery, Joe Schmitz. It has led to many people doing reports. You have two witnesses on your next panel whose work that I am familiar with: Sarah Mendelson and Martina Vandenberg.

Now the question is: What can we do about it? I am not going to go into all the facts that we know from the past, some of the terrible events. What can we do about it? In the last year, we have seen a lot of action on behalf of the Defense Department. We have seen Deputy Secretary Wolfowitz's zero-tolerance memo, early last year.

We've seen, just a week ago, Secretary Rumsfeld's memo emphasizing training to get to zero tolerance.

We have the letter of Charles Abell initiating a review, the new provision for the UCMJ that would penalize, punish the patronizing of prostitutes. I understand that has gotten to the *Federal Register* stage.

That is a very significant measure, because there are many governments, many militaries that have never gone to that length. The United States, we are just moving now—localities and states are trying to look at the demand side and educate the so-called customers and punish the customers as well as the victims. So this is very significant.

We have the preparation of training modules by the department. We have the steps taken in Korea. We have the recent NATO policy that was instituted with the leadership of the United States and Norway.

Now, those are the steps that have been taken on paper. Those are good steps. The real challenge lies ahead. The challenge over the coming year is: How do we put these policies into practice? How do we get these policies so that they are recognized and implemented, not only here in D.C., but all the way down the chain of command?

This is not an easy task.

Dr. Mendelson has commented on the difficulties of changing cultures. Here you are talking about changing a military culture. But it is not just a military culture.

I was in Greece last year, and NGOs talk to me about, oh my gosh, our public service announcement's directed at potential victims, they're not doing the job.

We have to change the culture. We have to address the male population of Greece. We have to let them know that if they patronize prostitutes, the research shows that most of the people they are quote, "patronizing," are likely to be victims of trafficking, raped, assaulted, abused, wanting to escape.

So changing the culture is not easy. But it must be done, and I think the military leadership recognizes this. It must be done to preserve the peace, to protect the public health, to uphold our ideals on human rights and dignity, to carry out the military's peace-keeping mission. We, in our office, look forward to working with the Department of Defense. We look forward to working with the United Nations that has even more work to do on this.

We look forward to working with NATO. We look forward to working with NGOs. Most important, we look forward to working with the victims of the world in joining together to fight this scourge. Thank you.

Mr. HUNTER. Ambassador Miller, thank you very much for a most eloquent and concise statement.

Inspector General Schmitz, thank you for being with us today. The floor is yours, sir.

Mr. SCHMITZ. Thank you. Chairman Hunter, Chairman Smith, other members of the Armed Services Committee and the Helsinki Commission, it is an honor to participate in this forum today.

Since 1778, starting at Valley Forge, Inspectors General in America have served as independent extensions of the eyes, ears and consciences of their commanders. This Inspector General's commander is Secretary of Defense Donald Rumsfeld, who recently admonished all leaders in the Department of Defense never to turn a blind eye to what our Commander-in-Chief in a speech last year to the U.N. General Assembly referred to and singled out as a special evil.

Before going on further, I wanted to express my gratitude to Members of Congress who have enacted what I like to call legislative tools for us to deploy throughout the Department of Defense in our ongoing efforts to teach and train our troops about human trafficking and otherwise to suppress this dissolute and immoral practice.

I would also like to acknowledge and thank the uniformed Inspectors General of the military department with whom my mostly civilian professional staff and I have been closely cooperating to suppress, over the past 2 years, any form of human slavery associated with Department of Defense programs and operations throughout the world.

One might ask: Why in the midst of the global war on terrorism, even as deployed American soldiers are risking the ultimate sacrifice in Afghanistan and Iraq, the President of the United States would devote almost a fifth of his U.N. speech last September to the subject of human trafficking?

One answer might be the nexus between human traffickers and the arms traffickers supporting the terrorists who are killing our troops.

Another answer might be that caring for the victims of human trafficking is a paradigmatically righteous thing to do for a President who describes himself as a compassionate conservative.

A more fundamental answer might be that to confront modern-day human slavery forces all of us to focus on first things first. That is, we need to focus on the principles that are worth fighting for in order that we might better focus on second things, which include survival.

The principles, the first and second things, as C.S. Lewis calls it, is that when second things are put first, not only first things, but second things, too, are lost.

More exactly, when there are greater goods or ultimate ends and proximate ends, if we put the lesser goods, like survival, before the greater goods, like the values to survive for, then we lose not only the greater goods, the values, but even the lesser goods that we have idolized.

The society that believes in nothing worth surviving for beyond survival will not survive.

Our currently available legislative tools for suppressing human trafficking include, of course, the Victims of Trafficking and Violence Protection Act of 2000 and its 2003 reauthorization, which together prescribe a model zero-tolerance standard not only for all Americans, but for our Western allies as well.

There is another legislative tool for combating trafficking in persons less known, but equally potent for those of us serving in the Department of Defense. It is known as the exemplary conduct leadership standard.

Congress first approved this standard in 1775, and re-enacted it in 1997 to promote precisely the type of moral courage expected of leaders throughout the Department of Defense in the face of relativists and cynics who say either that it is no use to take on the so-called oldest profession known to man, or worse—and I have personally witnessed this pernicious attitude in Washington, D.C., and around the world, “They’re just prostitutes.” Among the many lessons that we have learned in the course of our joint and global human trafficking inspections in Korea, Bosnia-Herzegovina and Kosovo over the past 2 years, two lessons learned warrant reiteration today.

First of all, among the root causes of the recent resurgence of human trafficking, aside from the obvious profit motive of organized criminals is a general reluctance of leaders at all levels to promulgate and to enforce principle-based standards for subordinates who create the demand for prostitution, generally, and for sex slavery, specifically.

The second lesson learned that I would respectfully reiterate today is that whenever leaders, especially those of us who swear to support and defend the Constitution of the United States, become aware of human beings being referred to as just something else—for example, they are just prostitutes—we ought never to turn a blind eye.

To actively subjugate or even to turn a blind eye when others subjugate any group of humans to a category of existence beneath the dignity of individuals created equal and endowed by their creator with certain unalienable rights, among which are life, liberty and the pursuit of happiness, is, in a word, un-American.

Simply stated, slavery is antithetical to the core principles that underlie our Constitution. By taking on this special evil, we focus not only on physically surviving the ongoing global war on terrorism, but on the very principles that define survival.

My testimony today draws, not only upon two human trafficking IG reports over the past 2 years, but also upon a draft article, the working title of which is “Inspecting Sex Slavery Through the Fog of Moral Relativism.”

Copies of my reports and the draft article are included as attachments to my prepared statement. The reports speak for themselves. The draft article is based upon first-hand observations I have made as Inspector General.

I would not belabor the conclusions of our reports in light of the timing here. But I would like to just say that we have found, in both Korea and in Bosnia, good, best practices.

We have also found areas for improvement. In Bosnia, we found particularly troubling some issues involving DOD contractors. I will be traveling next week to the George C. Marshall European Center for Security Studies in Garmisch-Partenkirchen, Germany, and the U.S.-European Command in Stuttgart. The Marshall Center provides training for ambassador level leaders, senior executives and young leaders from all over Europe and Eurasia, focusing on eastern Europe and Eurasia.

I intend to use this opportunity to review how well we are teaching and training our European allies, not only on how, but also why we expect our commanding officers and others in authority throughout the Department of Defense to be vigilant in inspecting for any indications of complicity and human trafficking and otherwise to suppress this dissonant and immoral practice.

During this upcoming trip, I will also follow up on our efforts in Bosnia-Herzegovina and Kosovo to help measure improvements and determine whether my office can be of further assistance. Secretary Rumsfeld has called upon leaders throughout the Department of Defense to make full use of all tools available, including DOD Inspectors General and criminal investigative organizations to combat these prohibited activities.

In conclusion, to reiterate Secretary Rumsfeld's orders last week, no leader in this department should turn a blind eye to this issue. Thank you very much.

Mr. HUNTER. Thank you very much, Inspector General Schmitz.

Charles Abell, you have been a public servant who has testified before this committee many times. You have served your country very notably. We appreciate your appearance today on this very important issue. Please proceed.

Sec. ABELL. Thank you, Mr. Chairman. I appreciate the opportunity to outline and discuss the department's policies with regard to trafficking in persons.

You have heard the passion and the eloquence of my colleagues. I am going to talk about our policies here in a very straightforward manner, much like the department's policy. It is straightforward. It is easily understood. It is a policy of zero tolerance. It is a policy of command responsibility to recognize, prevent, and to assist local law enforcement when it comes to trafficking in persons in any way, shape or form.

We have, as you have heard, developed a training program. I compliment Ambassador Miller for his assistance in helping us with the content of that.

The training program has been developed. It is in testing at this point. It will be distributed to the force and the fleet effective November 1 of this year. It will contain the core messages. It will contain the core values. But we will actually insist that the local commands adapt this to their unique situations and make it more relevant in that regard.

In January 2005, we will have an online version of this training available so that it is exportable and available to the reach of any commander anywhere in the world.

We have processed a change to the Uniform Code of Military Justice, which would make a specific offense for patronizing prostitution.

The department has always believed that this activity was chargeable under the Uniform Code, under the General Article of 134. But this change will make the offense visible, observable. It will raise command attention, and it will make it more visible to the service member who might be tempted.

We are working to change the language of Department of Defense contracts to ensure that contractors and their employees are responsible and accountable for their conduct with regard to trafficking in persons.

This has taken us longer than we had hoped. The acquisition community is a bureaucracy that needs our attention. I am giving it the attention it needs to get through that bureaucracy, Mr. Chairman.

We have inspections looking not only for compliance, but also to share best practices, some of which you have heard Inspector General Schmitz discuss.

The Secretary of Defense likes to tell us that results come from that which we inspect not that which we expect. This is another case of that.

Our memos are out there. The Deputy Secretary's memo from January of this year and the Secretary's memo from September of this year, they have been widely discussed.

We have an awareness campaign that we will kick off through command information channels using the armed forces radio and television service and the Pentagon channel.

Our current emphasis began with the Deputy Secretary's memo in January of this year. We have made good progress. We have more to do. We are determined and committed, Mr. Chairman.

I stand by for your questions.

Mr. HUNTER. Thank you very much, Secretary Abell.

General LaPorte, again, your plate is fairly full with respect to the military threat that you have to look at daily and adjust your forces accordingly. Obviously this issue is an issue also which is now on your plate. So thank you for being with us and contributing to this discussion. The floor is yours, sir.

Gen. LAPORTE. Thank you, Mr. Chairman.

Representative Smith, Senator Clinton, distinguished committee and Commission members, I am honored to be asked to testify before this joint forum today and to report on the United States Forces Korea policies and programs combating prostitution and human trafficking.

The conduct of our soldiers, sailors, airmen, Marines, as well as the Department of Defense civilians, and that of contractors and their family members is of paramount importance to our command.

These Americans are very much our nation's ambassadors, and how they behave is as much a reflection of our own national character as it is a statement of our military readiness and discipline.

United States Forces Korea has instituted multiple policy initiatives and programs to support the DOD's zero-tolerance policy and to sever any links that might exist between our personnel and the cruel and demeaning practices of prostitution and human trafficking.

Our four-pronged strategy of awareness, identification, reduction and enforcement, along with continued interaction with the Korean Government and law enforcement agencies, has already produced measurable results toward our goal of eliminating prostitution and human trafficking in the entertainment districts adjacent to U.S. installations.

In the area of awareness, all U.S. Department of Defense personnel arriving in Korea receive training on the harmful and dehumanizing practice of human trafficking and our policy of zero tolerance.

Whether arriving by ship or aircraft for permanent duty or temporary duty, every Service member receives detailed briefings on our command's expectations of their conduct and informs them of all applicable laws and policies. In these initial mandatory sessions, we ensure our personnel understand the linkage between prostitution and human trafficking and our expectations on their legal and ethical conduct.

This message is repeated often and in various media. During every leadership school on the peninsula, dedicated instruction addresses the problems associated with prostitution and human trafficking as they affect the health, readiness and moral stature of our force.

Recurring training events also allow each commander to again repeat this message and further emphasize our policies.

Additionally, our Armed Forces Radio and Television Station repeatedly airs public service announcements which inform our personnel on USFK policies and the need to assist the victims of human trafficking.

We man a 24-hour hotline that allows anyone to report suspected prostitution or human trafficking activities. This hotline, advertised in print, on the radio and on television, works in tandem with the Republic of Korea National Police hotline and crisis center that has rescued more than 130 women in the past year.

Our reduction efforts have also focused on providing alternatives to offset the allure of off-post entertainment areas near our military facilities, efforts that are particularly important due to our command-wide curfew.

Congressional direct support of our quality of life initiatives has allowed us to increase the availability of on-post athletic, educational, spiritual and recreational activities for our personnel, providing safe and healthy and affordable alternatives for non-duty hours.

Initiatives such as high-speed Internet and cable access to our military members in the barracks enable many to enroll in universities online. Additionally, our Good Neighbor Program continues to provide thousands of our service members and family members the opportunity for constructive engagement with the Korean community through such programs as English language tutoring and humanitarian and conservation products, projects such as adopting orphanages and schools.

Alternatives like these are very important to our service members and have been effective in reducing indiscipline across USFK as is evidenced by a marked decline in crime, alcohol-related incidents and sexually transmitted diseases over the past 3 years.

While many programs are underway, there is a lot more we need to do. We would greatly appreciate congressional support for additional rapid, high impact initiatives. Across the command, we have also made great strides in identifying business that we suspect of complacency in prostitution and human trafficking.

Once identified, these establishments are placed off limits to U.S. personnel and their names and locations are provided to every unit in the command. At present, more than 600 bars, restaurants and clubs, to include entire sections of towns, have been placed off limits. Offending business owners are subject to specific and extensive corrective actions if they desire to regain patronage of USFK personnel or their family members in the future.

We exhibit command presence nightly in the form of town, shore and courtesy patrols in the districts associated with our facilities. Our uniformed representatives are trained and certified on the indicators of prostitution and human trafficking and are directed to report suspicious activities.

USFK's aggressive approach has also resulted in the prosecution of more than 400 service members for solicitation and related offenses such as curfew violations and trespassing in posted off-limits areas.

The command's consistent vigilance and adherence to standards has contributed to a net decrease in disciplinary problems across the command, as well as improved force protection posture for all our personnel.

Perhaps the most important partner in the command's efforts has been the Republic of Korea Government and its diplomatic and law enforcement agency's help in addressing the peninsula-wide problem of prostitution and human trafficking.

The close cooperation between the United States Forces Korea, U.S. Embassy Seoul, and the Korean ministries of justice, foreign affairs and trade, has already resulted in refined visa policies, which tighten the loopholes previously exploited by human traffickers, as well as new laws which increase prosecution of traffickers and offer protection to victims.

These actions are encouraging and have greatly assisted our efforts. I met recently with the Minister of Justice, the Commissioner General at the Korean National Police, and the Ministry of Foreign Affairs and Trade to discuss these ideas on how to increase our combined efforts to eradicate this serious problem. They have pledged their complete support.

The fight to eliminate prostitution and human trafficking is an ongoing concern across the command and a responsibility that every leader in the United States Forces Korea takes very seriously.

While we have made progress, we will continue to do our utmost to combat these corrosive activities until they are eliminated.

You can be justly proud of the soldiers, sailors, airmen, and Marines, Department of Defense civilians, and invited contractors serving our nation in the Republic of Korea.

I thank you for the opportunity to appear before the Commission. I look forward to your questions.

Mr. HUNTER. General LaPorte, thank you very much for your statement.

We are joined by Mr. Bartlett of Maryland, who is the Chairman of the Projection Forces Subcommittee of the Armed Services Committee.

Mr. Bartlett, do you have any statement you would like to make since everybody got a chance to make a statement? Do you have anything you would like to say before we go to questions?

Mr. BARTLETT. I appreciate very much this hearing. It is so easy in a world where are threatened in many ways for people to forget the plight of others.

The mark of a great society when archaeologists are unearthing remains is how thoughtful the society was for those who were less privileged. So thank you for convening this hearing.

It is awfully easy to pass this off as somebody else's responsibility.

There is an old saying that what is everybody's business is nobody's business. It is so easy because there are so many organizations that could be involved here for us to say on Armed Services that this isn't our problem. Thank you.

So thank you for convening this hearing. I am pleased to be here.

Mr. HUNTER. I thank the gentleman.

You know, General LaPorte, your statement where you talked about encouraging the good things, and one of those was encouraging spiritual growth, it reminded me that when I was in Iraq the last time with Congressmen Reyes and Calvert, we were in Balad and were getting a tour of the up-armored vehicles, when their daily mortar attack occurred.

The commanding officer there rushed us into the nearest building which happened to be a movie theater. He said, no, get away from the glass.

So we went inside the theater itself. So I opened up the door and walked in. There were 400 GIs in there in a church service. It was a remarkable church service. In fact, the GIs right in front of me kind of looked back with, you guys be quiet, we have a church service going on here.

They were ignoring the mortar attack outside. There were 400 GIs there with their combat gear on the floor. The sermon was on keeping your family together while you are in the military. It was a great sermon.

So you have, in this 2.5 million-person force, you have great forces for good in the United States and in theater. It was a wonderful church service.

In fact, all of those 400 GIs were there voluntarily. The Congressmen were forced to go to church because of the mortar attack. We were told we couldn't leave until the all-clear signal was gone. So I think we even got a little good out of that service ourselves.

But the message to me is: We have a lot of folks doing the right thing, understanding that this is a very grievous problem. I just ask one question before I go to our real leader on this issue, Chairman Smith, and that is: You obviously have a good program going. You are dedicated to solving this thing. What can we do?

Gen. LAPORTE. Mr. Chairman, thank you.

That is the military culture that we live in, the culture you have just described. It is not a culture of prostitution and human trafficking. That is not congruent with military values and that is against what we wear this uniform for and what we guarantee in terms of protection of our societies.

How Congress could help in the short term, as you know, we are reorganizing and transforming our forces in Korea.

We had military construction projects slated on some of our installations that we are no longer going to build. One of them was a \$35 million community center at one of our largest installations in the second infantry division. We are not going to build that, and it is the right thing to do that to take that money and build it to an enduring installation that we're going to move to.

The problem we have in the short run is we do not have the MWR, Morale, Welfare and Recreation activities that we need. About \$5.5 million would allow me to develop some interim morale and welfare facilities that will allow healthy alternatives to our service members. So that is how Congress could help me.

Mr. HUNTER. Fair enough. We asked you a specific question. We got a specific answer: \$5.5 million.

[Laughter.]

Chairman Smith?

Mr. SMITH. Chairman, thank you very much. To all of you, thank you for your leadership and your good work.

General LaPorte, I think it is very clear you are walking point. You have taken this not just seriously, but extremely seriously, and I would commend all of my colleagues and all interested parties to look at your documentation that you provided about the work that you are doing, the kinds of alternatives that Chairman Hunter just spoke to and you spoke to.

As you have indicated in a conversation we had, curfew is having an impact. If you have to be in by 12, that mitigates the number of hours that our servicemen are suscep-

tible, especially when you factor in alcohol, to what might happen with a trafficked woman. So I think you have made a very good point about that.

My question is: Do the other commands look at the materials that you have put together? I know DOD is now working on, hopefully, what will be a global action oriented program. But it seems to me you are walking point on this. Are they looking at the lessons learned and the prototypes that you have worked in to this, number one?

Let me ask you, if I could, Mr. Abell, about the issue of yanking a contract from a vendor that is complicit in trafficking. We wrote that provision into the 2003 law as a direct response, as you know, to what we saw going on in Bosnia.

I said it very briefly in my opening remarks, you know, the Dayton Agreement had a lot of good aspects to it, but one of those, and it had the best of intentions. It was to prevent local law from implementing or being used against and perhaps in some bad ways against deployed troops and contractors and the like. So if somebody commits an offense, they're liable under our laws. But it has been misused to protect traffickers.

We held a hearing a couple of years ago, and some of the contractors who were working in Bosnia police work from DynCorp were actually complicit in trafficking. The only slap on the wrist they got was to be sent home packing, which was not an appropriate response, obviously, given the gravity of the situation.

You mentioned that is a work in progress. Hopefully, that will be applicable to contracts already in force, because the date of the legislation, obviously, was last December. We want to cover as many people as possible, and if you could update us on that.

Mr. Ambassador, you might want to speak to what is being done in the more global area of procurement, because obviously it applies to State Department and everybody else, not just Department of Defense.

Finally, I do have some questions—I have a number of questions, but given the time—just to Inspector General Schmitz. You know, you have done two very good reports. You made great recommendations. I like the idea that you said eyes, ears and conscience. The conscience comes through in your reporting. It is not just putting some facts down on the paper. You see the misery that women have suffered, and also the other problems.

You know, we are doing our men and women no favor when we allow them to contract STDs or to be part of a situation that is ruinous of their own marriages and the like. It is tough love in a sense, but it is very important love, but the first people who obviously are hurt are the women.

I was wondering if in follow-up you are looking at some ways to measure the effectiveness of these programs going forward. One of the things that General LaPorte mentioned was that things like STDs are on the decline among his military men and women in South Korea.

You might want to speak to that. Because this is a health issue and also a readiness issue. So you might want to touch on that as well.

General LaPorte, did you want to start, or ...

Gen. LAPORTE. First of all, the Department of Defense and the DOD IG, in particular, have been very helpful in developing educational programs.

When General Schmitz came to Korea, he and I sat and talked about what was the audience and how to target the information. We have shared this information with the Department of Defense and with other commands.

We have a commanders' conference here in Washington. I will ensure that all of the combatant commanders get a copy of what we are using in Korea and ask for their information, too, to answer your first question.

We have developed some metrics there. Initially primitive, relative to crimes against persons, alcohol-related events, sexually transmitted diseases, and over the past 3 years, we have a downward in all of those.

The direct causal relationship, we haven't established. But we have the slope of the line going in the right direction. We need to refine those metrics to give you better measures of effectiveness.

Sec. ABELL. With regard to our contracts and modifying them it is our intent that the language would be universal modifying all Department of Defense contracts applied to prime as well as subcontractor.

As I said, we have developed the language. It has been approved by the legal community. Now I have to shepherd it through the acquisition community. It has my commitment to get that done as well.

There are tools out there that are available today. You mentioned some. Some of our agencies, most notably the Army Corps of Engineers, have, without waiting for the Department of Defense universal contract language approval, gone ahead and prospectively added that language to their contracts, which is very helpful. But our intent is to provide it universally.

Amb. MILLER. Yes, Congressman Smith, the provision, of course, that you took the lead in inserting in the reauthorization, applied to all government departments, not just Defense, which I think was the purpose of your question.

In the State Department, we now have a program where all of our contractors, before they are deployed, go through training that we have helped prepare and conduct. In addition, they sign statements indicating their awareness of their obligations when it comes to fighting trafficking.

Mr. SCHMITZ. Chairman Smith, in response to your question about measuring the effectiveness of the DOD policy, I would first reiterate what Secretary Abell said about Secretary's Rumsfeld's adage: You get what you inspect, not what you expect. Stated differently: What you measure improves.

There are two areas that we are focusing on for measuring improvements in general. The first one would be the effectiveness of promulgating the zero-tolerance standard throughout the Department of Defense. That essentially comes down to leadership and teaching and training our troops and our contractors and anybody else that we are concerned about.

The second metric that we are looking at, and working with the Department on, is once we promulgate effectively, then we can enforce the standard. What I would just like to add at this point, I applaud the Department's efforts to specify pandering prostitution in the manual of court-martials. That is the criminal standard but we are looking at the human trafficking issue, not just at the basic criminal standard.

I think the American taxpayers expect more than just that we do not have criminals in the armed forces. What the general said, with which I agree 100 percent, is that our soldiers, sailors, airmen, and our marines are in many ways the only ambassadors of the American nation to these places where we are stationed. I think it is incumbent upon us throughout the entire Department of Defense to look not only at the low end, at the criminal standard, but at the high end.

So we are trying to focus not just on not having criminals, but on the core values that each of our services have—honor, courage, commitment and all the other things that we try to inculcate into our young men and women so that they do represent us well overseas. I think what General LaPorte's doing in USFK, in particular, is great, to provide sort of these constructive alternatives that help our soldiers, sailors, airmen and Marines focus on good alternatives.

So I just wanted to say we are not just focusing on the low end of the spectrum, at criminal activities, but we are trying to focus on the positive side of this, too, in terms of pounding in our core values and helping our Americans actually be better ambassadors throughout the world.

Mr. HUNTER. I thank the Chairman.

The gentleman from Maryland, Mr. Cardin.

Mr. CARDIN. Thank you, Mr. Chairman.

There are some who draw distinctions between prostitution and the problems of trafficking. We have Member States of OSCE where prostitution is legal.

So I want to give you a chance to clarify for me what zero tolerance means. What does that mean to the soldier? What does it mean to the command structure? What will not be tolerated?

Sec. ABELL. Sir, the zero tolerance means that it is the policy of the Department that we do not support, nor do we allow our forces, civilians, contractors, to contribute to modern-day slavery, whether that be sex trafficking or labor trafficking, labor debt bondage.

As such, we are charged with recognizing it, with then dealing with it as we find it, whether that is dealing with our folks who might choose to participate or notifying our host nation legal enforcement folks to take actions.

Mr. CARDIN. Well, I might have some problems with that. Let me try to get a clarification.

Are we expecting our soldiers to know the distinction between prostitution and participating in and encouraging the trafficking of young women? I think that might be asking too much.

I thought I heard you say that prostitution would not be tolerated from our military personnel. If it is, participation in trafficking, which many of us know that by visiting a brothel, that is exactly what is happening, but what exactly is the message being sent to our troops?

Sec. ABELL. First of all, we have taken action to have, an addition to the Uniform Code of Military Justice, that would specifically make patronizing prostitution a chargeable offense ...

Mr. CARDIN I heard that, and I was very pleased to hear that.

Sec. ABELL. That is right.

Mr. CARDIN. That is what I was trying to figure out. Is that zero tolerance? So if a soldier visits a brothel, that will not be tolerated?

Sec. ABELL. That is true.

Mr. CARDIN. Under the zero-tolerance policy, or is that a separate policy?

Sec. ABELL. No, sir, it is all one. But it is more than that. It is, also a soldier who may not be visiting the brothel but who recognizes the signs, the indicators of trafficking, who would report that, not that they were a patron of the facility, whether that be sex traffick-

ing or whether that be debt bondage, other aspects of trafficking in persons, so it is more than just prosecuting those who might visit a brothel.

Mr. CARDIN. What is the consequence for violating the zero-tolerance policy?

Sec. ABELL. It would be—the Uniform Code of Military Justice change for patronizing prostitution, the maximum punishment would be one year in confinement and a dishonorable discharge.

For violating zero tolerance, it would depend on the charges that were leveled, whether it was conduct unbecoming, it was violation of good order and discipline, violation of standing orders and so forth. Those have different levels. But they are severe, normally resulting in an unfavorable discharge.

Mr. CARDIN. That brings me to my second point as to what the policy means, how it is being implemented and what it means to command structure and the uniformity around the world to the different command structures we have.

Give me certain assurances that we have consistent interpretation by our commanders in the field as to what we expect from their command in implementing this policy.

Sec. ABELL. I will assure you, sir, that the Secretary's policies are clear and that they are understood by those commanders. I think the witnesses in the panel that follows will give you anecdotes of instances which do not reflect those policies.

It will take some time to get the entire Department oriented at the level at which we would love to say we have zero participation or zero tolerance, if you will.

We are working on it. The commanders do understand it, the commanders like General LaPorte. It is a matter of education and training and readiness to get that down to the lowest private in the rank.

Mr. CARDIN. One last question: What happens in a host country where prostitution is legal? Is it still part of the military code that a soldier participating in prostitution would be subject to discipline?

Sec. ABELL. Yes, sir. This is part of the Uniform Code of Military Justice, not the host nation. We are not relying on host-nation law, sir.

Mr. CARDIN. Thank you, Mr. Chairman.

Mr. HUNTER. I thank the gentleman.

The gentleman from Minnesota, Mr. Kline.

Mr. KLINE. Thank you, Mr. Chairman, Chairman Smith, for your terrific work here and, gentlemen, for being here today and your testimony.

We are addressing a very serious worldwide problem of trafficking and slavery and forced servitude. I am delighted to see the work that is being done.

But I want to focus again, as my colleague, the gentleman from Maryland was, on what is going on in the Department of Defense. So I am speaking to you from my position as a former career officer and a current serving member on the Armed Services Committee. So I would like to talk to you, General LaPorte, if I could, for just a minute.

Changing the understanding of Article 134 in the Uniform Code of Military Justice is a very big change in the armed forces from, let us just arbitrarily pick, 20 or 30 years ago, where patronizing prostitutes was not considered a violation, either ethical or legal, and in fact was encouraged. I think you would agree, if not in this forum, in some.

So this is a pretty big change, and I want to just reflect on a couple of things.

We saw a pretty big change in another part of the military culture going back to Desert Shield, Desert Storm, where we deployed tens of thousands of U.S. forces into Muslim countries and made it illegal to consume, possess alcohol. This was done virtually

overnight and, aside, I think to great effect, that our readiness and our performance in places around the world where we have enforced that policy has been terrific, whether it is in the Arabian desert or in Somalia or Afghanistan, Iraq and so forth.

But this is a new change to the culture. You are right, I think Chairman Smith said you were walking point—the point of the spear. Are you finding this difficult to implement? I am talking about the policy now of not patronizing prostitutes, not, as my colleague from Maryland said, the more difficult aspect of perhaps identifying trafficking, but just patronizing prostitutes?

Gen. LAPORTE. The straight answer to your question is no, we are not finding a lot of problems. Now there is a percentage of our population that we are focusing our efforts on. The 18–23-year-old male is the focus of our efforts.

We are a married military. We have established a contract with our spouses. Basically 60 to 65 percent of us are married. That is important to us. So you do not find a great portion of our population serving in Korea that is interested in this type of activity. They would rather have wholesome alternative activities: fitness centers that are open 24 hours a day; restaurants that serve food at 3 o'clock in the morning; movie theaters that do not close at 9 o'clock, that show movies until 1 or 2 o'clock in the morning.

So we are not getting a lot of resistance.

Now, we have to work on this. This is a leadership issue, and it is a readiness issue. It takes every leader in the chain of command to be involved not only in terms of what is the policy, but also in their own personal behaviors.

Mr. KLINE. Thank you for the answer. I have got to say that I couldn't agree more that it is a leadership issue, and it is a readiness issue, as my example of the no-alcohol policy that we have seen with forces deployed around the world. There is no question that we perform much better, no question about it.

I would think that the same would prove to be true here as we direct soldiers' activities and interests to those activities on the base or elsewhere that are more wholesome.

So I am delighted to see it. I applaud the Department for the policy and for your leadership in implementing this and seeing it through. So, again, thank you gentleman all very much.

Mr. Chairman, I yield back.

Mr. HUNTER. I thank the gentleman.

The gentlelady from New York, Ms. Clinton.

Sen. CLINTON. Thank you, Mr. Chairman. I want to thank all of the witnesses for excellent testimony, and even more for the commitment that you bring to this issue, and particularly for the military, its commitment as exemplified by General LaPorte, to implement the zero-tolerance policy. With respect to the zero-tolerance policy, and perhaps this is best addressed to Secretary Abell: are the forces based here in the United States receiving the same kind of training and education with respect to trafficking and prostitution?

I ask that because there are a number of instances where it appears that women and girls are at least engaged in prostitution, and in a number of instances apparently trafficked into prostitution around some of our bases here in our own country.

So is this part of the zero-tolerance outreach, Secretary Abell?

Sec. ABELL. Yes, ma'am. The training will be universal. It will be as part of their initial entry into the service. It will also be reinforced pre-deployment for those who are leaving the United States, going overseas.

It is a two-pronged approach, one for service chiefs, who are the force providers, who are charged to provide a ready trained force; and then, part two, for the combatant commanders, the theater commanders, like General LaPorte, to adapt it to their theater when they get there. The Uniform Code of Military Justice applies without regard to geography.

Sen. CLINTON. Will there be increased cooperation between our military leadership on these bases and civilian authorities with respect to criminal prosecution of houses of prostitution and other rings of prostitutes?

Sec. ABELL. Our commanders, whether overseas or in the United States, do and will cooperate with their local law enforcement agencies. They share intelligence, and maybe less formally than intelligence, indicators that the military members, the civilian component of the DOD have observed and reported.

Sen. CLINTON. Additionally, this past July and August there were press reports indicating that subcontractors on DOD contracts in Iraq may have kept Indian laborers in debt bondage. This is, obviously, a serious charge and suggests that trafficking for forced labor is not a hypothetical situation.

The Secretary of Defense's memo of September 16 raises the issue of forced labor trafficking and, for the first time, really addresses the problems associated with involuntary servitude and debt bondage.

How has DOD and the State Department, Ambassador Miller, responded to the recent allegations that subcontractors on DOD contracts in Iraq may have kept laborers in debt bondage? What steps are you taking to try to take action against these contractors to perhaps prevent them from either continuing the existing contracts or obtaining new contracts?

Finally, to the Inspector General, will you be considering labor trafficking and debt bondage issues as well as sex trafficking in your inspection process?

Sec. ABELL. Let me start, please. The Army is reviewing those contracts and the subcontractors to determine whether there is actually debt bondage there. As I said before, we are pursuing at the departmental level language that would be an enabling tool for the contracting officers to be able to disbar and hold contractors both at the corporate level and at the individual level accountable and responsible for those actions.

Amb. MILLER. I think Secretary Abell has answered what the Defense Department is doing.

At the time of that allegation, we did go through our embassy in India to try to see if there was factual support. We were not successful in verifying it. This does not mean, however, that there is not this threat. Clearly, forced labor is a major factor in any post-conflict situation. It is a major component of slavery throughout the world.

It is certainly a factor in the Middle East. Whether that particular allegation is correct or not, there is all sorts of use of forced labor in Middle Eastern countries, a lot of that forced labor coming from Eurasia, coming from the Indian subcontinent. It is a major problem. We are pushing, through our report, we are trying to report the governments in the region to be more aggressive in apprehending and correcting the situation.

We are pushing the governments where the people are coming from. They have a responsibility in terms of when the people go out of the country and the whole visa process. So it is a major issue.

Mr. SCHMITZ. You asked if we will be considering the labor trafficking and debt bondage in our activities. Yes. In fact, when I found out about the Indian allegation, I immedi-

ately put on my oversight hat. We will follow up if there is any DOD nexus there to make sure that we are turning every stone.

Sen. CLINTON. Thank you.

Mr. HUNTER. I thank the gentlelady.

The gentlelady from Guam, Ms. Bordallo.

Ms. BORDALLO. Thank you very much, Mr. Chairman. To all of the witnesses on the panel, I thank you very much for your testimonies. It has been very enlightening.

I have a couple of questions. First is to Mr. Schmitz, the Inspector General, this was a report given by someone who will be on our second panel, I think. But I read about it, and I thought that it needed an answer. This person said that during her travels, with the DOD IG inspectors to Bosnia and Kosovo in June 2003 ...

I observed an organizational culture that will make it more difficult to implement the zero-tolerance policy.

While DOD is in the early stages of actual implementation, this culture appears to be shaping an overall effort that is less than comprehensive....

Also worrisome, the DOD/IG investigators had received no training in how to research trafficking in Bosnia and Kosovo. DOD's methodology was unsophisticated. Typically meetings on bases would begin with questions such as: "We are here to investigate possible human trafficking. Do you have any problems with trafficking here?"

Those interviewed, not surprisingly, would usually respond: "No, we do not." That often was taken at face value. So I found after reading or looking at the finding in the final report that this did not paint the full picture of what I had observed.

Mr. SCHMITZ. I saw that criticism, too, and I thank the author. It is good constructive criticism. My best answer is the activities that we did in Bosnia was essentially a second phase of an ongoing process. It is a start.

The DOD IG has never been in the business of inspecting human trafficking before we got involved, at a time when we didn't have an inspections directorate.

The Secretary of the Army called us and he had just gotten off the phone with Chairman Smith, and he said he has got a problem with Korea, and it is joint and global. As good as his Army IGs are, they are not joint and global. They are global, but they aren't joint.

So what we did is we put together and worked very closely with the military IG to do the best we could under the circumstances. Frankly, we were learning on the job.

But we have, in the meantime, arranged training. In fact, as of, even yesterday, we are talking about maybe sending one of our senior inspectors over to Geneva at the end of this month for some human trafficking training to make sure that we are taking advantage of what is available.

I am very proud of what we did in Bosnia. But we were starting out. It was a very good solid start. I accept the constructive criticism, and next week when I am over in Stuttgart with U.S. European Command, I will be talking about those issues.

Ms. BORDALLO. So training is ongoing?

Mr. SCHMITZ. Yes, ma'am. In fact, we are working with the State Department. The State Department has come up with some great training just last month. For instance, at

Fort Belvoir at the International Army IG Conference, my office and the State Department had a table set up for all the Army IGs from all over the world, with some very good interactive training on human trafficking. It is in the developmental stage. I think Secretary Abell said we are going to launch it in November.

It is excellent training. It wasn't available 2 years ago, though. We are working very closely with Ambassador Miller and with the Army and the other service IGs to make sure that we not only are trained ourselves, but that we help the commanders train their folks as best as we can in dealing with ...

Ms. BORDALLO. Well, I am pleased to hear that. I have one other question, Mr. Chairman, and that is to General LaPorte.

The majority of your forces in Korea rotate yearly. You, yourself, will be changing command next year. What efforts do you believe need to be taken to ensure that your achievements to combat and eliminate trafficking near military bases in Korea continue and improve? Are there plans in place, General?

Gen. LAPORTE. Well, first of all, you must know something that I do not know, that I am leaving.

[Laughter.]

But we are putting in systems and policies and programs that are not aligned with an individual commander. These are peninsula-wide United States Forces Korea programs. I believe that we will have them so embedded into our normal operating practices that they will continue.

They will get better. I mean, we are learning as we attack this very multifaceted problem that it requires multifaceted solutions. So we continue to work it. I just think it is going to get better in terms of our efforts to counter this.

Ms. BORDALLO. So there will be continuity?

Gen. LAPORTE. Absolutely, ma'am.

Ms. BORDALLO. Thank you, General.

Mr. HUNTER. I thank the gentlelady.

The gentleman from Maryland, Mr. Bartlett?

Mr. BARTLETT. Thank you very much for your testimony. How many of these estimated 800,000 victims of trafficking in persons are in this country?

Amb. MILLER. The estimate, Congressman, is that of the 800,000 men, women and children trafficked across international borders into slavery every year, 17,500 are trafficked across the United States borders into slavery.

Mr. BARTLETT. Do you think this makes a statement about how easy it might be to get 17,500 terrorists across our borders?

Amb. MILLER. Well, you are getting outside of my field there. But I will tell you what it tells me: This challenge of slavery is worldwide.

It extends into every country in the world. No country is immune. That is why the President has spurred our Attorney General's Office, our Health and Human Services Department, to take greater action within the United States.

We have seen a tripling of prosecutions in the last 2 years on the trafficking issue. We have seen increase in funding for shelters. We have seen new media programs designed to reach potential victims. We have got it here.

Now, we may not have it to the degree and in the numbers that other countries that I deal with in the world have it, but we ...

Mr. BARTLETT. But we are a very special country. I would hope that we wouldn't. Gentlemen, you may have noticed that very frequently the most popular movies are those that have the most violence and the most sex. I would submit that this creates an environment, a culture, in which accepting the consequences of trafficking in persons is easier.

I am reminded of the story of a country church that had their customary Wednesday evening prayer meeting. One of the men every week, Brother Joe, would pray that the Lord would remove the cobwebs of sin from his life. Finally, after several weeks of this, Sister Sally prayed that the Lord might kill the spider in Brother Joe's life.

I would submit that the spider here in our culture might very well be the near universal acceptance that these movies are OK.

I am reminded of Alexis d'Tocqueville, who toured our country for 5 years and looked for what made us—even then we were unique in the world—and he looked for what made us such a great country.

He said he couldn't find it in our big harbors, in our factories, in our harvests. He didn't understand why we were great until he went into our churches.

Then he made the observation that America is great because America is good. When America ceases to be good, America will cease to be great.

Do you think that our acceptance of these movies with increasing sex and violence is making us better? And do not you think it has something to do with our acceptance of trafficking?

Amb. MILLER. Well, Congressman, I assume the question is directed at me, unless anybody else wants to jump in and answer it.

[Laughter.]

I share your concern. I cannot say that I am able to establish a causal relationship. I think this is a matter, at this point, for intuition maybe in logic.

I am dealing with slavery right on the surface in my job. I have not been charged with getting to some of the cultural underpinnings that you are alluding to.

Mr. BARTLETT. I carry a copy of the Constitution. I certainly do not want to violate that. But I am reminded of Abraham Lincoln who said that "you do not have a right to do what is wrong."

Continuing to expose our vulnerable young people and others in our society to this kind of thing out of Hollywood, sirs, is wrong.

I do not know how in a country that values so much individual freedoms that we curb this. But I would submit that it is not leading us in the right direction.

Thank you.

Thank you all very much for your testimony.

Thank you, Mr. Chairman.

Mr. HUNTER. I thank the gentleman.

Let me just ask a follow-up. I recall when I was in Bagram. The Congressmen were mortared into the church and actually had to go to church for a while. That was a movie theater. I think it was built by Saddam. But it was being used by the folks in Balad there for movies. And Roscoe's question, I think, begets another question, which is, do you folks have a standard, General LaPorte—and this would be for anybody, maybe Secretary Abell, also—is there a standard for the movies that you show? Or do you folks just show them all as they come out, regardless of their rating? Or do you have a rating standard that you meet?

Gen. LAPORTE. Sir, we do not show X-rated movies within the Department of Defense. It is not permitted. We do show R-rated. Our soldiers are the age of consent, and they can watch that. But we do not allow X-rated movies.

Mr. HUNTER. Okay. But do you have any standards beyond that? I mean, do you look at some and say, "Boy, those are pretty bad, pretty violent"?

Gen. LAPORTE. No, sir, not for movies. We do for periodicals. Thanks to Congressman Bartlett's legislation, we have to review and approve all of those. But it didn't extend to movies beyond those that are X-rated.

Mr. HUNTER. Okay. Thank you.

Chairman Smith had some additional questions.

Mr. SMITH. Thank you very much, Chairman Hunter.

Mr. Abell, just in reading your testimony, you did make the point that the Department of Defense is not in the President's Interagency Task Force, and thus not a member of the Senior Policy Operating Group. That is an oversight, I think, on our part when we drafted the original Trafficking Victims Protection Act. I would just point out, though, in section 105, after we name the Department of Health and Human Services and all the other individuals who are on it, Department of State, we did put in language "and such other officials as may be designated by the President."

I would take your point that he is not on it. Secretary Rumsfeld ought to be on it. Now I will follow up. I am sure others would co-sign a letter requesting the President to put him on that so that he is there at the table.

I think you know that was an oversight on our part. But it can be rectified very easily with the existing authority in the statute.

Sec. ABELL. Mr. Chairman, if I might?

Mr. SMITH. Yes, please.

Sec. ABELL. We are full and participating members of that. That was to point out the technicality and may have been even too fine a point. But just to remind all, that is why that is in the testimony.

We have been invited. We are there. I represent the Secretary at all the meetings with Ambassador Miller.

Mr. SMITH. Well, that is good to hear. But maybe make him an official member, as well. But I am glad that is the case.

Just one question on U.N. peacekeeping. As we all know, we are by far the largest provider of funds and materiel to U.N. peacekeeping operations. From the assessment point of view, it is about 25 percent. When you add in airlift and everything else, the number so far exceeds any other nation. So we disproportionately support U.N. peacekeeping. There are some 58,000 peacekeepers, and those who are involved with the policing under the U.N. banner, from 100 countries as of this summer. I think that is the most accurate number. Over the summer, U.N. Secretary Kofi Annan did promulgate a new policy, a reiteration of some previous statement that, I think from my read, is very good. It is kind of like—although it does not say it—a zero-tolerance policy.

My question is since we are such active participants, is there something further that we could be doing to ensure that the deployments from other nations do live up to those standards? Because often, a guidance coming out of U.N. headquarters is just that, guidance, and not taken all that seriously.

Finally, one question to Mr. Abell: In her testimony, Ms. Mendelson will make the point later on that one U.S. Brigadier General in Bosnia explained that organized crime is

the dragon we are trying to slay, and it is one that only SFOR can slay. When asked if this included human trafficking, he replied, "This is not a subject that I spend much time thinking about. It is the first time that I have spent any time thinking about it." Then he said, "That is a petty crime and I am after the big criminals."

It seems to me—especially since trafficking is an enterprise so heavily infused by organized crime, run by organized crime, third as we all know after the issue of drugs and weapons, especially in Bosnia and especially in light of the fact that the Europeans will be taking over next year in Bosnia—I am not sure what that will mean when the baton is passed when they take over. Will the Dayton Agreement make them less likely to promote an anti-trafficking view? I do not know.

But if you could speak to that in terms of intelligence-gathering, it seems to me that we may be missing a real compelling threat, if that is not part of our gathering capability.

Sec. ABELL. To your last question, first, I think Ms. Mendelson points out an occasion where a flag-level commander didn't have an appreciation of the Deputy Secretary and the Secretary's policy memo. It is by education and awareness and command emphasis that we will ensure that all grades, from four-star to private, understand zero tolerance and the proactive nature of the Secretary of Defense's memo that says we will find it; we will report it; we will share both intelligence and indicators with local host nation law enforcement as well.

It is unfortunate. If I can get her to tell me the General's name, I will send him the policy.

Amb. MILLER. Your comment about the U.N. peacekeeping operations is a good one. I went up to New York to meet with the people in that office. Let me just take a sentence—and the people here may understand the challenge of the U.N. peacekeepers better than I do, but the director of that office was pretty candid. He explained we get these soldiers from all over the world. Sometimes they come in a hurry, in response to an urgent plea. We are not able to control the training where they come from.

In other words, I do not want to name nations, but there is a whole variety—you mentioned the scores of nations involved. It is pretty hard to control the training like we are trying to do here with U.S.

So the challenge is for the U.N. peacekeeping operation to see that training is provided when that soldier arrives. We are working with them on that, to try to see that happens.

[Crosstalk.]

Mr. HUNTER. I thank the gentleman.

Gentlemen, thank you for your testimony.

General LaPorte, let me ask you one last question, since this is a good opportunity with you here.

We are undertaking this rearranging of the military footprint around the world. It is been well-advertised, briefed to a fairly extensive degree to the committee. In your estimation, how have you initiated that movement with respect to the Korean footprint? How is it going?

Gen. LAPORTE. We have initiated the movement. As you know, we dispatched a brigade combat team from the Republic of Korea to Iraq. So those service members have been going about 30 days. Over the next 3 months, before Christmas, we will close nine installations, smaller installations, and consolidate personnel into a larger footprint. So the

initial steps have gone very well. We are making very good progress on the second phase, relative to consolidating into two major hubs in Korea.

Mr. HUNTER. Well, one aspect of this rearrangement of the footprint is to pull the substantial number of our troops out from under what you would call the artillery fan of the North, is that not right? That covers Seoul and covers 30 or 40 miles beyond the DMZ.

Gen. LAPORTE. The artillery range of the North Korean artillery is exactly the way you stated it, yes.

Mr. HUNTER. So we are moving out from beyond the reach of that fan with a substantial number of our troops?

Gen. LAPORTE. Physically, that is correct. But the fact that North Korea has 600 to 800 missiles that can reach the entire peninsula...

Mr. HUNTER. Right.

Gen. LAPORTE. ... forces, regardless of where they're stationed, or civilians, regardless of their station on the peninsula, are subject to that threat.

Mr. HUNTER. I understand. But they do have thousands of artillery tubes?

Gen. LAPORTE. Yes.

Mr. HUNTER. I have seen the projected casualty figures in Seoul, should they unleash that barrage; pretty substantial. But it looks to me like that is a very beneficial aspect of this rearrangement of the footprint, is moving a lot of our people out from under the range of those guns, even though you still have the SCUD problem.

Gen. LAPORTE. Yes, sir.

Mr. HUNTER. Well, thank you very much. I apologize for not having a chance to meet with you earlier when you got here, also, to talk about more Korean issues.

But we really appreciate your testimony.

Gentlemen, all of you, thank you for what you are doing. We will continue to work with you. I will continue to work with Chairman Smith. We will try to help solve this one.

Chairman Smith had a few more questions.

Mr. SMITH. No, just one, just one.

I do have more, but I will submit those for the record.

Mr. HUNTER. Well, feel free. Go right ahead. You know, Ambassador Miller likes these questions.

[Laughter.]

Mr. SMITH. Well, this question is actually to Secretary Abell. Obviously, you have a large portfolio of issues. My question really goes to who at DOD, with all of this integration that needs to take place, the NATO policies and the work that they are doing—when we look and I looked at General LaPorte's good work, it is a prototype. It is something that could be replicated. It is lessons learned and best practices all in one binder. He is getting real results.

It seems to me, as you have said, you would want to get that information to that U.S. brigadier in Bosnia so that he knows the policy. Is it time, perhaps, to have an ombudsman or somebody whose exclusive work on trafficking within the military, you know, he or she would be tasked with taking the lead on that?

Even the integration of the U.N. policy now, how does that interface with what we are doing, what NATO is doing so that we really, obviously, do the best that we could possibly do to end, and in the meantime mitigate, this heinous practice?

Sec. ABELL. Mr. Chairman, fair question. I would not speak for the Secretary as to how he might want to organize his department. But I believe that he and the Deputy are satisfied with my work leading this effort on their behalf.

They have certainly given me unfettered access to the assets of the Department, the readiness folks, the training folks, the law enforcement folks, the legal community and direct communication to the combatant commanders such as General LaPorte and his colleagues.

I do not want for resources, nor do I want for support from the front office, if you will. I think it is an effective way. I think we are making progress, and we will make more.

Mr. SMITH. So you do have the resources that are required to get the job done?

Sec. ABELL. Absolutely, and the strong support of the Secretary and the Deputy, which is about all you need inside of the Department of Defense.

Mr. SMITH. I yield back.

Mr. HUNTER. I thank the gentleman. Once again, gentlemen, thank you for being with us.

We will move to our second panel. We appreciate you, and we will keep working with you.

Our second panel is coming to the fore now, and so let me welcome them and introduce them in the order of their presentation: Dr. Sarah Mendelson, who is a senior fellow with the Center for Strategic and International Studies; and Martina E. Vandenberg, who is an attorney with Jenner and Block.

Ladies, we appreciate you testifying today, and I am glad you had a chance to listen to the first panel and observe their statements. Again, thank you for being with us.

We will start with Dr. Sarah Mendelson.

Doctor, thank you.

Dr. MENDELSON. Chairman Hunter, Chairman Smith, members of the Committee and the Commission, thank you for inviting me to participate in this important issue forum. My name is Sarah Mendelson, and I am a senior fellow at the Center for Strategic and International Studies. It is a real honor to be here.

My comments today focus on what should be a central component in the DOD policy addressing the links between peacekeeping operations and the trafficking of women and girls for forced prostitution.

The vast majority of uniformed service members and civilian contractors serve honorably, yet they're being tainted by the minority of peacekeepers who purchase sex with trafficked women and girls, and by the even smaller group who actively engage in the grave human rights abuse of human trafficking.

The adoption of the DOD policy is potentially a very important step in addressing these issues.

Based on my research, however, I have concerns about implementation. That is what I want to focus on today. At this time, I would like to submit my prepared statement for the record and for the remainder of my time summarize the main points.

For the past 18 months, in dozens of interviews, I have researched how uniformed service members and contractors who served in Bosnia and Kosovo, as well as officials at DOD, NATO and the U.N., understand the issue of trafficking.

My field work included observation of the DOD IG assessment in the Balkans in June 2003. My research suggests that many uniformed service members, civilian contractors, as well as civil servants, tend to deny the links between trafficking and peacekeeping deployments, fail to understand the security implications of human rights abuse and support for organized crime, and tend to conflate trafficking with legalized prostitution.

The lack of awareness and the misperceptions that I heard and saw are so widespread that I fear they're likely to inhibit the comprehensive implementation of DOD's zero-tolerance policy. Attitudes and organizational cultures are themselves potentially obstacles to change, and they drive what I see as the current low level of resources devoted to this problem.

The misperceptions are such that some argued to me that the links between peace-keeping and trafficking are simply a fact of life, about which nothing can be done.

Others suggested that the links might actually be good for the mission.

One U.S. Army lieutenant colonel who served in Kosovo explained, "It is irrelevant that these women are prisoners, because the soldiers are thinking, 'Holy mackerel, here is a great opportunity.' The commanding officer may be thinking his soldier is happier if he had a half-hour with a beautiful 17-year-old, whether the soldier knows she is forced or not. He is happier. The soldier will do his mission better." Certainly I have spoken with officers and policy analysts who recognize very well the threats of human trafficking. But the view of another general, who had years of command experience in the Balkans may be more common.

In June 2003, he considered the DOD assessment on human trafficking as "waste, fraud and abuse."

Organizational cultures may also inhibit implementation. One case is worth mentioning because it highlights how this policy may conflict with other priorities, in this case the NATO-Russia relationship.

In 2000 in Kosovo, a U.S. Army major wrote a memo describing a brothel located 200 meters from the Russian contingent's base where women and girls were believed to be held against their will and where troops had been seen entering and exiting.

The officer had reason to believe, and this was confirmed by U.N. police and by victim's assistance groups that I spoke with, that the Russian contingent was actively engaged in human trafficking. This brave young major wrote a memo, and the memo made its way up the chain of command at KFOR, where a senior officer handed it over to the Russians.

Other documents reveal no action was taken, except that the U.S. major was black-listed by the Russian contingent and senior KFOR officers were anxious "to put this incident as far behind us as possible."

I observed organizational culture playing a role also in the DOD IG assessment in Bosnia and Kosovo in June 2003. The office deployed few resources for this assessment and the staff received no training in how to investigate trafficking in Bosnia and Kosovo, and I appreciate as the IG's testimony indicated earlier today, that the office was in the early stages of this effort. Unfortunately, this shaped the results, and evidence had to come to the inspectors, rather than their seeking it out.

For example, on one base, we heard about several incidents where civilian contractors had purchased sex from females believed to have been trafficked to the region from Eastern Europe. The program manager of the contract described his arrangement with the local police, who would call him directly to pick up his men when they were found in raids. After firing them, he would handle their rapid return to the United States.

The DOD inspectors concluded these incidents were not serious. One inspector referred to them as "human interest stories." Another said, "Small numbers mean a small problem."

I suspected there was more to the story. Later, I was gratified to meet with three senior representatives from the company who described an extremely serious situation at this base. An employee had facilitated trafficking, arranging for other employees to have

sex with females supplied by a trafficker. This employee was also quickly repatriated and nothing else was done.

This case is illustrative of many issues that can impede the enforcement of DOD trafficking policies. I will just point out two: while rapid repatriation may appear to proactively address the issue, the consequence is no investigation, no prosecution, and no deterrence to this illegal activity. Also, something that was very worrisome: command on the base had little control or visibility over the contractors. They knew nothing of these incidents.

To create a taboo around forms of human trafficking, whether for forced prostitution or forced labor, will require, I believe, significantly more resources, organization and leadership than DOD has allocated.

The initial efforts appear to be a minimal response and somewhat akin to trying to combat the spread of HIV through training on the Internet. DOD leadership must resist thinking that one or two fixes, such as long distance training modules, will have the decisive impact.

Comprehensive implementation will require, I believe, an entirely different scale of activity. Specifically, rather than spread staff throughout DOD, efforts to combat human trafficking should be centralized in an office directed by a Deputy Assistant Secretary of Defense.

To compensate for the lack of in-house expertise at DOD, the Secretary of Defense should appoint a panel of external advisers who combine expertise on peacekeeping and trafficking to help guide the work of the office, including the very important training for all service members and contractors on this issue.

DOD should conduct a comprehensive awareness campaign on the issue of human trafficking. To do that, you must have large random-sample survey data from which you derive messages. This is how social marketing is done. That is what is needed.

I have additional specific recommendations that I would be pleased to discuss with you.

In conclusion, I want to say that the Department of Defense has taken very important first steps in addressing the links of human trafficking with military deployments.

Dr. MENDELSON. But a comprehensive response will require DOD to do much more than it has done so far.

Thank you very much.

Mr. HUNTER. Dr. Mendelson, thank you very much.

Ms. Vandenberg?

Ms. VANDENBERG. Thank you, Chairman Hunter, Chairman Smith, members of the Committee and the Commission. It is an honor to testify before you today on the issue of the Department of Defense policy on trafficking in persons.

My name is Martina Vandenberg. I am an attorney in private practice at the firm of Jenner & Block. I am the author of Human Rights Watch's report "Hopes Betrayed: Trafficking of Women and Girls to Post-Conflict Bosnia and Herzegovina for Forced Prostitution."

I would like to thank all of the members today for providing a rare opportunity to address an issue far too often ignored and far too often neglected: impunity for traffickers and the links to peacekeeping operations.

I would like to focus today on three key areas.

First, I will provide a brief synopsis of the findings of the Human Rights Watch report and examine the history of impunity for contractors in Bosnia and Herzegovina.

Second, I will examine the Military Extraterritorial Jurisdiction Act of 2000 and its usefulness as a tool in combating trafficking.

Third, I will provide an evaluation of the Department of Defense's implementation efforts.

My remarks this afternoon are a condensed version of the full testimony that I have provided to the committees in writing.

Mr. HUNTER. Without objection, your full written statement will be taken into the record.

Ms. VANDENBERG. Thank you, Mr. Chairman.

In interviews conducted in Bosnia and Herzegovina, trafficked women spoke of the horrors that they had suffered. Women spoke of being bought and sold as chattel, of being held in debt bondage, stripped of their passports, physically abused, threatened, and forced to provide sexual services for clients—both foreign and local. They spoke of corrupt police officers who generated false documents and whose presence in the clubs made escape unthinkable. Some of the women, in interviews with local nongovernmental organizations, such as Lara in Bijeljina, spoke of Americans.

But who are these Americans? When we speak of Americans in the context of the peacekeeping operations in Bosnia, we speak of three categories relevant to the inquiry into the Department of Defense.

First, there are the uniformed soldiers. Second, there are DOD contractors providing logistical support to troops on the ground. Finally, there are other civilians, United States citizens, contracted with other U.S. federal agencies.

Ms. VANDENBERG. Human Rights Watch conducted research on trafficking in Bosnia and Herzegovina between 1999 and 2002. Over that 3-year period, we uncovered at least eight cases of U.S. contractors who allegedly purchased trafficked women and girls as chattel, not for an hour, but permanently as their personal servants.

Of those, four involved DOD contractors, and four involved U.S. police officers on contract with the Department of State.

Human Rights Watch did not find any evidence of U.S. uniformed military personnel involved in trafficking-related offenses.

The Office of the Inspector General quoted the Human Rights Watch report at length in its report published in December 2003, and confirmed most of the report's findings. The IG report stated that although the evidence of DOD contractor involvement was, quote, "anecdotal," it nevertheless suggested that "DOD contractor employees may have more than a limited role in trafficking."

The IG report also noted that the lack of U.S. uniformed personnel's involvement stemmed in large part from force protection restrictions in place in Bosnia and Herzegovina.

Let me give you just one example of a case involving a DOD contractor. U.S. Army CID [Criminal Investigation Division] investigators, acting on a tip from a whistleblower, confronted a U.S. contractor serving in Bosnia. According to the CID report, the contractor—and I will call him "K"—told the investigators that he had purchased a young woman and an Uzi 9-millimeter automatic submachine gun in a package deal from a local brothel owner.

In a sworn statement, K, who was a DynCorp employee, claimed that he had bought the young woman to free her, and that she lived with him, "as a housemate."

K immediately left the country. Weeks later, the young woman in question appeared at a U.N. police station. She reported that the U.S. contractor had been her last “owner,” that she had lived with him like a prostitute, that he had returned her passport, which he had held, only before returning to the United States on a weapons charge.

K was never prosecuted.

Ben Johnston, the whistleblower, reported that eight of his DynCorp colleagues had allegedly purchased women and girls in 1999 and 2000. Some had used the women for sexual services and as domestic servants.

After Johnston leveled these charges against his fellow employees, the U.S. Army placed him in protective custody.

DynCorp fired him. Johnston sued. In August 2002, DynCorp settled with him for an undisclosed sum.

Contractors have not only purchased women from brothels as chattel, they have also engaged in corrupt activities, undermining efforts to establish the rule of law and exacerbating the already rampant corruption among local law enforcement authorities.

The U.N. Mission in Bosnia and Herzegovina, for example, documented a case in which a U.S. contractor allegedly paid two local police officers 300 Deutschmarks, approximately \$138 at the time, to obtain a fraudulent visa to regularize the status of a Moldovan woman purchased from a brothel owner.

Neither the contractor nor the police officers who allegedly accepted the bribe faced any criminal penalties.

Some State Department contractors, indeed U.S. police officers acting as U.N. International Police Task Force Officers in Bosnia, also engaged in the purchase of women as chattel. In one case, an American police officer was fired when he admitted that he had “bought out the contract” of a 19-year-old woman from Russia with whom he cohabited for 6 months.

What we have seen in the field is a failure to investigate these cases appropriately. From the records that I have examined, there is no indication whatsoever that U.S. investigators ever interviewed the trafficking victims. No one has ever faced criminal charges in the United States or abroad for the purchase of human beings as chattel in Bosnia and Herzegovina.

What we have seen to date is not zero tolerance. Indeed, what we have seen is zero tolerance for whistleblowers.

I would like to turn now to the Military Extraterritorial Jurisdiction Act. At least for DOD contractors, U.S. jurisdiction now exists under MEJA of 2000 to conduct prosecutions for a crime committed abroad that would constitute a felony in the United States.

For contractors employed by any other federal agency, however, U.S. courts do not have jurisdiction, guaranteeing these individuals impunity for crimes committed abroad while on contract to the U.S. Government.

To the best of my knowledge, there has not been a single prosecution of a Defense Department contractor using MEJA. Make no mistake, that stunning statistic does not reflect an absence of allegations of U.S. contractor involvement in trafficking-related offenses. It reflects a failure of political will.

So why are there no prosecutions? I believe that there is a fundamental lack of understanding of the seriousness of trafficking as a human rights violation among those who are charged with investigating those crimes.

The U.S. Army's CID investigation in Bosnia provides one egregious example. There the investigators treated the purchase of an Uzi as far more serious than the purchase of a human being.

The untrained investigators also apparently accepted at face value the DOD contractor's claim that he had "rescued" the Moldovan trafficking victim by purchasing her. Indeed, the final CID report characterized the contractor's purchase of this woman from a nightclub owner as the purchase of her so-called "freedom".

Yet, it is obvious that only the victim—not the perpetrator—only the victim can say whether or not she was rescued or simply purchased as chattel to be held in sexual servitude by another owner.

Without effective training for military investigators, U.S. contractors committing trafficking offenses may continue to enjoy impunity, even as they portray themselves as heroes freeing sex slaves from bondage.

Two and a half years ago, trafficking experts began advocating for the passage of an amendment to MEJA that would close this jurisdictional gap. Recently proposed amendments to MEJA would do little, actually, to remedy the jurisdictional gap identified. All the amendments require a nexus to the Department of Defense.

While, fortunately, the amendments do cover contractors working with the Defense Department, but under a contract, for example, with the Department of Interior and other federal agencies, they would not cover State Department contractors serving with international organizations abroad, such as the International Police Task Force officers that Mr. Smith has alluded to.

Overall, frankly, the jurisdictional picture appears fairly bleak. Department of Defense contractors legally can be prosecuted for acts of trafficking, but they are not. With status of forces agreements guaranteeing immunity from domestic prosecution in the countries where they serve, the lack of prosecution in the United States means that impunity still remains the rule.

I would like to close with a brief assessment of the Department of Defense's implementation of NSPD-22.

As we listened to the testimony today, I would like to point out what we did not hear. At this point, there is still no contractor accountability. Although it is required by NSPD-22 and the Trafficking Victims Protection Reauthorization Act, the Department of Defense has not yet incorporated a condition into existing contracts permitting termination of grants if the contractor engages in trafficking or uses forced labor.

Ms. VANDENBERG. We still today have no evaluation programs and no benchmarks in place. As the Department of Defense develops these benchmarks to measure adherence to the zero-tolerance policy, it must develop mechanisms for incorporating the experiences of trafficking victims into the evaluation.

There was an absence of trafficking victims' testimonies, both in the IG report and in all of the CID reports that we reviewed.

Finally, DOD must provide immediate and specialized training for agents tasked with investigating trafficking allegations.

There is still no victim assistance. The reality is that victims cannot agree to testify against traffickers—or anyone else, for that matter—without some form of witness protection. It does not appear that the Department of Defense has considered the need to protect or assist victims or to coordinate with nongovernmental organizations in the field that provide that assistance to victims.

We now have no MEJA amendment. DOD should immediately and wholeheartedly support efforts to amend MEJA to cover contractors who are now outside the narrow scope of MEJA's jurisdiction.

We currently have very little intelligence and very little information gathering. We currently have very little cooperation with local law enforcement.

In fact, law enforcement officials in Bosnia and Herzegovina view the United States as more of a hindrance than a help to anti-trafficking investigations.

As one Bosnian police chief told me, near an American base, the American contractors remain "above the law."

DOD needs to take steps to ensure that those individuals who can give relevant testimony remain to do so and that those who deserve to be prosecuted are indeed prosecuted.

Let me end by saying that the recent anti-trafficking policy memoranda released by Deputy Secretary of Defense Paul Wolfowitz and Secretary Don Rumsfeld are commendable for their strongly worded condemnations of all forms of trafficking, including trafficking into involuntary servitude and debt bondage, and their frank recognition of the role that Department of Defense contractors can play in trafficking in peacekeeping operations. But DOD's actions at this point do not match this ambitious rhetoric. Secretary Rumsfeld's stated commitment to take every step possible to combat trafficking in persons has not yet translated into results in the field. Without implementation, the stated policy of zero tolerance will make zero difference in the lives of trafficking victims.

Zero prosecutions at this point speaks for itself.

Thank you.

Mr. HUNTER. Ms. Vandenberg, I thank you for your testimony, also.

Let me ask a question on numbers here. How many instances, documented instances, of trafficking by government contractors/military personnel have occurred in Bosnia?

Ms. VANDENBERG. Based on the research that Human Rights Watch did, we found eight.

Let me back up a little bit and tell you how we found those. It is incredibly difficult to actually pin down these cases. Human Rights Watch sent FOIA requests to the Department of State, to the Department of Defense. I attempted to interview CID agents, who refused to speak to me, in the field.

It was very difficult to find these cases. So we managed to piece them together by documentary evidence, by interviews in the field.

Ms. VANDENBERG. The cases that I have told you about are cases where we were able to find interview testimony that corroborated the accounts.

Mr. HUNTER. Okay, but you have a total of eight?

Ms. VANDENBERG. I would say eight is probably a fraction of what exists. That research ended in 2002. To the best of my knowledge, no one has gone back and actually dug looking for this.

I will say that the Inspector General's report has an incident of a case where in Bosnia there was a raid on the home of a former contractor. Several contractors were also in that house. They also found five trafficking victims, although they weren't named as trafficking victims.

They found five women from the former Soviet Union who didn't have documents, who were later deported. When IG asked the CID investigators whether or not the women were trafficked, they said, "Oh no, the women said they weren't trafficked."

Good investigative techniques in the field have shown that during a raid, women will not say that they are trafficked. They are too frightened. They know that the consequence of saying you are trafficked is simply getting deported.

So what the United Nations has now done in Bosnia-Herzegovina is the creation of a waiting period. So women picked up during raids are then taken to a shelter. They are handled by NGOs. Then after a period of time, once they feel safe, then they're interviewed.

So it is unclear whether these five women were actually trafficked or not. But I do not think that there was a sufficient investigation done to learn whether or not they were.

Mr. HUNTER. Okay, but the universe, at this point, of documented trafficking—where you are sure that trafficking did take place—is eight.

Ms. VANDENBERG. That is right.

Mr. HUNTER. Okay.

Doctor, did you have a point on that? Go ahead.

Dr. MENDELSON. I did. I just wanted to say that in the interviews that I have done, many uniformed service members report encountering trafficked victims and civilian contractors as clients or exploiters.

Because they had no orders to write this down, because there was no priority intelligence requirement, these incidences never show up in the records. Requests to Special Ops confirmed this.

Mr. HUNTER. Now, what never shows up?

Dr. MENDELSON. Trafficking in humans has been essentially invisible to the command on an official level. On the one hand, you have people going out on patrol and seeing victims, and even reporting that they have seen trafficking victims with U.S. contractors, for example, but there is never any official reporting.

I talked to one defense contractor in Kosovo who compiled her own file of information on human trafficking. She was tracking trafficking in drugs and arms, because that was her job, but she couldn't get in the system a mandate to work on trafficking in humans, because the intelligence was driven from the top down.

She had reason to believe that her fellow colleagues who were also working on organized crime, tracking organized crime, had purchased sex from trafficked females, but there was no mechanism for her to raise this issue with the command.

Mr. HUNTER. Now, because of our laws, if a contractor breaks a law in theater, that law, they are subject to prosecution as if they had broken a law in the United States. Is that right?

Ms. VANDENBERG. If it is a DOD contractor, that is correct.

Mr. HUNTER. What is that?

Ms. VANDENBERG. A DOD contractor, that is correct.

Mr. HUNTER. Yes.

Were these eight contractors that you mentioned, were those DOD contractors?

Ms. VANDENBERG. Four of them were DOD contractors, and four of them are State Department contractors.

Mr. HUNTER. State Department. Now State Department does not have that law. Is that right?

Ms. VANDENBERG. That is correct. It is believed that MEJA should be amended to cover the State Department.

Mr. HUNTER. Okay.

So let us cover the four DOD contractors who have been found to be involved in this. Were there charges filed against them?

Ms. VANDENBERG. No.

Mr. HUNTER. Was there a reason given for charges not being filed? In other words, this would be a crime in the United States. Right?

Ms. VANDENBERG. It would be a crime—at that point the Trafficking Victims Protection Act of 2000 was not yet in place.

Mr. HUNTER. But under what statute would you prosecute trafficking? There is got to be an existing criminal statute in the U.S. that covers trafficking. Essentially people are being held against their will. It is kidnapping for practical purposes, isn't it?

Ms. VANDENBERG. I think a creative prosecutor could definitely prosecute for rape, could prosecute for kidnapping, could prosecute for unlawful confinement. Any number of charges could be brought in cases such as these, even in the absence of the Trafficking Victims Protection Act.

Mr. HUNTER. Okay. Did you make this information—make that available to the U.S. prosecutors for the four for DOD?

Ms. VANDENBERG. The information on the DOD contractors came from—a large part of it—came from Ben Johnston who reported it directly to the U.S. Army and directly to CID, and said that these were ongoing violations, that they continued.

So the problem that was stated in the past was that there were no regs to implement MEJA, that 4 years after the passage of MEJA, there still are no regulations. They are supposed to take effect in a few months.

MEJA has only been used once, as far as I can tell.

Mr. HUNTER. But who is in charge, let us say, if somebody murders someone, and they're under this statute that says if you are in theater, you are a contractor, you commit a crime, you will be prosecuted as if you had committed that crime in the United States?

You are effectively subject to U.S. jurisdiction. Why would not that, regardless of this most recent statute, why would not those people be prosecuted under, say, a kidnapping statute?

Ms. VANDENBERG. I think because the CID investigators were not sufficiently well-trained to actually identify this as kidnapping or identify it as a crime in which the federal government had an interest.

Mr. HUNTER. Well, do you know if they made an investigation and came to the conclusion that there was? I mean, from what you have told us, the perpetrators protested that they were simply helping these young ladies. Right?

I am sure they have made the same protestation to the investigators that talked to them. So do you know what the upshot or the conclusion of the investigation was with respect to those four cases, why they didn't come to prosecution?

Ms. VANDENBERG. The DOD contractors, under the Dayton Agreement and under the SOFA, have only functional immunity. So, in this particular case, I reviewed the CID investigative report and the conclusions.

CID investigators in the U.S. Army sent a letter to local prosecutors and local police inviting them to prosecute the U.S. contractors. Because this was outside their work, it was not covered by their functional immunity.

The U.S. Army characterized this as procuring and pandering, and also characterized this as possession of an illegal weapon, inviting the Bosnian authorities to prosecute.

The Bosnian authorities had no intention of prosecuting. The Bosnian authorities will not touch the Americans in the field. The prosecutors that I spoke to were afraid to do so.

But the reality was that it was impossible to prosecute these particular contractors, because they were whisked out of the country so quickly that there wasn't time to even interview them, even had the Bosnian authorities wanted to do something about it.

The MEJA regulations that have been written required the Department of Defense Office of the General Counsel to alert the Department of Justice if there is a case that it feels should be prosecuted under MEJA. To date, as far as I know, vis-a-vis trafficking offenses, that absolutely has not happened:

I didn't hear any testimony today indicating that the General Counsel's office is intending to bring charges against anyone.

Mr. HUNTER. Well, Okay, but, I mean, you haven't displayed today with your statistics a large number of cases. You have displayed precisely four. Then—so I do not know—it is hard to determine what went on in those investigations, whether the investigators came to the conclusion, if these guys protested that they were being, quote, "helpful," and they ended up having no cooperation from the victims, which is often the case, they may have come to the conclusion that they wouldn't be able to make a case.

I mean, it is very difficult when you have an absence of a prosecution, absent a real interaction with the investigating agencies, to know what happened.

I am trying to figure out what happened. But there are how many contractors involved at present in Bosnia? Do you have any idea how many thousands?

Ms. VANDENBERG. How many individual contractors?

Mr. HUNTER. Yes.

Ms. VANDENBERG. I do not know.

Mr. HUNTER. Because you are talking about four people here, right, in DOD?

Ms. VANDENBERG. I think Dr. Mendelson's point here is well taken, that these are the cases that an NGO doing research in the field was able to find.

NGOs do not have the power of the U.S. Government to conduct investigations. We do not have legions of agents that can go out and do investigations.

I think that four is what the NGOs could find. I think that the U.S. military, doing serious investigations with investigators who are trained to identify trafficking and not characterize something that is trafficking as procuring and pandering, those who are trained to identify it, trained to investigate it, and trained to deal with the victims and interview the victims in such a way that the real story can come out, if indeed there is a story, I think that makes an enormous difference in the numbers.

Mr. HUNTER. I understand. I have done some work in law myself. Often even with the most expert of people, it is difficult to get from a reluctant victim the cooperation that you need to be able to make a criminal prosecution.

So without knowing what happened in those four cases, it is tough to pass judgment on whether they made a good-faith attempt or whether they just checked the obligatory boxes and moved on.

So maybe we can find out what happened, what the reason for non-action was in those four cases.

Let me go to another question that arose in my mind as we were going through the testimony here. And Chris Smith is really the driver on this issue and a Member of Congress who is probably most passionate about it. I really take my hat off to Chairman Smith

because he takes these issues and really develops them, and the rest of us try to support him, often, but do not have the understanding that he has on the issues.

In Korea, for example, I am trying to understand the picture in Korea, in that you have large numbers of American troops. You have troop concentrations. You have trafficking in Korea. You have troop concentrations, which now have diminished considerably in Bosnia.

Has the American troop concentration developed, if you will, the trafficking industry? Or is the trafficking industry there and simply as a matter of the culture and opportunities that they see in Korea and then it lends itself to the American troop presence? Or have we with the American troop presence and the economic force that is there when you have thousands of GIs in a location, has that developed the trafficking industry there or attracted it? Or was it already there?

Dr. MENDELSON. In Bosnia and Kosovo, let us be clear that this is not only an American problem, but there is a correlation between international deployments to Bosnia and trafficking of women and girls following those deployments.

Then there is also the same pattern in Kosovo.

Mr. HUNTER. Okay, but trafficking as an illegal activity that takes place, is that something that has been going on in Bosnia and Kosovo, regardless of America's presence? Do you think it will go away when America goes away?

Dr. MENDELSON. Actually, experts on the ground—again, it is not just an American issue—experts say that in Bosnia, as the deployments have drawn down from SFOR and when IPTF left, they are finding that the number of trafficked females has dropped.

Mr. HUNTER. Okay. But do you think it is not a function of the culture, whatsoever, but it is an aberration that attends the troop presence of American, and I presume the other nations, that are in Bosnia? In other words, after we leave, will there be a trafficking industry there? Or are you saying that it will disappear when the troops leave?

Dr. MENDELSON. It is not about local culture. There was essentially no trafficking in women and girls before the international deployments. Quite possibly the trafficking industry has transformed so that the local population has become clients now. But initially what happens in post-conflict regions—and this is very important for looking at Afghanistan and eventually for Iraq—and this is pointing to the lessons learned from Bosnia and Kosovo is an initial period where a large number of females are trafficked following the deployments and over time, as the deployments draw down, the trafficking changes, and the clients change.

But again, it is not just Americans that are the clients. It is the international community. But certainly around bases where Americans are deployed, you find brothels with trafficked females.

Mr. HUNTER. How about Korea?

Dr. MENDELSON. I have not been to Korea. So I would rather not speak about it.

Ms. VANDENBERG. Neither have I.

Mr. HUNTER. Okay. Thank you.

Chairman Smith?

Mr. SMITH. Mr. Chairman, let me just thank you for your testimony and for your fine work on behalf of trafficked women. I just have a couple of comments on Bosnia.

I think that it is important to note that with the integrated policy that we have, and where Bosnia and its neighbors Serbia and Montenegro were both Tier 3 countries not so long ago, and because of perhaps the pressure of smart sanctions, they did work and be-

cause of enlightened people in their own government who cared very deeply and passionately about these issues, they did pass and enact new policies that have made a difference. And Bosnia, as you know, is now a Tier 2 country.

They also have victim referral procedures.

I mean, it is all in the book that our good friend and colleague, Ambassador John Miller, has put out again this year.

So I think that, coupled with the fact that other polices vis-a-vis our military have been put into place, leads to a situation where there are fewer women, hopefully, being trafficked and less victims and also protection for the victims.

I would also point out, Serbia—and I know it myself, because I met with leaders of their Parliament, I met with Kostunica—when it looked like they were going to get another Tier 3 designation, they went and raided some 400 brothels, liberated women, most of whom were trafficked, and a good outcome occurred. We do not want one shot or one, you know, major action; we want a sustained policy,

But I think it is worth noting that the military does act as a magnet. But I think Bosnia is moving in the right direction in and on its own accord with a lot of assistance from the international community, particularly the United States.

I do have a question. I want to thank you both for your work on the NATO policy. You might want to give some insights as to how well or poorly you think that would be implemented, some of the challenges, so that NATO's policy can do all that we envision it and hope that it will do.

Just in terms of our training manuals, I am sure you, if you haven't, I am sure you will look at the manual that has been produced by General LaPorte. I think it is a great model of what can be done. Nothing is perfect. No legislation we ever write is perfect. There is always something we leave out.

But I think he and his staff have really done an extraordinarily effective job in saying it starts at the top. It starts with the General. It starts with the President. It starts with the Secretary. It starts with the Ambassador in charge of the tip office. It starts with Congress saying, you know, there are some behaviors that are absolutely egregious and cannot be tolerated. Certainly, the prostitution and trafficking are two of those behaviors.

What is your view on this teaching manual? What is being left out, perhaps? Any recommendations you might have now and for the record would be helpful, because we do value your expert advise.

Dr. MENDELSON. Let me say something about NATO, having visited NATO several times in the last year, and I interviewed NATO officers. The leadership of the United States and Norway has been tremendous, really tremendous on this issue.

In order for NATO implementation to be comprehensive, however, it is going to have to grow beyond the U.S. and the Norwegians. There is going to have to be a circle of leaders inside NATO on this issue, and NATO is really going to have to own this issue.

I am worried that there is no focal point at NATO who is an expert on trafficking. I am worried that there is a focal point at the U.N., but it is a temporary position. If we are going to see serious implementation over the next couple of years, there should be experts positioned inside these institutions—the institutions are already very clearly overburdened in what they're doing and now they are asking people to take on more issues. Instead, there should be experts hired on staff who have implementation as their task.

We worry also that within NATO different countries, as it is been pointed out, have different laws domestically. The NATO policy basically kicks back to countries the deci-

sion to train and how to train. I would very much hope that the United States would lead on this and that the Department of Defense would lead. Which brings us to your question about training.

I haven't had the privilege of seeing the Korea book that you have been holding. I look forward to seeing it. I have seen some training modules from the Department of Defense.

You know, it may seem to some of you that what we want is the world. We have got a policy. We just had a directive from the Secretary of Defense. Yet we keep asking for more.

What we want is an institutionalized relationship where we work with DOD to develop materials, instead of the ad hoc arrangement we have now.

There are a lot of cases to draw from. There is case material that we can use to develop training materials. The most effective training is probably going to have to be done face to face. There is a lot of misperception. There is a lot of resistance to dealing with this issue. There are a lot of people who think what we are really talking about is legalized, decriminalized prostitution, and the attitude expressed by one officer: "I was in Germany. It is legalized there. I do not understand what the problem is [in Bosnia]."

So it is going to take an iterated process of developing the right training modules, and what we are going to have to be doing is testing out whether or not there is any impact on knowledge and attitudes.

That is why the issue of surveys might be helpful. You get a benchmark of knowledge and attitudes. You have an understanding of where people are conceptually.

Dr. MENDELSON. You train. You do serious public awareness campaigns, and you resurvey, and you see if there is been any impact.

Mr. HUNTER. I think one thing that you have to have, in the end, you have to have directions that are given by NCOs to the troops ...

Dr. MENDELSON. Absolutely.

Mr. HUNTER. ... from officers to the NCOs, NCOs to the troops. The message is not a complicated message. But whether or not this book has translated down into those directions at formation at 7 o'clock in the morning is unclear. If it has translated down, it is not a real complicated message that needs lots of social engineers and scientists. It needs guys with stripes on their shoulders telling their soldiers what they can and cannot do.

I mean, in the end—and I say that as somebody with the border in San Diego and with the enormous problems that have been generated with our young folks in uniform going across that border and going to the center of activities there in Tiajuana—it takes NCOs and officers who make the message very strongly in the end. Sometimes it takes director orders, and it takes bans on certain locations.

I mean, we have done a lot better when we have banned travel, which we have from time to time, into Mexico, for example, for our young enlisted people. So it is a pretty basic thing.

Whether or not the message—Chairman Smith is right; it has to start at the top. But it takes a while to get that into those very short, concise directives, that you have to obey, that are given to you at that formation at seven o'clock in the morning. I do not know if that has happened yet.

Dr. MENDELSON. I think there are some people for whom the message about human rights abuses can be very clear and will resonate. I think there are other people who need to understand this in terms of their mission and it needs to be a security argument. They need to clearly understand how actively engaging in trafficking, as well as turning a blind

eye to it, undermines the mission. They need to understand the way in which revenue from organized crime undermines the mission.

When commanders understand it, when trafficking in persons becomes an intelligence requirement that people need to track, they will begin to take it more seriously, I think.

Ms. VANDENBERG. The one thing I will say, though, is that formation at 7 o'clock in the morning does not include the contractors.

What we saw in Bosnia and what the IG found in Bosnia was that the problem was not the uniformed service people. The problem was the contractors.

One thing that I was happy about is that the NATO policy does cover contractors and asks countries to include contractors in any criminal legislation that they pass.

Mr. HUNTER. Is there a communication to contractors in Bosnia, DOD contractors, from the Department of Defense in terms of permitted behavior?

Ms. VANDENBERG. At this point, after all of the allegations came out about DynCorp, particularly, DynCorp was forced to submit to an IG investigation. So there was an investigation into DynCorp's activities.

Mr. HUNTER. Okay. But it should not be too complicated in terms of making a directive to U.S. contractors about certain activities that they cannot be involved in, just in black and white, your people cannot be involved in this type of activity.

My question is: Is there anywhere where that communication has been made?

Ms. VANDENBERG. Not that I know of in Bosnia, but I haven't been there for a while. There is talk now of making a DFARS clause that would be inserted into contracts that would essentially follow up on the...

Mr. HUNTER. But if that is inserted into the contract with the prime contractor, I mean, we do not read the contracts that we sign, right?

Ms. VANDENBERG. Right.

Mr. HUNTER. I was starting to read my rental car contract the other day, and I stopped after the second line of five pages.

So in terms of the employees of these contractors, having DOD insert a line in a contract is not going to affect anything. I think you have to ensure that your personnel, short and sweet, know what they can and cannot do, and you put the prohibited activity in there where they're going to see it, where they get the message.

Ms. VANDENBERG. Well, that is also why I believe prosecutions are so important. Because one prosecution of one contractor for engaging in trafficking I think will send a strong deterrent message to all contractors that this is not permitted.

Mr. HUNTER. Yes, but I think you would much rather see people advised that they cannot do it and refrain from the prohibited activity, rather than have them undertake the prohibited activity and then string them up as a public spectacle. Although making an example of wrongdoers is one way to go. But I want to find out if there is actually been any direction given to contractors that they need to tell their employees this is something you do not do in Bosnia.

Dr. MENDELSON. DOD officials should speak to your question, but I will say that we actually approached—there is a defense industry compliance group. We wanted to hold a meeting with the group, to bring issues relating to human trafficking into their codes of conduct. We wanted to talk to them about the implications of the Trafficking Victims Protection Reauthorization Act for their business. We didn't get any response yet, but we hope to.

Mr. SMITH. Let me, Mr. Chairman, if I could, if you would yield ...

Mr. HUNTER. Sure. Go right ahead, Mr. Chairman.

Mr. SMITH. First, it is federal law. The Trafficking Victims Protection Reauthorization Act of 2003, Section 3, Part G, "Termination of Certain Grants, Contracts and Cooperative Agreements," makes it absolutely clear. The language says the President shall—it does not say may—it says shall.

My understanding is from Deputy Under Secretary Abell's comments earlier, that they are indeed conveying this both in a written form and hopefully in every other way to the contractors, but I think the point of being very rigorous in ensuring compliance with that written contract, I do not think it is just a line somewhere or small print. But it would be good to include in the record some examples of that, perhaps as an attachment, so that all of us can see exactly what it looks like.

But to be so aggressive in ensuring that if there is complicity in trafficking, yank that contract, and that will send a message heard around the world to all contractors.

That could be equally applied to DOD, and not just DOD, but to State and every other agency of government, because the law says it should. So if we take a contract away from a State Department vendor, that will also send a message heard around the world, I think, as well.

But it is the law, and I do think it is being carried out.

Mr. SMITH. I am not sure to what degree we are aggressively implementing the signature. So I think that is the open question.

Dr. MENDELSON. I know that there are companies that are concerned about it. I know because I have spoken to them. They do not necessarily want their program managers having ad hoc arrangements with local police. This undermines the rule of law, and the rule of law is part of the mission that KFOR is there to support.

So we need to not only think about the management level, but we need to think about how to reach the guys on the ground. We need to think about a whole range of issues. There is no one fix.

Mr. SMITH. I think one or both of you have made a very good point: the hijacker of democracies is not necessarily communism anymore or some other "ism." It is corruption. The greatest risk—I mean, we actually held an entire Parliamentary Assembly in Bucharest a few years ago on corruption and its corrosive effects on the rule of law and every other aspect of democracy.

Since organized crime is running these dark enterprises and gleaning unbelievable profits by exploiting women, it is a dual risk. It is not just hurting women. It is also hurting the democracy and undermining those institutions.

So I would hope that our military and everyone else involved in peacemaking and peacekeeping would understand that—which goes to the question that I asked earlier about intelligence gathering—if you have this kind of enterprise, it is like having cancer. It eats away at the body politic. At the end of the day, you have a democracy more at risk because trafficking flourished within that environment.

So I thank my friend for yielding. I appreciate your good work.

Mr. HUNTER. Ladies, thank you very much for being with us today. We appreciate you. If you have an further statement, go right ahead.

One thing that comes to my mind, again, I think it is always important to have a context. As I told General LaPorte when we arrived at Balad in Iraq, and we were mortared, and we had to go into the church 400 GIs having a church service, I am reminded similarly with contractors, I think Halliburton now has had, I believe, 37 of their drivers that have to run those ambush alleys to bring food and supplies to our people in uniform in Iraq, have been killed in action now.

Mr. HUNTER. Those people are heroes in my estimation, just as much as the people that wear the uniform of the United States. The great majority of our people, Americans who are contractors in foreign countries, are good ambassadors I have seen lot of them who are going far beyond the call of duty to keep our forces supplied. So I think it is important to keep that in context.

That being said, I think there is a lot of work that we can do to make sure that the message gets down to the individual employee. That is something we need to follow up on and make sure that is happening, and similarly that we have and NCO corps that is putting this word out, with respect to the uniformed services.

I am pretty confident that General LaPorte is a good leader. He has a good system put in place here. So we will follow up and see what is happening in Korea as well as in the Bosnia theater.

If staff can help me on this: How many personnel do we have in Bosnia right now? Its' drawn down pretty good. Hasn't it?

Dr. MENDELSON. The last figures I saw for Bosnia were about 1,100 and 2,000 in Kosovo

Mr. HUNTER. Less than 3,000?

Dr. MENDELSON. About 3,000.

Mr. HUNTER. Okay.

Thank you ladies very much.

If you come up with additional recommendations, please get them to us in writing, and we will certainly take them under consideration.

I want to thank Chris Smith, a guy who was supposed to lose his election in 1980 and never be here in the first place. You are a force in Congress, Chris, because you have this sense of caring and humanity and the drive to follow through.

So, thanks for being the leader on this issue and helping putting this hearing together. We will try to do some good things for our country here.

Mr. SMITH. I would like to thank you, Chairman Hunter, for organizing this hearing. Going back, as soon as you became aware of the trafficking issue, you jumped in with both feet and made a difference, and used your chairmanship for this very important human rights cause.

So I want to thank you for that, as well.

Mr. HUNTER. Once again, I am just as much a supporter of yours, Mr. Smith. We follow you.

Thank you again, ladies. To all of our witnesses.

Ambassador Miller, thank you for sticking around and listening to the testimony, too. I appreciate your great friendship and your legislative skills over the years and your leadership now and the position you are in. Thanks a lot for being here.

The forum is adjourned.

[Whereupon the briefing ended at 5:30 p.m.]

APPENDICES

PREPARED STATEMENT OF REP. BENJAMIN L. CARDIN, RANKING MEMBER, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Chairman Hunter and Chairman Smith, let me take this moment to thank you for bringing the Committee and Commission Members together for a joint Issue Forum on an important subject. The Helsinki Commission and Congress have devoted substantial attention to the issue of human trafficking over the past several years, but this forum's focus on the specific connection between human trafficking and the military is one of first impression at a congressional event.

As a Member of the Helsinki Commission and as an officer of the OSCE Parliamentary Assembly, I have supported efforts to raise awareness of the human rights abuses implicit in human trafficking. As Chair of the OSCE Parliamentary Assembly's Committee on Economic Affairs, Science, Technology and Environment, I addressed the crime of human trafficking this past July at the Assembly's Annual Session in Edinburgh. In the Parliamentary Assembly's Edinburgh Declaration, the Committee called upon OSCE participating States to continue their work on effective strategies, reinforced through legislation, to combat corruption and organized crime, including trafficking in human beings. I will continue to work with my colleagues in the Assembly to develop strategies that we, as legislators, can pursue both in the Assembly and in our own national legislatures to enhance our efforts against corruption, organized crime, and trafficking throughout the OSCE region.

I have also worked with Chairman Smith to promote the adoption of an anti-trafficking policy by NATO. Last February, after traveling to Greece to discuss efforts to combat trafficking with government officials and parliamentarians, Chairman Smith and I also traveled to NATO headquarters in Brussels. We met with the U.S. Ambassador to NATO Nick Burns and other representatives to NATO, as well as NATO commanders to urge that NATO adopt an anti-trafficking policy for NATO-led forces. In June, at the NATO Summit meeting, Allied leaders endorsed a "zero tolerance" policy for forces in NATO operations to help combat trafficking in persons.

The past several years have seen great progress in the adoption of anti-trafficking policies by governments, including within militaries. The challenge before us now is for implementation of these various policies. I look forward to hearing the views of our distinguished witnesses on how DOD is proceeding in this.

**PREPARED STATEMENT OF
SEN. HILLARY RODHAM CLINTON, COMMISSIONER,
COMMISSION ON SECURITY AND COOPERATION IN EUROPE**

Chairman Hunter and Chairman Smith, I am grateful for the Helsinki Commission and the House Armed Services Committee convening this Joint Issue Forum so we can hear from both governmental and non-governmental witnesses on the Department of Defense's efforts to implement a zero-tolerance on trafficking in persons policy.

I would like to welcome all of our witnesses—who are helping the United States continue to lead the path in combating human trafficking. No country has done more than the United States to bring worldwide trafficking out of the shadows and into the glare of public attention. The implementation of the zero tolerance policy is one more step in the continuous fight to combat this evil. I am very encouraged by its adoption.

As a member of both the Helsinki Commission and the Senate Armed Services Committee, I have noticed that one of the stories rarely told is that of the role the armed services can play in the fight against trafficking.

While human trafficking exists globally, including within the United States, regional instability fuels it. For this reason, it is critical that peacekeepers, members of the military, civilian employees and the contractor and subcontractors personnel that are stationed and work in areas of conflict and post-conflict instability conduct themselves consistent with our laws, policies and values on this issue.

The scourge of trafficking in women and children was a priority for me as First Lady and continues to be a priority for me as a U.S. Senator. I will do everything in my power to shine a light on this dark world that is so contrary to human dignity.

Since the United Nations Fourth World Conference on Women in 1995, I have been working to raise awareness and promote the fight against the heinous practice of buying and selling women and children like commodities. When I first spoke out against human trafficking, few were aware of its existence. At the time there was no U.S. anti-trafficking law and no funding to take up the fight.

In recent years, beginning with the leadership of the Clinton administration, the United States has made great strides in understanding the horrors of trafficking. We have worked with other nations to combat those who try to reap profits from this horrible practice. In 1997, the United States, along with the European Union, formally launched a campaign to combat trafficking of women and girls and to warn potential victims of the risks.

In March of 1998, President Clinton condemned human trafficking as a fundamental human rights violation and a growing organized crime problem. He worked with bi-partisan leadership in Congress to create national legislation, including Chairman Chris Smith who has been a formidable crusader for this cause. I supported enactment of the strongest possible legislation to eradicate trafficking in persons and for funding targeted to this fight, and in 2000 President Clinton signed into law the Victims of Trafficking and Violence Protection Act of 2000. That law means the difference between freedom and enslavement for unknown numbers of potential trafficking victims for years to come.

The current administration inherited the responsibility to continue this fight armed with these new tools. I was proud to support and work with Senator Brownback on the passage of the Trafficking Victims Protection Reauthorization Act of 2003. And to be an original co-sponsor of S. Res. 414, a resolution encouraging States to consider adopting comprehensive legislation to combat human trafficking and slavery and recognizing the

many efforts made to combat human trafficking and slavery. I recently put a statement in the Congressional Record in which I described the scourge of human trafficking, the history of the United States work on it, and areas to focus our work on as we move forward. I ask unanimous consent that it be inserted into the record.

It reflects human trafficking's insidious nature that it continues to exist and probably has grown despite substantial anti-trafficking activities around the world. I believe that this trend must be reversed to provide emerging democracies around the world with their best chance to thrive.

We will embrace this fight because striving to end trafficking in persons reflects who we are as a people and as a nation. As one part of the larger strategy, I look forward to working with the administration and both sides of the aisle to secure effective implementation of new measures to ensure that there is "zero-tolerance" for involvement in human trafficking by those deployed for military or peacekeeping operations wherever they are in the world.



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STATEMENT BY SEN. HILLARY RODHAM CLINTON

Mr. President—I rise today to highlight the scourge of human trafficking. Every day, in countries around the world and right here in the United States, people desperate for economic opportunity and seeking to follow their dreams of a better life are lured from home by the promises of jobs and security. Sadly, though, all too often they find themselves trapped in a nightmare, imprisoned by violent criminals, abused, violated, deceived, bought, and sold as chattel. Some of these victims of trafficking disappear, never seen nor heard from again.

Every year, traffickers strip thousands of people of their freedom and imprison them in the dark underworld of prostitution, domestic servitude, sweat shops, and agricultural labor.

Trapped in debt bondage and faced with threats of physical harm to themselves or their families, trafficked persons have little choice but to try to work off their ballooning debts. Women forced into domestic servitude or sweatshop labor toil each day in abysmal, even dangerous conditions, earning no money and suffering physical and psychological abuse. And women and children trafficked into the sex industry constantly risk exposure to deadly diseases such as HIV and AIDS. Their only “escape” from the traffickers coming, if at all, is when the criminals discard them in the streets to die. This human trafficking is nothing short of modern day slavery.

Each year the United States publishes a report ranking countries for their failure to combat trafficking. Improvements have been made, but still the 2004 Trafficking In Persons Report estimates that 600,000–800,000 men, women, and children are trafficked worldwide across international borders; 14,500–17,500 are trafficked annually into the United States. This is even more chilling when one understands that these are new victims added each year to those whom traffickers have already ensnared. We must do better.

Last week, the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Property Rights focused on the most fundamental of all civil rights in their July 7th hearing “Examining U.S. Efforts to Combat Human Trafficking and Slavery.” And this week, representatives from NGOs and the Bush administration, including the Departments of Justice, State, and Homeland Security, are convening in Florida for the “National Conference on Human Trafficking.” It is heartening to see the work begun by the Clinton administration continues to grow and strengthen.

The scourge of trafficking in women and children was a priority for me as First Lady and continues to be a priority for me as a U.S. Senator. I will do everything in my power to shine a light on this dark world that is so contrary to human dignity.

Since the United Nations Fourth World Conference on Women in 1995, I have been working to raise awareness of the heinous practice of buying and selling women and children like commodities. I have seen the devastation it causes, and the lives and families it ruins. I remember very well crouching down by the chair of a 12-year-old girl who had been sold into prostitution by her own parents desperate for the income from that sale, only to have the child return home within a year, dying of AIDS. I've met other families who spend their nights at home worrying about what has happened to the daughter they haven't heard from them since she went to the discotheque, or answered the ad to be a nanny or a clerk.

In the summer of 1997, I met with women leaders from Eastern and Central Europe, as well as victims' family members who, with tears in their eyes, pleaded with me for help in dealing with this growing problem. Later that year, in Lviv, Ukraine, I launched a new information campaign designed to warn young women about the dangers posed by traffickers. And in the fall of 1999, at the meeting of the Organization for Security and Cooperation in Europe held in Istanbul, Turkey, I announced a \$1 million U.S. commitment to combat trafficking, and I called for greater economic opportunities to prevent young women from being driven into the hands of traffickers.

In recent years, beginning with the leadership of the Clinton administration, the United States has made great strides in understanding the horrors of trafficking. We have worked with other nations to combat those who try to reap profits from this horrible practice. In 1997, the United States, along with the European Union, formally launched a campaign to combat trafficking of women and girls and to warn potential victims of the risks.

In March of 1998, President Clinton condemned human trafficking as a fundamental human rights violation and a growing organized crime problem. I joined the President, Secretary of State Albright, Attorney General Reno, U.N. Secretary General Kofi Annan, and a high-ranking member of the Thai government for a White House announcement of the first presidential directive to prevent and deter trafficking and to protect victims. At that time, the President directed his interagency Council on Women to coordinate the development and implementation of a three-part strategy that would: first, prevent trafficking; second, provide protection and assistance for trafficking victims; and third, prosecute traffickers. This comprehensive strategic framework later guided the development of the anti-trafficking legislation passed by Congress.

The Clinton administration's State Department began raising the issue with foreign governments at the highest levels. Formal and informal working partnerships were forged with several foreign governments to address this international crisis, including the Ukraine and Finland. At the G-8 meeting in 1997, Secretary of State Madeleine Albright initiated discussions that resulted in 1998 with President Clinton and Italian Prime Minister Prodi formally signing the first bilateral agreement to cooperate on such anti-trafficking efforts as data collection and information sharing, prevention, assistance and law enforcement. We began the first U.S. funding of anti-trafficking programs in countries such as the Philippines and Bangladesh. Back then, no anti-trafficking legislation had passed so these were necessarily modest amounts by comparison to U.S. funding now, but it was a needed start.

There was more. Embassies were tasked with reporting on human trafficking for the first time. And these assessments were included in the Department's annual Country Reports on Human Rights Practices. Prevention efforts included publishing awareness pamphlets that were translated into multiple languages and distributed in many consular

offices around the world. At the same time, the United States undertook the first official estimates of the magnitude of human trafficking world-wide and domestically, and funded the creation of a database on U.S. and international legislation on trafficking. Law enforcement training was initiated at the International Law Enforcement Academy in Bangkok and Budapest and in countries such as Thailand, Bulgaria, Romania and Bosnia.

The Attorney General and the Secretary of Labor established an interagency Task Force to coordinate investigations and prosecutions of trafficking cases. Even prior to the passage of the 2000 anti-trafficking law, the Department of Justice used the legal tools available to successfully prosecute human traffickers. In 1995, the Department brought the seminal case of *United States v. Manasurangkun* against traffickers who enticed seventy-one women from Thailand to travel to the United States by promising them good wages, good working hours, and a better life. Upon their arrival in El Monte, California, they were held in slavery behind barbed wire and forced to work up to twenty hour days and under the watch of guards. Women were imprisoned for up to seven years before being rescued. This case was followed by other landmark cases such as *United States v. Paoletti*, *United States v. Flores*, *United States v. Cadena* and *United States v. Mishulovich*. These and other cases successfully prosecuted by the Justice Department ranging from sexual slavery to forced labor demonstrated the many manifestations of human trafficking, all of which must be addressed. Investigations resulting from the Justice Department's creation of the first national telephone line to receive calls to assist trafficking victims anywhere in the United States led to growing prosecutions. I am pleased that since the anti-trafficking legislation was passed and signed into law in 2000, prosecutions have continued to increase. Again, though, we need to do more to support increasing the capacity to undertake the investigations and prosecutions of these cases.

Just as the Clinton administration and international organizations were beginning to highlight trafficking in persons as an international crisis, Senator Paul Wellstone—one of the greatest champions of civil rights to sit in this chamber—also recognized this growing abuse of human rights. He introduced, with Senator Dianne Feinstein, a resolution in 1998 that called trafficking a global human rights problem and directed the State Department to review it and report its findings to Congress. Congresswoman Louise Slaughter introduced a companion resolution and she led the charge in the House to bring attention to this issue.

The Clinton administration worked with Senator Wellstone, his Republican co-sponsor, Senator Brownback, and Congressman Chris Smith and former Congressman Sam Gejdenson in the House, to introduce the first comprehensive anti-trafficking bill in Congress. This culminated in the passage of the Victims of Trafficking and Violence Protection Act of 2000.

I supported adoption of the strongest possible legislation to eradicate trafficking in persons, and I was personally invested in the effort. The Clinton administration worked continuously with Congress on a bi-partisan basis to craft a bill to achieve this objective. We sought to institutionalize the comprehensive strategic framework—the “3 Ps”—that the administration had been implementing as the core of the legislation. The resulting legislation incorporated prevention mechanisms and better and stronger prosecution, protection, and victim assistance tools. Upon its passage, President Clinton congratulated Congress and noted that this new law would lay the groundwork for future administrations to carry this important work forward, and would ensure that trafficking of persons assumes the prominent place on the world's agenda that it deserves until we put an end to this horrible practice. I believed then, and I believe now, that this is one of the

Clinton administrations greatest achievements and one of the most important parts of Senator Wellstone's legacy. That law means the difference between freedom and enslavement for unknown numbers of potential trafficking victims for years to come.

I was also proud to support and work with Senator Brownback on the passage of the Trafficking Victims Protection Reauthorization Act of 2003. I know that Senator Wellstone would welcome our work in the Senate, and Chris Smith's continuing leadership in the House, as we fight one of the most egregious human rights violations, which Paul so passionately sought to bring to an end.

Looking forward, we must pursue concrete and pragmatic approaches to combating this evil. Our rhetoric must be matched by our actions so that the United States government's seven year record of progress and success can continue and intensify. The fight against trafficking, like the fight against all forms of violence, must be supported with comprehensive strategies effectively implemented and appropriately funded here and abroad. There is still much to be done.

The United States must do more to combat trafficking within our own shores. Trafficking victims exist in our midst, in towns large and small. We must target resources on training and equipping law enforcement authorities to identify trafficking victims, victims too often mischaracterized as "illegal migrants" and deported. And we must provide funds for NGOs working on the front lines in the United States to provide care and legal assistance to victims of all forms of trafficking.

I applaud and support state initiatives to combat trafficking. However, we must ensure that state and federal authorities work cooperatively to combat this scourge. These welcomed state efforts must augment the ongoing federal fight against human trafficking. The federal government cannot retreat, but must do more to focus on victims nationwide. We must ensure that our federal law enforcement authorities continue to have the financial and human resources necessary to investigate these crimes. We must further support our federal, state, and local law enforcement, investigators, and prosecutors in efforts to mobilize in an integrated and coherent way to respond appropriately to the organized criminal enterprises of human trafficking who still operate with relative impunity here and around the world. We must ensure that we adopt a consistent and coordinated national response to these human rights violations.

Without witness protection and an appreciation of the risks that trafficking victims face in testifying against the perpetrators of these horrible crimes, the prosecution record will not improve. Conferences are a beginning, but not an end in themselves.

We must do more to tailor specific responses to the special needs of the children who are trafficked, especially in terms of care and protection. Root causes such as economic deprivation demand and warrant growing attention. There are no short-term fixes. The incidence of re-trafficking among children, many who have attempted to flee homes of violence and abuse or have been sold by their families, must be addressed.

Finally, the Senate must ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the U.N. Convention against Transnational Organized Crime. The United States played a major role in developing this new international law on trafficking. Through the annual TIP reports we have communicated our expectation to the world that all countries will join in our fight against human trafficking. Now, for the sake of our own credibility abroad, we must show our own commitment to abide by international norms on trafficking.

The TIP report is a powerful tool for combating trafficking around the world. The threat of economic sanctions has inspired many countries to ramp up their efforts to com-

bat trafficking within and across their borders. We must work closely in partnership with countries who are striving to do better and maintain the pressure on countries who are not. Meeting minimum standards is not enough. We must not shy away from ranking as Tier 3 those countries that fail to do their part in the global fight against trafficking.

The simple fact is that we must do better in terms of demanding effectiveness of our programs and the significant funds that are spent by our government in the United States and around the world. There is no question that we are making progress, but we must do better for the sake of the victims of trafficking who try to endure, waiting and praying for our intervention in their nightmare. Every day, more women and girls are being sold into the sex industry, domestic servitude, sweatshop labor, debt bondage, and other forms of modern-day slavery. And more and more men, women, and children are being forced into various forms of manual labor, without any pay or any protection. These crimes are violations of human rights and human dignity, and the United States will not rest until they are stopped.

I am pleased that President Bush has carried on our country's commitment to combat human trafficking. The progress we have made to date has been the result of strong bipartisan efforts that brought the horrors of trafficking to light. I hope we will continue to address this challenge in a bipartisan way.

With the passage of important legislation and Congress' appropriation of much-needed funds to address this problem we have the opportunity to accomplish many things around the world and here at home to reduce human trafficking that we could only dream of before. The administration has declared its intention to spend \$150 million over the next two years to reduce human trafficking. Support for these efforts is needed now more than ever because of the stark reality that in the four years since the legislation was signed into law there nevertheless remains no evidence that human trafficking is diminishing.

It was Senator Wellstone who observed that despite some progress on human trafficking we must be impatient for better results. I believe that the need to be impatient is now more urgent than ever. In the fight against trafficking in persons, patience simply is not an option. We are making progress, but there is still so much more that needs to be done.

No country has done more than the United States to bring worldwide trafficking out of the shadows and into the glare of public attention, and I am committed to doing whatever I can to help continue that leadership. I look forward to working with the administration and both sides of the aisle on additional improvements to the current legislation and effective strategies for implementing it internationally and domestically. Thank you, Mr. President.

**PREPARED STATEMENT OF
AMBASSADOR JOHN R. MILLER, DIRECTOR,
OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS,
U.S. DEPARTMENT OF STATE**

INTRODUCTION AND OVERVIEW

Thank you, Chairmen Hunter and Smith. It is a pleasure to be here today and provide you with information on government action to combat human trafficking.

I would like to acknowledge and greatly thank the Congress for making human trafficking, or modern-day slavery a high priority. Because of early support from leaders including the late Senator Paul Wellstone, Senator Brownback, Chairman Hyde of the International Relations Committee, Representatives Smith and Lantos and many others, human trafficking has stood “front and center” for this administration, numerous political leaders, human rights activists, law enforcement groups and many others dedicated to its demise. Because of Congressional support, the 2000 Trafficking Victims Protection Act [TVPA] and Trafficking Victims Protection Reauthorization Act of 2003 [TVPRA] produced tremendous action around the world. As a result, we are combating human trafficking by punishing traffickers, protecting victims and mobilizing U.S. Government agencies to wage a global anti-trafficking campaign. Our combined, multifaceted efforts to end modern-day slavery have truly enjoyed bipartisan support. Thanks to your advocacy and hard work, this tragedy is finally receiving its due time and attention, and we're seeing real results.

In addition to my role as director of the Office to Monitor and Combat Trafficking in Persons at the State Department, I serve as chairman of the Senior Policy Operating Group, which implements the policies set forth by the President's Interagency Task Force on Trafficking in Persons headed by Secretary Powell. One of the notable achievements of the Senior Policy Operating Group has been increasing the coordination of U.S. agencies in anti-trafficking in persons efforts. Each of our 11 government agencies involved in anti-TIP efforts, including the Department of Defense, now has a strategic plan to guide its actions to end modern-day slavery. This is good for accountability and good for maximizing our success against trafficking.

But while this coordination is obviously good, I'd like to tell you why it is so vitally important for the United States to accelerate its progress when it comes to combating human trafficking.

TIP AS MULTI-DIMENSIONAL THREAT

Trafficking in Persons violates the universal human right to life, liberty and freedom from slavery in all its forms. Victims endure brutal conditions that result in physical, sexual and psychological trauma. Children often suffer the worst abuses since they are easily controlled and forced into domestic service, armed conflict and other hazardous forms of work, as well as prostitution. Human trafficking also contributes to the breakdown of law, undermining government efforts to exert authority and threatening the security of vulnerable populations. Trafficking in persons is often linked to organized crime and profits from trafficking operations help fuel other illegal activity. This further threatens the national security of countries creating a destabilizing effect particularly in post-conflict and lesser-developed countries where the rule of law is more easily broken down.

The Office to Monitor and Combat Trafficking in Persons has increased its efforts to work with the Department of Defense to recognize these grave and serious concerns.

DOS COORDINATION WITH DOD ON ANTI-TIP MEASURES AND INITIATIVES

Historically, human trafficking has followed market demand. Unfortunately, human trafficking, especially for women and girls forced into prostitution, has followed demand where a multitude of U.S. and foreign aid workers, humanitarian workers, civilian contractors, and yes, uniformed personnel, operate. It is a shame and disgrace when any person's human rights and dignities are violated. It's an even greater shame when a U.S. citizen or service member, the latter whom has the responsibility to protect us from threats to our national security, commits such a grave crime. More importantly, exploitation in this manner can support organized crime, threatening the very security that service members and contractors have as their mission.

I am pleased to say today, however, that progress has indeed been made. Human trafficking is being seriously addressed by my office and top U.S. Government leaders, including leaders at the Defense Department. While there is still much more to be done, I have witnessed ground-breaking interest and actions by the Pentagon.

Some of these actions, which I am proud to say our office has helped to inspire and be inspired by, are:

- A “zero-tolerance” memorandum from Deputy Secretary of Defense Paul Wolfowitz which outlines DOD's stand on trafficking in persons.
- An anti-TIP training program for “all hands” deploying overseas. Our office collaborated closely with DOD on crafting this curriculum, providing valuable input from our current CIVPOL training courses and reviewing and revising drafts during program development.
- Recommendations for a change to DOD's Uniform Code of Military Justice - the equivalent of our civilian criminal code-that a new charge be added to specifically address the act of patronizing prostitution.

If adopted, this measure would be a tremendous and major advance supporting the goals and policies outlined in NSPD-22. This UCMJ article would support the abolitionist approach to trafficking in persons by not focusing punishment on the victims, rather by opposing prostitution and related activities as a contributing factor to the phenomenon of trafficking in persons. With the Pentagon's cooperation, this would serve as an important, progressive measure, which many states are now considering as well.

We also funded the Center for Strategic and International Studies, for Dr. Sarah Mendelson to carry out research on the connection between human trafficking and peace-keeping operations, especially in the Balkans. We are currently reviewing her just-completed summary of this research and hope to be provided with candid insight into where we need to do better in this area, and more importantly, how.

Clearly then, in many ways, the Department of Defense, an agency composed of some 3 million members serving in most every corner of the world has taken seriously the President's charge to combat TIP.

It is also noteworthy to recognize here that the Defense Department is beginning to implement these major measures during a time of heavy military action, as the United States confronts two major theater wars concurrently.

DOS PERSPECTIVE ON HUMAN TRAFFICKING IN THE REPUBLIC OF KOREA

One country we know you are particularly interested in is South Korea. As with all of the countries we rate in our annual Trafficking in Persons Report, Korea's rating is based on the government's actions and political will to combat TIP in-country. South Korea is a source, transit and destination country for women from the Philippines, Thailand and other countries of Southeast Asia who are trafficked for the purposes of sexual exploitation. The Korean government fully complies with the minimum standards to end trafficking and has shown a steady commitment to support victims, prosecute traffickers and improve national laws to fight trafficking.

Last year the Korean Government worked with U.S. Forces Korea to identify brothels suspected of exploiting trafficking victims and bar U.S. service members' access to them. In January, Korean policemen spoke to 777 foreign women near the U.S. bases, advising them of trafficking issues and their rights.

CONCLUSION

In conclusion, we realize that much remains to be done on all fronts, within all U.S. Government agencies to monitor and combat human trafficking. Our goal, to abolish slavery in its multitude of forms and manifestations will require more work, constant vigilance, attention and actions. This human rights violation and security threat, like a war, is something that cannot be eradicated overnight. It will take years of hard work and dedication to combat slavery as we know it today.

We must quickly move certain items on the DOD agenda out of the planning stages and into the field. Victims of human trafficking deserve our most dedicated resolve, and they don't have time for bureaucratic delays from any of our government agencies. Likewise, our military's important mission of providing much needed stability and security to many nations of the world, must also not be compromised through actions, whether direct or indirect, that support organized crime. And as we try to win the hearts and minds of those we are fighting to protect, which includes our own citizens, it is imperative that the reputation and integrity of our missions not be jeopardized.

We are encouraged by the progressive action taken within the last year by Secretary Rumsfeld and stand ready to assist in any way we can to help him achieve the President's and your mandate to abolish modern-day slavery, while at the same time producing environments that foster human rights, healthy societies and, perhaps most relevant to DOD's work, safe and secure communities worldwide.

I am now happy to take your questions.

**PREPARED STATEMENT OF
THE HONORABLE CHARLES S. ABELL,
PRINCIPAL DEPUTY UNDER SECRETARY OF DEFENSE
FOR PERSONNEL AND READINESS**

Chairman Hunter, Chairman Smith, and Members of the Committees, thank you for this opportunity to address you concerning the Department of Defense's role in combating trafficking in persons. In January of this year, the Deputy Secretary of Defense issued a memorandum on Trafficking in Persons that laid out our policy on combating trafficking and objectives to implement that policy. From the policy established in that memorandum, we are committed to strengthening our response to combating trafficking.

Our approach to combating trafficking in persons is within the framework of the U.S. Government's efforts. We participate in the efforts of the Senior Policy Operating Group [DOD is not on the President's Interagency Task Force, and is thus not on the Senior Policy Operating Group. *See* 22 USC 7102(b) & (f)(2)(A) and Executive Order 13257 of February 13, 2002], led by Ambassador Miller in the Department of State, and we work on a daily basis with his Office to Monitor and Combat Trafficking in Persons. We have also been deeply involved in the development, coordination and interagency work on NATO's policy on trafficking. As we develop and implement actions to combat trafficking in persons, we will continue to draw on the policies and practices of U.S. Government Agencies, allies and multinational organizations committed to fighting trafficking.

At the heart of our efforts are two primary concerns. The first concern is with the sex exploitation industry overseas in and near our areas of operations. The second concern is with the employment practices by civilian contractors supporting DOD operations overseas. Our current and future actions are aimed at addressing these two major areas of concern.

Based on the "Objectives of DOD Efforts to Combat Trafficking in Persons" spelled out in the Deputy Secretary's January memorandum, we are in the midst of a number of actions to both meet those objectives and address our primary concerns. We have developed a core training module for all military, Department of Defense (DOD) civilian, and DOD civilian contract personnel deploying overseas. This module will educate DOD members on the nature of trafficking, trafficking indicators, DOD's policy on trafficking, and the legal provisions available to DOD in dealing with members of the Department connected to trafficking. The general module will be supplemented by a section specific to the theater to which individuals will be deploying, maintained by that theater's commander. The training will be established electronically on the Joint Knowledge Development and Distribution Capability System to ensure ease of use and total coverage of the target population. The module should be ready for initial distribution and use by early November.

At the same time, we are in the initial stages of developing a training module for senior leaders. This module will focus on the commander's role in leading the fight against trafficking in persons. Additionally, we are working with Department of Justice law enforcement agencies, allied law enforcement and INTERPOL to tailor a training module for the law enforcement agencies within the Department of Defense.

To buttress the work on training and law enforcement we are taking action in regard to the Uniform Code of Military Justice (UCMJ). We are confident that the various offenses currently within the UCMJ are sufficient to address misconduct that constitutes, or is associated with, human trafficking activities. However, the Department has taken several steps to strengthen its resolve in combating such misconduct. The Military Departments have been tasked to examine their regulations and procedures for placing off-

limits those places that may contribute to conditions that support such activities, and has made clear that violations are offenses punishable under the UCMJ. Through the auspices of the Joint Service Committee on Military Justice, the Department has drafted a clearly-stated Article 134, UCMJ, offense that prohibits military members from patronizing prostitutes. The draft offense will be submitted as part of the 2004 Annual Review proposed amendments to the Manual for Courts-Martial.

The Department of Defense, in full cooperation and consultation with the Departments of Justice and State, drafted proposed regulations implementing Military Extraterritorial Jurisdiction Act (MEJA). The regulations proposed would be a new Part 153 to title 32, Code of Federal Regulations, with a corresponding new DOD Instruction. On June 29, 2004, the Deputy Secretary of Defense forwarded the proposed regulations to the Chairmen and Ranking Members of the Senate and House Judiciary Committees for their statutory 90-day review opportunity before they can be implemented.

In addition, DOD and DoJ have been, and continue to be, actively consulting with one another and sharing information regarding possible contractor misconduct. Contractor notices of MEJA jurisdiction and DOD policies prohibiting trafficking in persons activities, and subjecting contractors to penalties for failing to monitor employee conduct, are currently under review to be included as standardized Defense Federal Acquisition Regulation provisions.

Evaluation is also a key component of our trafficking policy implementation. The current focus is on evaluating activities to combat trafficking in persons and to show zero tolerance within DOD. Once criteria and instructions have been distributed throughout DOD the focus will be more toward inspecting the activities established.

The steps we have taken and the steps we plan to take reflect our strong commitment to address combating trafficking in persons within the scope of DOD's responsibilities.

Thank you again for scheduling this hearing and I look forward to answering your questions.

**PREPARED STATEMENT OF
JOSEPH E. SCHMITZ, INSPECTOR GENERAL,
U.S. DEPARTMENT OF DEFENSE**

Chairman Hunter, Chairman Smith, and other members of the Committee on Armed Services and the Commission on Security and Cooperation in Europe: thank you for this opportunity to participate in a forum on Implementing Department of Defense Zero Tolerance Policy with regard to Trafficking in Humans.

Since 1778, starting at Valley Forge, Inspectors General in America have served as independent extensions of the eyes, ears, and conscience of their respective commanders.

This Inspector General's commander is Secretary of Defense Donald Rumsfeld, who recently admonished all leaders in the Department of Defense never to "turn a blind eye" to what our Commander-in-Chief, in a speech last year to the United Nations General Assembly, singled out a "special evil."

Before I go on, I want to express my gratitude to the Members of Congress who enacted legislative tools for us to deploy throughout the Department of Defense in our ongoing efforts to teach and train our troops about Human Trafficking and otherwise to suppress this "dissolute and immoral practice."

I would also like to acknowledge and thank the uniformed inspectors general of the military departments, with whom my mostly-civilian staff of professionals and I have been closely cooperating to suppress Human Slavery associated in any way with our Department of Defense around the world.

One might ask why, in the midst of the Global War on Terrorism, even as deployed American soldiers are risking the ultimate sacrifice for us in Afghanistan and Iraq, the President of the United States would devote almost a fifth of his United Nations speech last September to the subject of human trafficking. One answer might be the nexus between human traffickers and the arms traffickers supporting the terrorists who are killing our soldiers. Another answer might be that caring for the victims of human trafficking is a paradigmatically righteous thing to do for a President who refers to himself as a "compassionate conservative." A more fundamental answer might be that to confront modern-day human slavery forces us all to focus on "first things first," that is, principles that are worth fighting for, in order that we might better focus on "second things," which include survival.

"[T]he principle of 'first and second things,' as C. S. Lewis calls it ... [is] that when second things are put first, not only first things but second things too are lost. More exactly, when there are greater goods, or ultimate ends and proximate ends, if we put lesser goods, like survival, before greater goods, like values to survive for, then we lose not only the greater goods, the values, but even the lesser goods that we've idolized ... [T]he society that believes in nothing worth surviving for beyond mere survival will not survive."

Our currently-available legislative tools for suppressing Human Trafficking include, of course, the Victims of Trafficking and Violence Protection Act of 2000 and its 2003 reauthorization, which together prescribe a model "zero tolerance" standard not only for all Americans but for our Western Alliance partners as well. There is another legislative tool for combating Trafficking in Persons, less known but equally potent for those of us serving in the Department of Defense, known as the "Exemplary Conduct" leadership standard.

Congress first approved this leadership standard in 1775, and re-enacted it in 1997 to promote precisely the type of moral courage expected of military and civilian leaders

throughout the Department of Defense in the face of relativists and cynics who say either that it's no use to take on the so-called "oldest profession known to man," or worse, and I have personally witnessed this pernicious attitude in Washington, D.C., and around the world, "they're just prostitutes."

Among the many "lessons learned" in the course of our joint and global Human Trafficking inspections in Korea, Bosnia-Herzegovina, and Kosovo over the past two years, two warrant reiteration today. First of all, among the root causes of the recent resurgence of human trafficking, aside from the obvious profit motive of organized criminals, is a general reluctance of leaders at all levels to promulgate and to enforce principle-based standards for subordinates who create the demand for prostitution generally, and for sex slavery specifically. The second "lesson learned" that I would respectfully reiterate today is that whenever leaders, especially those of us who swear to "support and defend the Constitution of the United States," become aware of humans being referred to as "just" something else (for example, "they're just prostitutes"), we ought never turn a blind eye.

To actively subjugate—or to "turn a blind eye" when others subjugate—any group of humans to a category of existence beneath the dignity of individuals "created equal, [and] endowed by their Creator with certain unalienable Rights, [among which] are Life, Liberty, and the pursuit of Happiness" is, in a word, un-American.

Simply stated, slavery is antithetical to the core principles that underlie our Constitution. By taking on this "special evil," we focus not only on physically surviving the ongoing Global War on Terror, but on the very principles that define "survival."

My testimony today draws upon not only two Human Trafficking Inspector General reports over the past two years, but also upon a draft article, the working title of which is "Examining Sex Slavery through the Fog of Moral Relativism." Copies of the reports and the draft article are included as attachments to my prepared statement. The reports speak for themselves. The draft article is based on first-hand observations I have made while inspecting U.S. forces overseas.

In Korea, we found that leadership of U.S. Forces Korea (USFK) had initiated aggressive efforts to address the problem of human trafficking. During the course of our assessment we noted some areas of the USFK human trafficking program that could be improved. General Leon LaPorte, USFK Commander, embraced our recommendations and acted promptly to implement them.

At the invitation of General LaPorte, I personally traveled to Korea—twice. During my first inspection visit to Korea, one of our Army MP escorts explained that the contracts for Russian entertainers on the so-called "Hooker Hill" in Seoul are sold weekly from one establishment to another. When I asked the young MP if he would like to do something about this blatant form of human slavery, he unhesitatingly responded in the affirmative, but then added that it was beyond his control. The young soldier was obviously waiting for a signal from the chain-of-command that would empower him to combat this affront to human dignity that, to him, seemed so morally wrong. Unbeknownst to this soldier, the top of his USFK chain of command had already sent the signal. It just hadn't made it down to his level—yet.

Upon my return a year later, I found obvious indicators of substantial improvement: the message is getting out to all levels of command. The DOD's zero tolerance policy is being effectively implemented thanks to the moral leadership of General LaPorte and his entire USFK leadership team.

In Bosnia-Herzegovina and Kosovo, we found negligible evidence that members of U.S. Armed Forces patronized prostitutes or engaged in any other activities that support human trafficking. We did identify some opportunities to improve contractor awareness of the Department's policy with regard to Trafficking in Persons. Subsequent to our report, the Deputy Secretary of Defense issued a memorandum to all the military departments, combatant commands, and Department of Defense offices implementing National Security Presidential Directive 22, establishing a "zero tolerance" approach to trafficking in persons. I have included along with my prepared statement copies of both Deputy Secretary Wolfowitz' memorandum as well as Secretary Rumsfeld's more recent memorandum on the same subject.

The principle conclusion from both Inspector General assessments is the need to educate service members on human trafficking issues and for leaders to be "vigilant in inspecting the conduct of all persons who are placed under their command."

This leadership standard, which I referred to at the beginning of my prepared statement, was first drafted by John Adams and enacted by the Continental Congress as Article I of the 1775 Navy Regulations. More recently, in the aftermath of various sexual misconduct scandals of the 1990's, Congress reenacted for leaders of all three military departments this same "exemplary conduct" leadership standard, thereby reaffirming "a very clear standard by which Congress and the nation can measure officers of our military services."

In the coming weeks, I will be visiting the George C. Marshall European Center for Security Studies in Garmisch-Partenkirchen, Germany, and the U.S. European Command in Stuttgart. The Marshall Center provides training for ambassador-level leaders, senior executives, and "young leaders" from all of Europe and Eurasia, focusing mostly on Eastern Europe and Eurasia. I intend to use this opportunity to review how well we are teaching and training our European allies not only on how, but also why, we expect our commanding officers and others in authority throughout the Department of Defense to be vigilant in inspecting for any indications of complicity in human trafficking, and otherwise to suppress this dissolute and immoral practice. During this trip, I will also follow-up on our efforts in Bosnia-Herzegovina and Kosovo, to help measure improvement and determine whether my Office can be of further assistance.

Secretary Rumsfeld has called upon leaders throughout the Department of Defense "to make full use of all tools available, including DOD Inspectors General and criminal investigative organizations, to combat these prohibited activities."

In conclusion, to reiterate Secretary Rumsfeld's orders, "No leader in this department should turn a blind eye to this issue."

**MATERIALS SUBMITTED FOR THE RECORD
BY JOSEPH E. SCHMITZ, INSPECTOR GENERAL,
U.S. DEPARTMENT OF DEFENSE**

**ASSESSMENT OF DOD EFFORTS
TO COMBAT TRAFFICKING IN PERSONS
PHASE I—UNITED STATES FORCES KOREA**

I. INTRODUCTION AND SUMMARY

At the request of 13 members of Congress, including Congressman Christopher H. Smith (who also serves as Co-Chairman of the Helsinki Commission), the Office of Inspector General of the Department of Defense initiated a “thorough, global and extensive” assessment to address publicized allegations 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.” This assessment is being conducted in phases, the first building upon a foundation developed by and in cooperation with the various military offices of inspectors general associated with United States Forces Korea (USFK).

The Inspector General of the Department of Defense found that USFK leadership had initiated aggressive efforts to address the problem of human trafficking since June 2002 after several news organizations featured stories connecting the U.S. military establishment with the practice of prostitution and human trafficking in Korea. In particular, command authorities had made significant strides in educating their 37,000 personnel on human trafficking issues and the illegality of prostitution in Korea. In order to divert interest from predatory and exploitive off installation establishments, the USFK leadership was also working to improve the quality of life and expand off-duty entertainment alternatives for assigned service members.

During our assessment, we identified a number of opportunities for expanded efforts on the part of USFK leadership to combat human trafficking, particularly efforts that focused on reducing the number of off-post installations that were engaged in prostitution or human trafficking. Further, we found that the USFK leadership also expressed a strong desire to work more closely with Republic of Korea and U.S. Government agencies as well as nongovernmental organizations (NGOs) to address human trafficking issues. We provided several recommendations to General Leon J. LaPorte, U.S. Army, Commander, USFK, among them: (a) improved training that would sensitize all service members, as well as Military Police and Courtesy Patrols, to human trafficking, (b) more aggressive efforts to place offending establishments “off-limits,” (c) renewed cooperation with Korean authorities, and (d) the deployment of Inspector General (IG) assets to evaluate progress in the fight against human trafficking.

Since our visits, USFK leadership has undertaken vigorous efforts to implement those recommendations. In a letter dated April 4, 2003 to Congressman Christopher H. Smith, General LaPorte reported the following accomplishments:

- improved training of troops stationed in the USFK area of responsibility to enhance their awareness of human trafficking issues. This effort included the establishment of a “Korea-wide Crime Stoppers Hotline” by which service members can report any suspicious activity that relates to human trafficking;

- placed 26 establishments suspected of involvement in prostitution and human trafficking off-limits to U.S. personnel. Subsequently, General LaPorte reported to the us that, as of June 4, 2003, 661 establishments had been placed off-limits throughout Korea for prostitution or prostitution-related activities;¹
- strengthened coordination with Korean authorities to control human trafficking; and
- directed the USFK IG to assess the effectiveness of programs that have been implemented to address human trafficking in entertainment districts near U.S. military installations.

The congressional request for this assessment was triggered by a March 2002 broadcast on Fox News that featured service members in Korea patronizing off-post bars and other entertainment establishments where female companionship was offered. The broadcast depicted women (implied to be prostitutes) in the off-post establishments as victims of human trafficking and suggested that the military leadership in Korea, by providing “Courtesy Patrols” to monitor service member behavior in off-post bars, essentially condoned the illegal activities that occurred there. Based on the Fox News report, Members of Congress expressed concern “that American soldiers [in Korea] are knowingly procuring the services of trafficked persons and that some of these soldiers may even be ordered to protect and patrol the brothels.”

Noting that the problem of human trafficking could affect service members in other countries where there is a military presence, the Members of Congress emphasized “that any investigation into this problem be thorough, global, and extensive.” Accordingly, we will also review DOD efforts to combat human trafficking at two installations in the United States and at our most vulnerable overseas bases in Europe (Bosnia and Kosovo). This report provides our assessment of efforts by United States Forces Korea (USFK) to combat human trafficking as it affects service members stationed there. A second report will provide findings and conclusions of Phase II of our assessment.

During Phase I, we conducted two on-site visits to Korea, visiting various military installations and observing off-post activities. We spoke with numerous officials involved in the matter, including General Leon J. LaPorte, Commander, USFK, subordinate commanders of military bases in Korea, legal and law enforcement officials, and United States embassy officials. The Inspector General of the Department of Defense personally traveled to Korea on the second visit to convey the personal interest of the President and Secretary of Defense in this matter and make first-hand observations regarding the adequacy of ongoing efforts to combat human trafficking.

Although USFK has placed additional establishments off-limits as a result of aggressive efforts to combat human trafficking, the large jump in the number reported here represents primarily the decision to identify and count the number of individual establishments that are located in Korean “red light” districts that have historically been off limits for service members because of prostitution or prostitution-related activities.

This report provides further detail on the scope and nature of our visits and the basis for our recommendations in the matter.

¹ Although USFK has placed additional establishments off-limits as a result of aggressive efforts to combat human trafficking, the large jump in the number reported here represents primarily the decision to identify and count the number of individual establishments that are located in Korean “red light” districts that have historically been off-limits for Service members because of prostitution or prostitution-related activities.

II. BACKGROUND

In March 2002 Fox News broadcast a report on employment of foreign nationals in involuntary prostitution in Korea. The broadcast referred to alleged practices by owners of Korean entertainment establishments such as enticing women from Russia, the Philippines, and other countries to come to Korea to work, then withholding their passports forcing them to remain in Korea and earn their freedom to return home by practicing prostitution.

The report also suggested U.S. complicity in these schemes stemming from patronage of offending establishments by U.S. military personnel and oversight of the establishments by U.S. Military Police personnel. One segment of the report featured, among others, the following excerpts from interviews with service members who were serving on a Courtesy Patrol² of off base establishments:

- In response to the question posed by the Fox reporter “So you keep these places safe?” a Courtesy Patrol member replied, “Yeah, that’s what we do. That’s our job.”
- In another excerpt, a member of the Courtesy Patrol observed: “All these bar owners buy girls at auction. These girls have to earn however much money it takes to get their passports back.”
- In an earlier scene, that service member had explained: “They [women working in bars] are told to come here to make some money. And no they don’t make money. They just make enough to buy their passport back. Because the people in Russia get them a visa, passport—the whole 9 yards to work in Korea. They get off the plane and Korean nationals who work at the airport take the visa and passport away and put them in a line at the side. And they go to auction.”

In a letter dated May 31, 2002, 13 members of the U. S. Congress, acting under the auspices of the Commission on Security and Cooperation in Europe (“Helsinki Commission”), requested that we investigate allegations 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.”

III. SCOPE

To conduct the assessment requested by Members of Congress, we made two on-site visits to various locations in Korea. During a visit conducted from December 3 to 14, 2002, we met senior USFK officials, including the Chief of Staff, Deputy Chief of Staff, Deputy Chief of Intelligence, and Provost Marshal. Additionally, we conferred with the Provost Marshal of the

Within USFK, Courtesy Patrols consist of noncommissioned officers from individual company-sized units detailed to patrol off-post locations to ensure the safety and proper comportment of soldiers assigned to their units while off duty, USFK Medical Command, personnel assigned to the Army Criminal Investigation Command, four Area Commanders, the Second Army Division Commander, and various Army camp garrison command-

² Within USFK, Courtesy Patrols consist of noncommissioned officers from individual company-sized units detailed to patrol off-post locations to ensure the safety and proper comportment of soldiers assigned to their units while off-duty.

ers. We also met with the Republic of Korea Inspector General, visited several U.S. military installations in Korea, to include Camps Casey and Bonifas and Osan Air Force Base, and conducted a site visit to the Itaewon District in Seoul (outside Yongsan Army Garrison). Finally, we met U.S. diplomatic personnel, various Republic of Korea officials, and representatives of nongovernmental organizations who were concerned with human trafficking issues.

In a second visit to USFK from March 4 to 7, 2003 we met with the U.S. Ambassador to Korea, the USFK Commander, the 2nd Infantry Division and 7th Air Force Commanders, and a number of Korean officials, to include officers of the Korean Independent Commission Against Corruption and the International Organization of Migration, the Korean Forces Inspector General, and a Korean criminal prosecutor. We again conducted site visits to the Itaewon District, Camp Casey and surrounding commercial establishments, and Osan Air Force Base.

We reviewed documents, to include policy guidance issued by various U.S. military commands throughout the USFK area, an assessment conducted by the 8th Army IG between June 14 and August 14, 2002, entitled, "Review and Assessment of Regulations, Policies, and Enforcement Practices Regarding Off Limits Establishments and Prostitution," and other relevant materials.

IV. FINDINGS AND ANALYSIS

STANDARDS

Title 10, United States Code (D. S.C.), Sections 3583, 5947, and 8583, "Requirement of Exemplary Conduct," dated November 18, 1997

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 relevant Military Department] all persons who are guilty of them; and
- "(4) take all necessary and proper measures, under the laws, regulations, and customs of [the relevant Military Department] 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 measures to discourage and punish conduct that contributes to human trafficking.

Public Law (P.L.) 106-386, Division A, 114 Stat. 1464, “Victims of Trafficking and Violence Protection Act of 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 the Department of Defense (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, prosecute, and punish trafficking and related offenses.

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

NSPD-22 directs 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, the Office of Manage-

ment 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.” The Directive assigns the Secretary of State the lead role in implementing the Victims of Trafficking and Violence Protection Act of 2000 and 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.

FACTS

Our assessment examined the adequacy of ongoing programs sponsored by USFK to curb service member use of off-base establishments that may traffic in persons (“demand” side) as well as efforts to reduce the number of Korean establishments that are engaged in improper or illegal activities (“supply” side). Programs to reduce service member demand for improper activities offered by off-base establishments are focused on two areas: (1) educating service members on national policy regarding human trafficking, on the requirement for exemplary conduct by all service members, and on the illegality of prostitution under Korean law and USFK regulations,³ and (2) improving on-base recreational facilities so those facilities become viable alternatives to off-base entertainment attractions.

USFK programs to reduce the number of Korean establishments that entice service members include: (1) refocusing military law enforcement efforts, aided by Courtesy Patrols, to identify and place “off-limits” those establishments that support human trafficking, and

(2) reinvigorating cooperative agreements with Korean authorities to suppress human trafficking activities. We address each of these areas below.

EDUCATIONAL EFFORTS

The assessment team found that the USFK leadership acknowledges the fact that human trafficking is a concept not necessarily tied to an individual’s legal status in the country—either as local nationals or as guest workers in the country on a valid visa. That is, leaders with whom we spoke recognized that individuals who are subject to force, fraud, or coercion in performing a certain act—such as prostitution—are human trafficking victims. USFK teaches assigned service members that prostitution is a violation of Korean law, and that by engaging in acts supporting prostitution, U.S. service members may violate USFK regulations and the Uniform Code of Military Justice (UCMJ). USFK’s human trafficking program is geared to the premise that if service member involvement in off-installation prostitution is reduced (demand-side), that reduction of demand will correspondingly lead to less human trafficking and off-installation exploitation (supply-side).

³ USFK Regulation 190-2, “Off-Limits Areas and Establishments,” prohibits all service members in Korea from entering houses of prostitution. Service members who fail to comply with the regulation “are subject to punishment under the UCMJ [Uniform Code of Military Justice].”

USFK's human trafficking education program is a positive effort. All service members and USFK employees are taught that human trafficking and prostitution is illegal and that the chain of command in no way condones any actions that support human trafficking or prostitution. They are also taught how to recognize possible indicators of human trafficking or prostitution. Some specific details of the education program still need to be improved and finetuned. For example, there should be a standardized, more polished, and better-staffed USFK human trafficking core curriculum. This core curriculum should be taught to all members of the command upon arrival and must include the flexibility to be modified to accommodate relevant aspects of local conditions. These recommended improvements notwithstanding, the pervasiveness and the seriousness with which the subject is addressed reflects USFK's committed effort to address human trafficking and illegal prostitution issues.

The portion of the USFK education program that articulates prescribed standards, as reflected in the UCMJ and service values, makes the clear point that human trafficking and illegal prostitution are incompatible with military service.⁴ This portion of the USFK education program is particularly strong and should be continued. We believe that, in addition to articulating the incompatibility of prescribed military standards and military values with human trafficking, the program should also draw attention to the prescribed standards of exemplary conduct that Congress codified at 10 U.S.c. §§ 3583, 5947, and 8583, as set forth in the standards section above. These congressionally prescribed standards apply uniformly for each service and clearly articulate every officer's and leader's responsibility with regard to human trafficking and other exploitive practices. To that end, we made the following recommendations to General LaPorte at the conclusion of our second visit:

- Bolster human trafficking situational awareness in the context of ongoing emphasis on "Core Values" and "The NCO [noncommissioned officer] Creed."
- Provide official "tool kit" to service members, that includes the unclassified version of the Presidential Directive on Human Trafficking and President Bush's letter of February 20, 2003, announcing directive (see standards section above), the requirements for exemplary conduct in Title 10, and the Trafficking Victim's Protection Act of 2000.
- Develop and deploy a "human trafficking indicators" guide for sensitizing not only Military Police and Courtesy Patrols, but each service member.
- Emphasize individual moral decision making based on Army Core Values and "The NCO Creed" as the ultimate metric for success.

We found that USFK has embraced those recommendations. By letter dated April 4, 2003, General LaPorte advised Congressman Smith, "We renewed our emphasis on initial training for all USFK newcomers and refresher training for all personnel that highlights suspicious indicators and explains the complex inter-relationship between these issues." Additionally, by email to this office dated June 4, 2003, General LaPorte emphasized,

⁴ Each Branch of service has its own self-prescribed values. For the Navy and Marine Corps it is "Honor, Courage, and Commitment"; for the Air Force, "Integrity First, Service Before Self, and Excellence in All We Do"; and the Army has "Loyalty, Duty, Respect, Selfless-Service, Honor, Integrity, and Personal Courage."

Training and awareness stands as one of the pillars of our program to address prostitution and its ties to human trafficking. We will tap the various resources you mentioned as well as others to gather information that will be more informative and substantive for leaders and service members. ... Our leaders continue to make direct linkages among the topics of service, values, ethical decision-making, and prostitution and human trafficking.

IMPROVEMENTS TO ON-BASE RECREATIONAL FACILITIES

Anecdotal evidence suggested that the USFK infrastructure in Korea had been underfunded for an extended period of time. The lack of base living and recreational facilities comparable to those in the United States resulted in a situation where service members were drawn to the exploitive off-installation bars for a number of reasons.

- they were looking for nearby places to relax after extended field training exercises resulting from USFK's high operations tempo;
- personal living conditions were so unpleasant that service members wanted to spend as little time as possible in the barracks/dormitories;
- on-base recreational facilities or educational options were scarce and of low quality as compared to other U.S. military installations.

We understand that, for many years, USFK leadership has requested improvements to the living conditions of assigned service members. Many of these requests are now being funded. The assessment team found significant new construction and quality of life improvements at all locations. Commanders assert that as these improvements continue service members will look less and less to off-installation bars for their entertainment options. The commanders envision a day in the foreseeable future when on-installation and off-installation facilities will be comparable with the conditions at stateside installations. It is their hope that, as conditions improve, predatory and exploitive off-installation clubs that engage in human trafficking and prostitution will no longer be in business. We found ongoing efforts in this area sufficient and found no basis to make recommendations.

REFOCUS LAW ENFORCEMENT EFFORTS

Much attention was drawn to this issue because of the manner in which the member of the Courtesy Patrol who was featured on the Fox News video articulated that he was there to protect the "establishment." The statement was especially problematic because his comment gave the impression that his job was to protect what appeared to be a club using trafficked women to provide prostitution services exclusively to U.S. service members.⁵

⁵ Neither Fox News nor USFK were able to identify the service members serving on Courtesy Patrol who made comments during the Fox News video. There have been no reports of either reprisal or disciplinary action being taken against service members as a result of their appearances in the Fox News report. However, based on our conversations with other service members, we believe the service member was repeating a generally held perception that many of the women who work in off-installation bars were exploited by debt-bondage, illegal confiscation of identity papers, and threats of physical violence. We found this perception to be corroborated by an abundance of articles on human trafficking and information from the United Nations and the Department of State's Office to Monitor and Combat Trafficking in Persons, as well as statements by Korean government authorities and local non-governmental organizations which focused on aiding off-installation victims.

Notwithstanding implications in media accounts that USFK police personnel provide “protection” to predatory establishments, our assessment found that Courtesy Patrols and off installation policing activities engaged in by U.S. Forces in Korea are focused on the protection of U.S. service members rather than protection of any individual establishments. We did not find that uniformed U.S. Military Patrols, in any visited area, provided physical “protection” for off-installation bars. The patrols are there to provide a “Command Presence” in off-installation areas that have high concentrations of U.S. military personnel. Such a presence, whether by military law enforcement officials or other command representatives is appropriate because of the command’s special responsibility for U.S. military personnel in overseas locations and because of the constant jurisdiction the UCMJ provides over service members anywhere in the world—on or off military installations.

Our observations tended to confirm information provided to Congressman Smith by the Secretary of the Army in a letter dated June 19, 2002:

“The USFK Command does employ Courtesy Patrols (CPs) as a force protection measure in these legal establishments. CPs provide a uniformed presence in restaurants, bars, and clubs located near USFK military installations. While not a substitute for military police or other law enforcement measures, CP duty is officially tasked; members of CPs receive formal briefings and written instructions concerning their duties and responsibilities. Generally, CPs monitor the safety and behavior of military personnel patronizing establishments in and around the military installation. Their function is predominantly preventative; CPs attempt to prevent U.S. service members from becoming involved in acts prejudicial to good order and discipline or from engaging in conduct in contravention of the UCMJ or host nation law. CPs serve the additional function of prevent assaults and acts of terrorism on U.S. personnel.”

Off-installation policing is an important, productive, and an appropriate program. However, we observed that interactions between the command representatives (Courtesy Patrol and law enforcement officials) and patrons and employees of the off-installation bars were sometimes overly familiar and included behaviors that are more representative of friendship (such as shaking hands with bar employees) than of the demeanor that denotes being an official on duty. Such friendly behavior not only gave the appearance of official imprimatur to activities in the clubs, but also made it more difficult for those command representatives to make an objective assessment of the human trafficking situation in the respective off-installation bars. Based on these observations, we concluded there must be greater efforts to ensure all off installation policing personnel—Courtesy Patrols, as well as Military Police—are trained to standards established by USFK and have formalized established reporting procedures to ensure that exploitive practices by off-installation facilities are formally documented and reported to the appropriate commanders.

We found that, already, for a wide variety of appropriate reasons, U.S. military law enforcement officials visit off-installation bars in civilian clothes for official duties. These official duties are related to a myriad of tasks from drug suppression to counter-intelligence. However, we noted that military law enforcement activities at off-installation bars

may have overlooked human trafficking concerns because law enforcement personnel were focused on a misperception that they could only report improper activity rising to the level of evidence admissible in criminal courts (evidence beyond a reasonable doubt). This focus sometimes caused military law enforcement personnel to lose situational awareness of the exploitive and illegal practices occurring around them. The assessment team perceived the need to educate law enforcement officials that the information a commander needs to take noncriminal action against predatory off-installation establishments (e.g., place them “off-limits” to service members) is different and need not meet the evidentiary standards of criminal courts.

For example, the team found that if military law enforcement officials saw a man and a female bar employee in an off-installation club leave the main room of the establishment together and emerge 15 minutes later, they would not necessarily perceive that as evidence of prostitution. The same might be true even if this same scenario occurred routinely throughout the evening, involving the same female employee and different men. Similarly, law enforcement personnel might find nothing to report if a service member paid a “bar-fine”⁶ assessed against a woman and left the club with her for an evening.

We found that commanders understood their authority, under USFK Regulation 190–2, “Off-Limits Areas and Establishments,” to place off-installation establishments that engage in and support human trafficking, prostitution, and other exploitive practices off-limits to service members. Notwithstanding this knowledge, we found that, for a variety of reasons, including lack of actionable information, commanders sometimes did not take the necessary steps to place establishments off-limits. At the conclusion of our second visit, we made the following recommendations that were intended to expand the use of the “off-limits” designation in order to eliminate service member patronage of predatory establishments:

- Fully engage law enforcement and intelligence assets to collect and report indicators of human trafficking promptly to Armed Forces Disciplinary Control Board for possible off-limits show cause order.⁷
- Fully engage IG assets as a periodic and independent check on command/law enforcement efforts to identify clubs involved in human trafficking/prostitution. Designate the incumbent 8th Army IG as joint IG for USFK, allowing him to better handle joint issues. (As a matter of practice, the 8th Army IG served in a “dual-hat” capacity as the USFK IG, but was not officially designated as such.)
- Consider conducting interviews related to human trafficking through IG channels to preserve confidentiality of sources and preclude actual or perceived whistleblower reprisal.

Again, we found that USFK leadership aggressively took action in response to those recommendations. By letter dated April 4, 2003, General LaPorte advised Congressman

⁶ A fine assessed by an establishment against one of its female employees for the value of her time away from the workplace. In Korea, this practice is often a subterfuge for payment to the establishment for prostitution services rendered by its female employees, and the fine is paid by the patron.

⁷ The Armed Forces Disciplinary Control Board is the commander*s tool for identifying and placing civilian establishments off-limits to Service members. According to a memorandum dated September 10, 2002, from the Chief of Staff, USFK, a investigation will be conducted “when credible evidence is presented” that the establishments “support, harbor, or in anyway sanction prostitution... .Businesses may be placed ‘Off Limits* to USFK personnel due to these illegal activities.”

Smith, that USFK had established “a Korea-wide Crime Stoppers Hotline by which servicemembers can report to the Provost Marshal any suspicious activity that relates to prostitution or human trafficking.” Further, he stated that “we are publishing a USFK-wide policy that will, among other things, expressly state Courtesy Patrol (CP) reporting requirements concerning suspicious activity related to prostitution or human trafficking.” As a result of those efforts, General LaPorte reported, “the Yongsan commander recently placed 26 establishments off-limits for suspicious activities related to possible prostitution.”

Further, to “assess the effectiveness of the USFK programs,” General LaPorte advised that he had “recently directed my Inspector General (IG) to conduct a ‘Phase II Inspection.’ The IG is now looking across the peninsula, focusing on leadership efforts, service member education, and the on-post and off-post environments.” Subsequently, by email to this office dated June 4, 2003, General LaPorte advised, “My Inspector General has devoted a significant portion of his resources conducting a comprehensive inspection of our program across all five component commands and all six geographic areas.” The email further emphasized,

Military law enforcement continues to be one of the primary tools to combat this illegal activity. . . Leads from this [Korea-wide Crime Stoppers] Hotline and any other leads are being followed up and provided to the Armed Forces Disciplinary Control Board and other appropriate agencies for action. We have currently designated 661 establishments as off-limits throughout Korea.

COOPERATIVE AGREEMENTS WITH KOREAN AUTHORITIES

As indicated in National Security Presidential Directive–22, programs to combat human trafficking involve the efforts of numerous Government agencies and must include “diplomatic engagement” and efforts toward “obtaining international cooperation.” Accordingly, we recommended that General LaPorte explore opportunities to “fully engage ROK [Republic of Korea] and NGO assets,” noting that the Chairman of the Korean Commission on Corruption offered to consider any whistle blower allegations of human trafficking corruption.

In his letter to Congressman Smith of April 4, 2003, General LaPorte reported a number of initiatives to expand cooperation between Korean government authorities and military activities with respect to human trafficking. Among them:

- Fifteen new direct telephone lines were installed between Korean National Police (KNP) and USFK police stations “to facilitate coordination in these areas with Korean authorities.”
- A U.S. commander and local Korean authorities issued a joint policy statement stating their “mutual resolve to address any problems of prostitution and human trafficking in the entertainment district adjacent to Camp Casey.”
- At the request of USFK, “the KNP Superintendent directed a 60–day investigation of prostitution in the vicinity of U.S. military installations. . . . the KNP has closed numerous establishments and prosecuted a number of people.”

- On at least three occasions, the KNP Senior Superintendent of Women and Juvenile Affairs visited entertainment districts to “gather information on the working conditions and to inform the women of their rights, offer opportunities to return to their respective homelands, and distribute information on how to report illegal activities. With the information learned, the South Korean government changed its visa policies and placed greater emphasis on protecting the rights of foreign workers in the entertainment area.”

DISCUSSION

We are convinced that USFK has taken strong and effective action, not only to change the military culture that generated the type of comments by service members that were featured in the Fox News video but also, and more significantly, to reduce both the demand for and supply of off-base establishments that profit from human trafficking. These efforts demonstrate a commitment on the part of USFK leadership to comply with NSPD-22, as well as to satisfy its statutory duty under Title 10, United States Code, to “guard against and suppress all dissolute and immoral practices.”

The USFK education program for service members serving in Korea relating to issues of illegal prostitution and human trafficking was already strong, as noted above. The command’s improvements of the program based on our recommendations further strengthened it. Among these improvements were integration of elements from the Presidential Directive and congressional “Exemplary Conduct” amendments to Title 10 into instructional content. The addition of instruction on indicators of illegal activity and information about the inter relationships between prostitution and human trafficking further deepens the curriculum and enhances its effectiveness. Finally, we believe that the renewed emphasis on both initial and refresher instruction will keep human trafficking issues in the forefront and ensure continued focus on the problem by all USFK personnel.

The USFK program to enhance off-duty and housing facilities attacks human trafficking from the demand side and supplements the educational initiative. Further, we consider this program, with its long-term dedication of funds and effort, as a strong indication of long-term commitment by USFK leadership to the fight against human trafficking.

Finally, the enhancement of policing efforts, by U.S. Forces alone and in coordination with host nation and international elements, is the most visible and potentially effective aspect of USAF initiative. General LaPorte has provided the requisite command emphasis in a “top down” effort by issuing policy pronouncements (both unilaterally and jointly with Korean authorities) and, most importantly, by following up these pronouncements by providing instructions and means to police authorities and other USFK personnel to report human trafficking information. USFK affirmative acts, including placing establishments off-limits, coordinating with Korean authorities in prosecution of offenders, and involving all interested parties in oversight of the anti-human trafficking effort, further affirm the command’s commitment.

V. CONCLUSION

While some deficiencies existed in DOD efforts to combat human trafficking in Korea, USFK leadership has acted boldly and pro actively to remedy these deficiencies and implement forceful and effective anti-human trafficking measures. These measures are consistent with the requirement for exemplary conduct imposed on all “commanding officers and others in authority” by Title 10, U.S. Code Sections 3583, 5947, and 8583, and

demonstrate a firm commitment to the “abolitionist approach to trafficking in persons” that underlies national policy set forth by NSPD–22.

In that regard, the education and training programs implemented by USFK not only provide information concerning the legal and societal implications of patronizing establishments that engage in human trafficking, but appeal to “core values” that must form the basis for moral decision making among service members. By approaching the human trafficking issues in that manner, USFK commanders and others in authority satisfy their responsibility to “guard against and suppress all dissolute and immoral practices.”

Similarly, the employment of the “off-limits” process to reduce profitability of offending establishments and USFK efforts to increase cooperation with local authorities are on-target responses to NSPD–22, which calls for “using law enforcement efforts, diplomacy, and all other appropriate tools” in the attack against human trafficking. The success of USFK leadership in engaging local authorities by installing new direct telephone lines between Korean and U.S. law enforcement authorities, issuing joint policy statements, and facilitating Korean inspections and investigations recognizes that the United States, working alone, cannot solve this global problem.

By encouraging, assisting, and guiding the efforts of Korean authorities, the USFK leadership has set the example for other overseas commanders who may encounter the impact of human trafficking in their theaters of operation. The long term continuation of such efforts will ensure that actual or perceived DOD complicity in human trafficking is eliminated.

VI. RECOMMENDATION

We recommend USFK leadership from top down continue to proactively pursue ongoing efforts to combat human trafficking.

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 widespread 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 offlimits 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

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. e 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 President’s “zero tolerance” policy on human trafficking.

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 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:

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."

- 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 offlimits, 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 offlimits to U.S. personnel and to encourage local authorities to enforce local sanctions on human trafficking activities. The obvious step of placing local establishments offlimits 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.
- 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 peace-keeping 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.

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.

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 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.

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

- 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

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."

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.

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 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 Herzegovina [DMH1].”

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.

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 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.

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.

- 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 wellbeing, 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 firsthand 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 “offlimits” 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 offlimits establishment lists in Bosnia and Kosovo respectively. Since military members are already constrained by the unique and strict walking out policies, the offlimits 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 offlimits 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

¹¹ Threat level Alpha is the highest level of threat.

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 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 on 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 offlimits 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 offlimits 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 in-

volving illegal prostitution, human trafficking, or being in offlimits 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 offlimits 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. 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

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

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."

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 offlimits by cognizant authorities. As of April 1, 2003, the United Nations had placed 203 establishments offlimits 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 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.

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.

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.

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 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.

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.

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 United States at their own expense before the investigation could be completed.

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.
- 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.

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).

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 widespread 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 offlimits 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 offlimits, (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

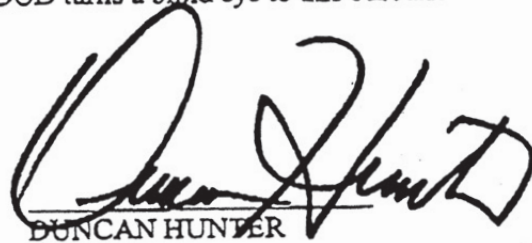
become an integral part of DOD policy and leadership development for all military and contract personnel. We were very surprised to learn that such training was not already a part of DOD curriculum.

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.

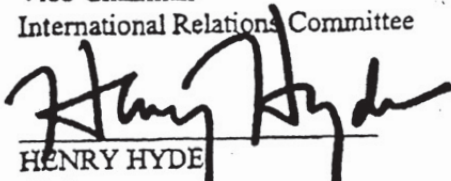
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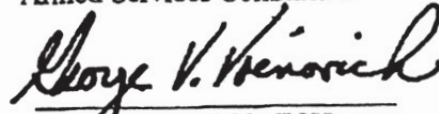
CHRISTOPHER SMITH
Vice-Chairman
International Relations Committee



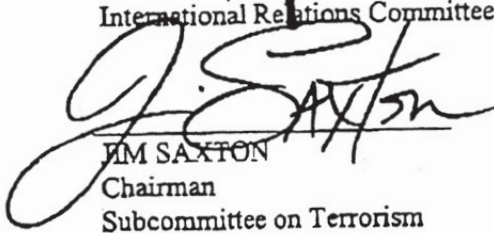
DUNCAN HUNTER
Chairman
Armed Services Committee



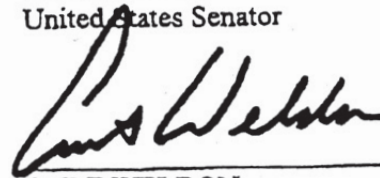
HENRY HYDE
Chairman
International Relations Committee



GEORGE VOINOVICH
United States Senator



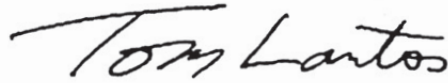
JIM SAXTON
Chairman
Subcommittee on Terrorism



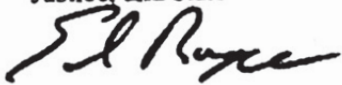
CURT WELDON
Chairman
Subcommittee on Tactical, Air,
and Land Forces



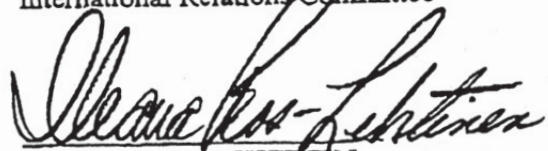
FRANK WOLF
Chairman
Subcommittee on Commerce,
Justice, and State



TOM LANTOS
Ranking Member
International Relations Committee




ED ROYCE
Chairman
Subcommittee on Africa



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

Secretary Rumsfeld Letter
Page 3


JOSEPH PITTS
Member of Congress


CASS BALLENGER
Chairman
Subcommittee on the Western Hemisphere



TOM TANCREDO
Member of Congress

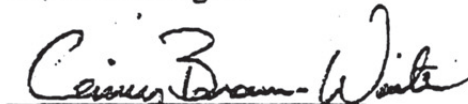

DAVE WELDON
Member of Congress


MIKE PENCE
Member of Congress


ROBERT ADERHOLT
Member of Congress

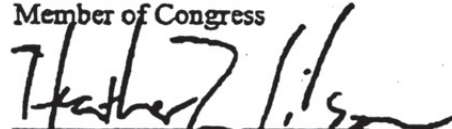

JO ANN DAVIS
Member of Congress


JIM RYUN
Member of Congress


GINNY BROWN-WAITE
Member of Congress


TODD AKIN
Member of Congress



SCOTT GARRETT
Member of Congress


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

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Attachment A

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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,

//SIGNED//

CHRISTOPHER SMITH
Vice-chairman
International Relations Committee

//SIGNED//

DUNCAN HUNTER
Chairman
Armed Services Committee

//SIGNED//

HENRY HYDE
Chairman
International Relations Committee

//SIGNED//

GEORGE VOINOVICH
United States Senator

//SIGNED//

JIM SAXTON
Chairman
Subcommittee on Terrorism

//SIGNED//

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

//SIGNED//

FRANK WOLF
Chairman
Subcommittee on Commerce,

//SIGNED//

TOM LANTOS
Ranking Member
International Relations Committee

//SIGNED//

ED ROYCE
Chairman
Subcommittee on Africa

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

Secretary Rumsfeld Letter
Page 3

//SIGNED//

JOSEPH PITTS
Member of Congress

//SIGNED//

CASS BALLENGER
Chairman
Subcommittee on the Western
Hemisphere

//SIGNED//

TOM TANDREDO
Member of Congress

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Member of Congress

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Member of Congress

//SIGNED//

COLLIN PETERSON
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

**ATTACHMENT B.—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. §§ 261–3267). 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.

**MATERIALS SUBMITTED FOR THE RECORD
BY JOSEPH E. SCHMITZ, INSPECTOR GENERAL,
U.S. DEPARTMENT OF DEFENSE**

**“INSPECTING SEX SLAVERY
THROUGH THE FOG OF MORAL RELATIVISM”**

**BY JOSEPH E. SCHMITZ, INSPECTOR GENERAL,
U.S. DEPARTMENT OF DEFENSE**

An enemy of the United States Constitution gnaws at the good order and discipline of the American Armed Forces and, by extension, of the entire Western Alliance. This enemy answers to the name *moral relativism*, feeding on the side of human nature that would turn a blind eye to moral truths, as in “We hold these truths to be self-evident,”¹

PROLOGUE

One might ask why, in the midst of the Global War on Terrorism, even as deployed American soldiers are dying in Afghanistan and Iraq, the President of the United States would devote almost one fifth of his speech to the United Nations General Assembly to the subject of human trafficking—also known as “Trafficking in Persons,” “TIP,” or in its most common form, “sex slavery.”² One answer might be the connection between human traffickers and the arms traffickers supporting the terrorists who are killing our soldiers.³ A more fundamental answer might be that challenges of modern-day Human Slavery force us to focus on “first things first,” *i.e.*, the principles worth fighting for, in order that we might better focus on the “second things,” which include survival.

“[T]he principle of ‘first and second things,’ as C. S. Lewis calls it . . . [is] that when second things are put first, not only first things but second things too are lost. More exactly, when there are greater goods, or ultimate ends and proximate ends, if we put lesser goods, like survival, before greater goods, like values to survive for, then we lose not only the greater goods, the values, but even the lesser goods that we’ve idolized . . . [T]he society that believes in nothing worth surviving for beyond mere survival will not survive.”⁴

In a transparent society based upon the rule of law,⁵ all man-made laws must first be both prescribed and promulgated before they can be enforced.⁶ This article highlights a joint, global, and continuing Inspector General success story in helping military commanders throughout the world better to promulgate and to enforce laws against human trafficking.

I. DOMESTIC ENEMY NUMBER ONE: MORAL RELATIVISM

A year after the terrorist attacks on the World Trade Center and the Pentagon, immediately after the Pentagon ceremony honoring “America’s Heroes Lost September 11, 2001,” I had the honor of escorting Dr. Henry Kissinger through the Pentagon to his waiting car. As we walked, I mentioned to Dr. Kissinger that I had recently queried one of his

mentors, Dr. Fritz G. A. Kraemer,⁷ for nearly thirty years a senior Pentagon advisor, about what Dr. Kraemer thought was the most dangerous “domestic enemy to the United States Constitution.” Dr. Kraemer had unhesitatingly answered, “Relativism”; and upon hearing this, Dr. Kissinger unhesitatingly replied, “I agree.”

Moral relativism, for purposes of this article, is the rejection of absolute, principle-based moral values.⁸ As explained below, moral relativism is inconsistent with foundational principles and enduring core values of the United States of America. Moreover, both moral relativism and its practical manifestations vis-à-vis human trafficking are antithetical to the foundational principles and enduring shared values of the ever-expanding Western Alliance.⁹

The success thus far in the aforementioned joint, global, and continuing inspection of sex slavery has been made possible only by leaders throughout the Department of Defense understanding—and rejecting—moral relativism. The story itself began on May 31, 2002, with a letter from Congressman Christopher Smith and twelve other Members of Congress to Secretary of Defense Donald Rumsfeld, requesting a “thorough, global and extensive” investigation into publicized allegations of U.S. Military complicity in sex trafficking.¹⁰

In the course of subsequent inspections in Korea, Bosnia-Herzegovina, and Kosovo, the “lessons learned” thus far include: (1) among the root causes of the recent resurgence of human trafficking, aside from the obvious profit motive of organized criminals, is a general reluctance of leaders at all levels to promulgate and to enforce principle-based standards for subordinates who create the demand for prostitution generally, and for sex slavery specifically; and (2) whenever leaders, especially those of us who swear to “support and defend the Constitution of the United States,”¹¹ become aware of humans being referred to as “just” something else (*e.g.*, “they’re just prostitutes,” as discussed below), we ought never to turn a blind eye.

II. KNOW THY ENEMY¹²

Our forefathers were well-schooled in Blackstone’s Commentaries on the Laws of England, the most definitive legal treatise at the time of the American Revolution. In his Commentaries, Blackstone explained the “Nature of Law” in terms antithetic to moral relativism:

Man, considered as a creature, must necessarily be subject to the laws of his creator, [who] has laid down only such laws as were founded in those relations of justice, that existed in the nature of things antecedent to any positive precept. These are the eternal, *immutable laws of good and evil*, to which the creator himself in all his dispensations conforms; and which he has enabled human reason to discover, so far as they are necessary for the conduct of human actions. Such among others are these principles: that we should live honestly, should hurt nobody, and should render to every one it’s due; to which three general precepts Justinian has reduced the whole doctrine of law.¹³

Even before the Declaration of Independence, John Adams had embedded within our country’s earliest laws the aspirational standard that no American leader should ever turn a blind eye to human practices inconsistent with these “immutable laws of good and

evil,”¹⁴ notwithstanding the fog of moral relativism that typically surrounds human practices that are objectively immoral.

Article 1 of the 1775 “Rules for the Regulation of the Navy of the United Colonies of North America,” drafted by John Adams and enacted by the Continental Congress, reads in its entirety:

“The Commanders of all ships and vessels belonging to the THIRTEEN UNITED COLONIES, are strictly required to shew in themselves a good example of honor and virtue to their officers and men, and to be very vigilant in inspecting the behaviour of all such as are under them, and to discountenance and suppress all dissolute, immoral and disorderly practices; and also, such as are contrary to the rules of discipline and obedience, and to correct those who are guilty of the same according to the usage of the sea.”¹⁵

In 1798, the same founding father who had drafted the 1775 Naval leadership standard admonished American military officers that “Oaths in this country are as yet universally considered as sacred obligations,”¹⁶ warning that “Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other.”¹⁷

A century later, shortly after the Civil War, the United States Supreme Court sustained the court martial of an Army Captain “related to the incurring by the accused of debts” when “the circumstances under which the debts were contracted and not paid were such as to render the claimant amenable to the charge” of “conduct unbecoming an officer and a gentleman.”¹⁸ In the same case, the Court of Claims had explained, “We learnt as law students in Blackstone that there are things which are *malum in se* and, in addition to them, things which are merely *malum prohibitum*; but unhappily in the affairs of real life we find that there are many things which are *malum in se* without likewise being *malum prohibitum*. In military life there is a higher code termed honor, which holds its society to stricter accountability; and it is not desirable that the standard of the Army shall come down to the requirements of a criminal code.”¹⁹

In the following century, during the Vietnam War, the United States Supreme Court upheld the constitutionality of the “general articles” of the Uniform Code of Military Justice (UCMJ), which proscribe, *inter alia*, “all disorders and neglects to the prejudice of the good order and discipline in the armed forces.”²⁰ The Supreme Court reviewed the history of the UCMJ’s general articles, tracing them back to 17th Century “British antecedents of our military law”²¹ and through the United States Supreme Court’s own precedent of the 19th Century.²²

In a 1974 concurring opinion, the Supreme Court described “[r]elativistic notions of right and wrong” (*i.e.*, moral relativism) as antithetical to the principle of military necessity:

Fundamental concepts of right and wrong are the same now as they were under the Articles of the Earl of Essex (1642), or the British Articles of War of 1765, or the American Articles of War of 1775, or during the long line of precedents of this and other courts upholding the general articles. And, however unfortunate it may be, it is still necessary to maintain a disciplined and obedient fighting force. ... The general articles are essential not only to punish patently criminal conduct, but also to foster an orderly and dutiful fighting force. ... Relativistic

notions of right and wrong, or situation ethics, as some call it, have achieved in recent times a disturbingly high level of prominence in this country, both in the guise of law reform, and as a justification of conduct that persons would normally eschew as immoral and even illegal. The truth is that the moral horizons of the American people are not footloose, ...²³

Subsequently, in the midst of the Cold War between the Western Alliance and the Soviet Union, the Commander-in-Chief of the United States shared with Members of the British House of Commons his vision for leaving “Marxism-Leninism on the ash heap of history”—based on underlying assumptions antithetical to *moral relativism*: “given strong leadership, time, and a little bit of hope, the forces of good ultimately rally and triumph over evil . . . Here is the enduring greatness of the British contribution to mankind, the great civilized ideas: individual liberty, representative government, and the rule of law under God.”²⁴

Shortly after the Cold War concluded in Europe, the Polish-born Roman Pontiff, speaking in Baltimore, Maryland, likewise urged every generation of Americans to acknowledge “the moral truths which make freedom possible,” starting with those “truths” acknowledged in our Declaration of Independence and reiterated in the Gettysburg Address.²⁵ This enduring American and profoundly Western concept of “moral truths” simply cannot be squared with moral (or ethical) models that reject immutable “concepts of right and wrong.”²⁶

More recently, in the aftermath of various sexual misconduct scandals of the 1990’s, the United States Congress reenacted for leaders of all three military departments (Army, Navy, and Air Force) the same “exemplary conduct” leadership standard enacted by our Continental Congress as Article I of the 1775 Navy Regulations,²⁷ thereby reaffirming “a very clear standard by which Congress and the nation can measure officers of our military services.”²⁸ Title 10 of the United States Code thus still incorporates the principle-based substance of John Adams’ 1775 leadership standard: “All commanding officers and others in authority . . . are required to show in themselves a good example of virtue, honor, patriotism, and subordination; . . . to guard against and suppress all dissolute and immoral practices, and to correct . . . all persons who are guilty of them.”²⁹

These long-standing and principle-based moral pronouncements by Congress exemplify the reality that duly-enacted laws in our republic are the societal analog to an individual’s conscience.³⁰ In the Anglo-American tradition, our national legislatures prescribe the national conscience through public laws, legislating what is right and what is wrong for the nation, *i.e.*, what choices we ought and ought not to make.³¹ Of course, as with any individual conscience formation process, there is always the possibility that this societal conscience be mis-formed, *i.e.*, inconsistent with a higher law.³² Also, as with the relationship between individual conscience and individual behavior, this societal conscience formation process is distinct from, yet integrally related to, both the promulgation and the enforcement processes.

III. THE NEED TO PROMULGATE AND ENFORCE LAWS AGAINST SEX SLAVERY

The inviolable moral truth about human trafficking and its associated underworld activities is that these practices are affronts to human dignity. Regardless of any alleged consent by the parties involved, these activities: debase human beings and suppress human freedom; compromise unalienable rights to liberty and the pursuit of happiness; constitute immoral practices proscribed (and prescribed) by Congress; and undermine both our internal and international security.

Notwithstanding anti-trafficking laws enacted by Congress and general agreement among U.S. and Western leaders that sex slavery is repugnant to our core values, both actual and apparent complicity in sex slavery unfortunately still happens. Recent inspections have validated at least the appearance of such complicity, albeit as exceptions to the general rule, within segments of the United States Armed Forces and among some U.S. contractors.³³ Moreover, there remains a general reluctance on the part of military leaders both to promulgate and to enforce principle-based standards for subordinates who create the demand for prostitution generally, and for sex slavery specifically.

Shortly after Congressman Chris Smith, Co-Chairman of the Commission on Security and Cooperation in Europe, and twelve of his congressional colleagues had expressed concerns about media reports that U.S. military personnel in South Korea were engaged in activities that promote and facilitate the trafficking and exploitation of women,³⁴ the Secretary of the Army personally called the Department of Defense Inspector General to request assistance in responding to the May 31, 2002, congressional inquiry. The Army Secretary already had mobilized a team of Army Inspectors General who had initiated a Human Trafficking Assessment Project within United States Forces Korea (USFK). The Secretary explained, however, that the Members of Congress expect the project to be “joint and global,” which meant that the Army Inspector General team, as able and engaged as it was, could not fully respond to the congressional concerns.

Phase I: Korea

Before inspecting on the ground in Korea, our “joint and global” inspection team met with various experts in Washington, D.C., and with international anti-trafficking advocates, including the sponsor of anti-trafficking legislation in the Russian Duma. The Russian legislative sponsor expressed little hope in the success of her proposed legislation because, as she explained through a translator, “like most Russian men, the attitude of almost all my brethren in the Duma is that, “They’re just prostitutes.” Unfortunately, our subsequent inspection validated that the Russian Duma holds no monopoly on this moral relativist attitude.³⁵

As our joint IG team inspected the establishments of Seoul’s *Itaewon* district, it was self-evident not only to our seasoned inspectors—but, more importantly, to our young U.S. Army military police escorts—that the entertainers in the brothels and on the various bar stages of *Itaewon* are not “just prostitutes”; they are human beings first, “endowed by their Creator with certain unalienable Rights, . . . among [which] are Life, Liberty and the pursuit of Happiness.”³⁶

According to some Korean officials, most Russian entertainers on “Hooker Hill” and elsewhere in Korea consent to their employment status. According to our Army MP escorts, however, the contracts for these Russian entertainers are sold weekly from one establishment to another. When I asked one of the MPs if he would like to do something

about this blatant human trafficking, he unhesitatingly responded in the affirmative, but then added that it was beyond his control. The young soldier was obviously waiting for a signal from the chain-of-command that would empower him to combat this affront to human dignity that, to him, seemed morally wrong. Unbeknownst to this soldier, the top of his USFK chain of command had already sent the signal. It just hadn't made it down to his level—yet.

The next weekend, two teams of U.S. Army military police took on *Itaewon's* Hooker Hill, leaving 29 entertainment establishments off limits to American GIs³⁷—and, if nothing else, sending a strong, principle-based moral message throughout the entire USFK chain of command that turning a blind eye to sex slavery is not an option.³⁸

Shortly thereafter, our first Inspector General report identified several opportunities to build on the aggressive efforts taken by USFK leadership to combat human trafficking.³⁹ In response to our Phase I report, twenty-six Members of Congress, including most of those who had signed the original letter, signed a second letter to the Secretary of Defense, dated October 10, 2003, concluding with the following admonition: “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.”⁴⁰

Phase II: Bosnia-Herzegovina and Kosovo

Even before completing our assessment in Korea, we had turned our attention to the European theater, specifically to various publicized indicators that human trafficking was becoming a growing menace in Bosnia-Herzegovina and Kosovo. In this second phase, we undertook to determine the extent to which commanding officers and others in authority were being “vigilant in inspecting the conduct of all persons who are placed under their command”⁴¹ and otherwise suppressing human trafficking; and whether any U.S. service members, civilian employees, or contractors assigned to or affiliated with NATO peacekeeping forces were engaged in activities that promoted, facilitated, or even turned a blind eye to the trafficking and exploitation of women and children.

In a speech to the United Nations General Assembly on September 23, 2003, President George W. Bush identified human trafficking as a “special evil,” publicly rejecting moral relativism by reminding us all that the “founding documents of the United Nations and the founding documents of America . . . assert that human beings should never be reduced to objects of power or commerce, because their dignity is inherent. Both . . . recognize a moral law that stands above men and nations, which must be defended and enforced by men and nations.”⁴²

Four months later, as a result of our recently completed Phase II Inspector General report and recommendations,⁴³ the Deputy Secretary of Defense promulgated the Commander-in-Chief's “zero tolerance” policy on human trafficking throughout the Department of Defense: “The responsibilities of commanders and supervisors at all levels are clear, as codified by Congress under Title 10. Those statutory provisions require commanders and others in authority ‘to be vigilant inspecting the conduct of all persons who are placed under their command; to guard against and suppress all dissolute and immoral practices, and to correct . . . all persons who are guilty of them.’ Efforts to combat trafficking in persons in DoD begin with the recognition that all commanding officers and other DoD officers and employees in positions of authority are expected to conduct themselves in a manner that is consistent with statutory requirements for exemplary conduct.”⁴⁴

Subsequently, on March 4, 2004, the United States Army – Europe (“USAREUR”) stated that it “is committed to prevention of human trafficking” and reported that it “has made significant progress” in implementing recommendations in the Phase II Inspector General Report.⁴⁵ USAREUR reported that it has taken specific action within its command to:

- prohibit “engaging in any activities associated with human trafficking”;
- “implement training programs and education to reduce or prevent involvement in human trafficking”; and
- review contracts with U.S. and local contractors to insure incorporation of “standard clauses...for work to be performed in Bosnia-Herzegovina and Kosovo that prohibit contractor employee involvement in activities that may support human trafficking” and to insure that such contractual language is enforced on a continuing basis.⁴⁶

Phase III: Building Upon Successes in Korea, Bosnia-Herzegovina, and Kosovo

Parallel and consistent with ongoing U.S. anti-trafficking efforts, including but not limited to those Department of Defense activities described above, the North Atlantic Treaty Organization (“NATO”) circulated a final draft NATO policy document on May 21, 2004, reaffirming that human trafficking constitutes a “serious abuse of human rights, especially affecting women and children,” while at the same time announcing a “zero tolerance policy” by “NATO forces and staff.”⁴⁷ NATO is cooperating with international institutions such as the United Nations and with non-governmental organizations in furtherance of this zero tolerance policy.⁴⁸ Most NATO nations have indicated a commitment to insure full national implementation of the zero tolerance policy regarding human trafficking.⁴⁹

Finally, on September 16, 2004, Secretary of Defense Donald Rumsfeld issued a one page Memorandum on “Combating Trafficking in Persons,” in which he expressed his own “view on this important matter to augment the [Deputy Secretary’s] January 30, 2004 memo on this subject.”⁵⁰ Secretary Rumsfeld admonished, *inter alia*, that “No leader in this department should turn a blind eye to this issue,” urging commanders to “be vigilant” and “make full use of all tools available, including DoD Inspectors General and criminal investigative organizations, to combat these prohibited activities.”⁵¹ Secretary Rumsfeld’s bottom line: “I am committed to taking every step possible to combat Trafficking in Persons.”⁵²

Whatever else one might say about sex slavery in the 21st Century, these recent proactive measures taken by U.S. and Western leaders reaffirm the “moral truth” that prostitution and human trafficking fall within those “dissolute and immoral practices” envisioned by our Continental Congress when it prescribed a duty to “guard against and suppress” such practices through, *inter alia*, vigilance by leaders in “inspecting the conduct of all persons who are placed under their command.”⁵³ With this in mind, various cadres of independent and objective professional inspectors throughout the U.S. Department of Defense—and presumably throughout its allies who share our commitment to principles such as “individual liberty, representative government, and the rule of law under God”⁵⁴—stand ready to assist operational leaders in fulfilling this vigilant inspection duty and otherwise to promote accountability according to “a moral law that stands above men and nations, which must be defended and enforced by men and nations.”⁵⁵

IV. CONCLUSION

Although volumes could be written about the reprehensible nature of sex slavery and other forms of human trafficking, and how moral relativism contributes to the challenges of inspecting and meeting related leadership challenges, at least five points warrant emphasis:

- (1) Moral relativism is an enemy of the United States Constitution;
- (2) The President of the United States has identified 21st Century sex slavery as “a special evil” under “a moral law that stands above men and nations”⁵⁶;
- (3) Military leaders at all levels need robustly to promulgate and to enforce principle-based standards for subordinates who create the demand for prostitution generally, and for sex slavery;
- (4) American and other “Western” leaders ought “to be vigilant inspecting the conduct of all persons who are placed under their command; to guard against and suppress all dissolute and immoral practices, and to correct . . . all persons who are guilty of them”⁵⁷—in this regard, ostensible consent by the parties to immoral practices such as prostitution and sex slavery ought never to be an excuse for turning a blind eye; and
- (5) Even as we confront the new asymmetric enemies of the 21st Century, those of us who take an oath to defend the Constitution of the United States (and similar principle-based legal authorities) should recognize, confront, and suppress sexual slavery and other “dissolute and immoral practices” whenever and wherever they raise their ugly heads through the fog of moral relativism—“so help [us] God.”⁵⁸

ENDNOTES

- ¹ Declaration of Independence (July 4, 1776) (“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. . .”).
- ² See George W. Bush, “President Bush Addresses United Nations General Assembly,” September 23, 2003 (“an estimated 800,000 to 900,000 human beings are bought, sold or forced across the world’s borders . . . generat[ing] billions of dollars each year—much of which is used to finance organized crime”); see also “Findings,” VICTIMS OF TRAFFICKING AND VIOLENCE PROTECTION ACT OF 2000, Section 102(b)(1) (“Approximately 50,000 women and children are trafficked into the United States each year.”); Trafficking Victims Protection Reauthorization Act of 2003 (see <<http://www.state.gov/documents/organization/28225.pdf>>; Executive Order Amending Executive Order 13257 to Implement the Trafficking Victims Protection Reauthorization Act of 2003, March 18, 2004 <<http://www.whitehouse.gov/news/releases/2004/03/20040318-7.html>>
- ³ See United States Department of State, “Trafficking in Persons Report,” p. 14 (June 2004) (“Trafficking Fuels Organized Crime. . . According to the UN, human trafficking is the third largest criminal enterprise worldwide, generating an estimated 9.5 billion USD in annual revenue according to the U.S. intelligence community. . . . There have also been documented ties to terrorism.”).
- ⁴ Peter Kreeft, *A Refutation of Moral Relativism: Interviews With An Absolutists*, p. 133 (Ignatius Press 1999); see C.S. Lewis, “Time and Tide,” reprinted in *GOD IN THE DOCK* (1942) (“You can’t get second things by putting them first; you can get second things only by putting first things first. . . . Civilizations have pursued a host of different values in the past: God’s Will, honour, virtues, empire, ritual, glory, mysticism, knowledge. The first and most practical question for ours is to raise the question, to care about the summum bonum, to have something to live for and to die for, lest we die.”).
- ⁵ In *Marbury v. Madison*, the bedrock United States Supreme Court case establishing the principle of judicial review, Chief Justice John Marshall wrote, “The government of the United States has been emphatically termed a government of laws, and not of men.” 5 U.S. (1 Cranch) 137, 163 (1803).
- ⁶ See William Blackstone, *I COMMENTARIES ON THE LAWS OF ENGLAND*, pp. 44–46 (1765) (All “municipal or civil law . . . is likewise ‘a rule *prescribed*.’ Because a bare resolution, confined to the breast of the

legislator, without manifesting itself by some external sign, can never be properly a law. It is requisite that this resolution be notified to the people who are to obey it. ... [W]hatever what is made use of, it is incumbent upon the promulgators to do it in the most public and perspicuous manner; not like Caligula, who (according to Dio Cassius) wrote his laws in very small character, and hung them up upon high pillars, the more effectually to ensnare the people.”).

- 7 At the October 8, 2003, Arlington National Cemetery funeral of Fritz Kraemer, Dr. Kissinger was one of three eulogists. See Hodgson, “Fritz Kraemer: Brilliant geopolitical strategist who launched Henry Kissinger’s rise to power,” *The Guardian*, November 12, 2003. <<http://www.guardian.co.uk/usa/story/0,12271,1083074,00.html>>
- 8 See *THE CAMBRIDGE DICTIONARY OF PHILOSOPHY*, p. 690 (Robert Audi, General Editor, 1995) (“relativism, the denial that there are certain kinds of universal truths”); Kreeft, *A REFUTATION OF MORAL RELATIVISM*, *supra*, at 28–29 (Ignatius Press 1999) (“Relativism is the philosophy that denies absolutes. Any absolutes. Everyone believes there are many relativities, that some things are relative; but relativism claims that all things are relative. ... [M]oral relativism says, ‘Perhaps there are absolutes in non-moral knowledge, like ‘two plus two makes four’, but not in moral knowledge: we know no moral absolutes.’”).
- 9 For example, eleven republics and/or satellite states of the former Soviet Union have recently become members of the North Atlantic Treaty Organization (NATO): The German Democratic Republic (East Germany), Hungary, Poland, the Czech Republic; Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia.
- 10 Congressman Smith is the Co-Chairman of the Commission on Security and Cooperation in Europe. His congressional co-signers were: George Voinovich; Frank Wolf; Dennis Kucinich; Steny Hoyer; Tom Lantos; Robert Aderholt; Joe Pitts; Melissa Hart; Mike Pence; Marcy Kaptur; Cynthia McKinney; and Diane Watson.
- 11 5 U.S.C. § 3331 (“An individual ... elected or appointed to an office of honor or profit in the civil service or uniformed services, shall take the following oath: ‘I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.’”).
- 12 See Sun Tzu, *THE ART OF WAR* (“If you know the enemy and know yourself, you need not fear the result of a hundred battles. If you know yourself but not the enemy, for every victory gained you will also suffer a defeat. If you know neither the enemy nor yourself, you will succumb in every battle.”) <<http://classics.mit.edu/Tzu/artwar.html>>
- 13 Blackstone’s Commentaries, *supra*, pp. 39–40 (emphasis added; footnote citation omitted).
- 14 *Id.*; see Rules for the Regulation of the Navy of the United Colonies of North America,” *supra*, Article 1.
- 15 Continental Congress, “Rules for the Regulation of the Navy of the United Colonies of North America” (28 November 1775), Article 1 (www.history.navy.mil).
- 16 J. Adams, Oct. 11, 1798, Letter “to the Officers of the First Brigade of the Third Division of the Militia of Massachusetts,” in *THE WORKS OF JOHN ADAMS—SECOND PRESIDENT OF THE UNITED STATES*, Vol. IX, p. 229 (C.F. Adams, ed. 1854).
- 17 *Id.*; cf. *Church of the Holy Trinity v. United States*, 143 U.S. 457, 468 (1892) (“Every constitution of every one of the forty-four States contains language which either directly or by clear implication recognizes a profound reverence for religion and an assumption that its influence in all human affairs is essential to the well being of the community.”); James H. Hutson, *RELIGION AND THE FOUNDING OF THE AMERICAN REPUBLIC*, pp. 57–58 (Library of Congress 1998) (At the time immediately after the American Revolution, “It appears that both the politicians and the public held an unarticulated conviction that it was the duty of the national government to support religion, that it had an inherent power to do so, as long as it acted in a nonsectarian way without appropriating public money.... This conviction—that holiness was a prerequisite for secular happiness, that religion was, in the words of the Northwest Ordinance, ‘necessary to good government and the happiness of mankind,’ was not the least of the Confederation’s legacies to the new republican era that began with Washington’s inauguration in 1789.”); Peter Kreeft, *A REFUTATION OF MORAL RELATIVISM*, *supra*, p. 162 (“[E]ven in a secular society like America it’s still true that religion is the firmest support for morality. There has never been a popular secular morality that’s lasted and worked in holding a society together. Society has always needed morality, and morality has always needed religion. Destroy religion, you destroy morality; destroy morality, you destroy society. That’s history’s bottom line.”).

- ¹⁸ *United States v. Fletcher*, 148 U.S. 84, 91–92 (1893).
- ¹⁹ *Fletcher v. United States*, 26 Ct. Cl. 541, 562–63 (1891), quoted with approbation in *Parker v. Levy*, 417 U.S. 733, 765 (1974) (Blackmun, J., joined by Burger, C.J., concurring).
- ²⁰ *Parker v. Levy*, 417 U.S. at 738 (quoting and citing Article 134 of the UCMJ, 10 U.S.C. § 934).
- ²¹ *Id.* at 745.
- ²² *Id.* at 745–49.
- ²³ *Id.* at 765 (Blackmun, J., joined by Burger, C.J., concurring).
- ²⁴ Ronald Reagan, “Speech to the House of Commons,” June 18, 1982. <www.fordham.edu/halsall/mod/1982reagan1.html>
- ²⁵ John Paul II, “Homily in Orioles Park at Camden Yards,” ¶7 (October 8, 1995) <<http://www.catholicforum.com/saints/pope0264is.htm>>
- ²⁶ *Parker v. Levy*, *supra*, 417 U.S. at 765; see John Paul II, *Veritatis Splendor*, ¶¶1&101 (1993) <http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_06081993_veritatis-splendor_en.html> (“As a result of that mysterious original sin, . . . giving himself over to relativism and skepticism, [man] goes off in search of an illusory freedom apart from truth itself. . . . Indeed, ‘if there is no ultimate truth to guide and direct political activity, then ideas and convictions can easily be manipulated for reasons of power. As history demonstrates, a democracy without values easily turns into open or thinly disguised totalitarianism.’” (footnote and citation omitted)).
- ²⁷ See 10 U.S.C. §§ 3583, 5947, & 8583 (same “exemplary conduct” leadership standard for all “commanding officers and others in authority” in the Army, Naval Services and Air Force respectively).
- ²⁸ Senate Armed Services Committee, “National Defense Authorization Act for Fiscal Year 1998” (Report to Accompany S. 924), p. 277, quoted in the Introduction, “The Declaration of Independence and the Constitution of the United States of America” <<http://www.defenselink.mil/pubs/liberty.pdf>>
- ²⁹ 10 U.S.C. § 5947; see 10 U.S.C. § 3583 (Army) and § 8583 (Air Force); see also 10 U.S.C. § 933 (“Conduct unbecoming an officer and a gentleman”).
- ³⁰ *Cf. Church of the Holy Trinity v. United States*, *supra*, 143 U.S. at 467–70 (“[T]he Declaration of Independence[,] the constitutions of the various States[, and] the Constitution of the United States . . . affirm and reaffirm that this is a religious nation. These are not individual sayings, declarations of private persons; they are organic utterances; they speak the voice of the entire people.”).
- ³¹ See generally Blackstone, *supra*, at 42–44 (describing “human law” as: (a) subordinate to “the law of nature and of revelation”; and (b) “properly defined to be ‘a rule of civil conduct prescribed by the supreme power in a state, commanding what is right and prohibiting what is wrong’”).
- ³² See *id.*
- ³³ Based on the ongoing nature of various activities of the Office of Inspector General, it is not appropriate in this forum to delve further into these validated findings.
- ³⁴ See text accompanying footnote 8, *supra*.
- ³⁵ Inclusion of further anecdotal evidence of this attitude are not included in this article in light of ongoing bilateral and multilateral efforts.
- ³⁶ Declaration of Independence, *supra*.
- ³⁷ See Kirk, “USFK declares 29 bars off-limits,” *Stars and Stripes* at p. 13 (March 22, 2003).
- ³⁸ During a May 2004 return visit to Korea, we validated not only that these establishments are still off limits, but that USFK leadership has on its own taken further proactive measure to reaffirm the message that turning a blind eye to immoral practices is not an option.
- ³⁹ Office of Deputy Inspector General for Investigations, Program Integrity Directorate, “Assessment of DoD Efforts to Combat Trafficking in Persons: Phase I – United States Forces Korea,” July 10, 2003 <<http://www.dodig.osd.mil/AIM/alsd/H03L88433128PhaseI.PDF>>
- ⁴⁰ Along with Congressman Christopher Smith, the following twenty-five Members of Congress co-signed: George Voinovich; Duncan Hunter; Henry Hyde; Jim Saxton; Curt Weldon; Frank Wolf; Tom Lantos; Ed Royce; Ileana Ros-Lehtinen; Joseph Pitts; Cass Ballenger; Tom Tancredo; Dave Weldon; Mike Pence; Robert Aderholt; Jo Ann Davis; Jim Ryun; Ginny Brown-Waite; Todd Akin; Scott Garrett; Heather Wilson; William Lipinski; Mike Ferguson; Collin Peterson; and Elton Gallegly.
- ⁴¹ 10 U.S.C. §§ 3583, 5947, & 8583, *supra*.
- ⁴² “President Bush Addresses United Nations General Assembly,” *supra*.
- ⁴³ Office of Deputy Inspector General for Investigations, Directorate for Investigations of Senior Officials (formerly Program Integrity Directorate), “Assessment of DoD Efforts to Combat Trafficking in Persons: Phase II – Bosnia-Herzegovina and Kosovo,” December 8, 2003 <http://www.dodig.osd.mil/AIM/alsd/HT-Phase_II.pdf>

- ⁴⁴ Paul Wolfowitz, Memorandum for Secretaries of the Military Departments, et al., “Combating Trafficking in Persons in the Department of Defense,” January 30, 2004; *see* “DoD Office of Inspector General Policy on Human Trafficking,” June 16, 2003 (“Human trafficking ... is antithetical to the core values of the Office of Inspector General. We neither condone nor turn a blind eye to it; ... all in authority throughout the OIG shall be vigilant in inspecting the conduct of those placed under them, directly or indirectly, to ensure that this immoral practice is not countenanced in any way.”) <<http://www.dodig.osd.mil/IGInformation/IGPolicy/HumanTrafficking.pdf> >
- ⁴⁵ Memorandum from Department of the Army, “Response to EUCOM [European Command] tasker on USAREUR Efforts to Combat Human Trafficking in the Balkans,” March 4, 2004.
- ⁴⁶ *Id.*
- ⁴⁷ “NATO Policy on Combating Trafficking in Human Beings,” Annex 1, AC/119–N (2004) 0032–Rev4 (Draft), 21 May 2004 08:30, ¶1, 1–1.
- ⁴⁸ *Id.*, at ¶2.
- ⁴⁹ *Id.*, at ¶7, 1–2 (National representatives at the NATO Anti-Trafficking Seminar on March 4, 2004, at NATO Headquarters in Belgium informally affirmed this commitment.).
- ⁵⁰ Donald Rumsfeld, Memorandum for Secretaries of the Military Departments, et al., “Combating Trafficking in Persons,” September 16, 2004.
- ⁵¹ *Id.*
- ⁵² *Id.*
- ⁵³ *See* text accompanying footnotes 27–29, *supra*.
- ⁵⁴ Ronald Reagan, “Speech to the House of Commons,” *supra*; *see* text accompanying footnote 24.
- ⁵⁵ George W. Bush, “President Bush Addresses United Nations General Assembly,” *supra*; *see* text accompanying footnote 2.
- ⁵⁶ *Id.*
- ⁵⁷ 10 U.S.C. § 5947 (statutory Exemplary Conduct standard), *supra*; *see* text accompanying footnotes 27–29.
- ⁵⁸ 5 U.S.C. § 3331 (statutory Oath of Office), *supra*; *see* text accompanying footnote 11.

**PREPARED STATEMENT OF
GENERAL LEON J. LAPORTE,
COMMANDER, UNITED NATIONS COMMAND,
COMMANDER, REPUBLIC OF KOREA-UNITED STATES
COMBINED FORCES COMMAND,
AND COMMANDER, UNITED STATES FORCES KOREA**

Mr. Chairmen and the distinguished members of the committee and commission, I am honored for the opportunity to appear before you as Commander, United Nations Command; Commander, Republic of Korea-United States Combined Forces Command; and Commander, United States Forces Korea.

I am also grateful for yet another opportunity to express to you my pride in leading some of the very best citizens in the United States today. These young men and women, volunteers all, have each chosen a difficult life that has taken them far from home to serve their nation under often difficult conditions. Ninety-two per cent of United States Forces Korea's service members have left their families behind to help secure the enduring liberty of the Republic of Korea, and they continue to build on the foundation established by previous generations of Americans for a peaceful and prosperous region. The overwhelming majority of them embody the very best attributes of our national character, and I am continually impressed by their sacrifices.

In accordance with the Deputy Secretary of Defense's 30 January 2004 memorandum regarding combating trafficking in persons in the Department of Defense, United States Forces Korea has similarly adopted a "Zero Tolerance" approach to human trafficking and vigorously prosecutes any illegal activity on the part of the more than 33,000 Soldiers, Sailors, Airmen, Marines and 5,000 Department of Defense civilians and contract employees currently serving in Korea.

We acknowledge the terrible physical and psychological toll exacted on the victims of prostitution and human trafficking, as well as the corrosive consequences these activities may produce by creating tensions in our unique alliance with the Republic of Korea, financing other criminal enterprises or terrorism, and affecting the combat readiness, good discipline and spiritual fitness of our service members.

The Command has developed a complementary four-pronged strategy that focuses on awareness, identification, reduction, and continued interaction with the government of the Republic of Korea and its law enforcement agencies. Our desired end state working with our host nation partners is the elimination of prostitution and its links to human trafficking in the Korean entertainment districts adjacent to U.S. military installations in Korea.

Our first efforts have been to raise the level of awareness throughout this Command. United States Forces Korea has developed a prostitution and human trafficking core curriculum for use by the Command's Army, Navy, Air Force and Marine elements. Within the very first week of in-processing to the Korean Peninsula, newly assigned military personnel, to include those arriving for temporary duty, are presented prostitution and human trafficking awareness training as part of the core training curriculum during their "Newcomer's Orientation" briefing. This initial instruction is not limited to those who arrive only by plane, as U.S. Navy Ships arriving in Korea are also met by Naval Criminal Investigative Service Agents at the pier and provided with information on the Command's policies and updated lists of current off-limits areas.

Additionally, prostitution and human trafficking awareness training is presented during other collective and leadership training opportunities, such as the Eighth U.S.

Army's Company Commanders' and First Sergeants' Courses, Senior Leaders Courses, and Primary Leadership Development Courses, and during its "New Horizons' Day;" a semi-annual day-long stand-down of the entire Eighth U.S. Army used to conduct training focused on prostitution and human trafficking, sexual harassment and sexual assault, cultural awareness, values and safety. The Command's Navy, Air Force, and Marine elements have included prostitution and human trafficking into their training programs.

The Command has also established a Prostitution and Human Trafficking Working Group, chaired by a General Officer, which convenes quarterly to review policies and procedures regarding these two issues. This group has overseen the promulgation of numerous changes to existing United States Forces Korea regulations related to these issues, as well as the distribution of policy initiatives, training packages and identification procedures designed to further emphasize the importance of honorable conduct, morality, and discipline by all service members, Department of Defense civilians, contractor personnel, and family members.

Additionally, we have ensured the widespread dissemination of the Command's Zero Tolerance message through installation newspapers and by using other media as well. Self-produced public service announcements are regularly broadcast on the Armed Forces Network Korea's radio and television channels, in addition to a public service announcement produced by the "Polaris Project," a Washington, D.C. based non-profit anti-human trafficking organization. The Eighth U.S. Army Intranet, the backbone of all United States Forces Korea's computer systems, also includes links to up-to-date information such as listings of current off-limits areas and changes to command policy.

It is important to note that the Armed Forces Network Korea is also seen and heard by many beyond the scope of the Command. These broadcasts allow Korean citizens outside the U.S. military communities to have some understanding of both how they can assist us in these efforts, as well as how seriously we take these issues.

Another of the Command's priorities is to embrace a number of quality-of-life initiatives that seek to make on-base military life a more desirable experience, and attempt to diminish the seductive appeal of many of the less wholesome off-duty pursuits. Unit leaders of all ranks have been encouraged to seek alternative activities for their service members and create new ideas with respect to off-duty services and activities. These initiatives currently have resulted in expanded evening and weekend education programs, free internet access for on-line education and e-university programs, installation-sponsored band concerts, late-night sports leagues and tournaments, expanded chaplains' activities, and increased operating hours for athletic and dining facilities, as well as more diverse United Service Organization and Morale, Welfare and Recreation sponsored tours.

One specific activity has our service members positively engaged in improving community relations with our Korean hosts. The "Good Neighbor Program," implemented in 2003 at all command levels, has thousands of service members and their families engaged in volunteer actions in Korean communities across the peninsula. Activities such as English-language tutoring, cooperative humanitarian and conservation projects, adopt-a-school, orphanage sponsorship, and participation in local Korean-American Friendship Associations provide our service members with alternatives on which to build mutual understanding and cultural appreciation. The Good Neighbor Program is a significant Command initiative aimed at enriching our service members' appreciation of Korean culture and improving our hosts' perception of our country.

The Command is continuously seeking to better identify those venues where U.S. military personnel might be patronizing businesses that support prostitution or human

trafficking. U.S. Military Police and Security Forces have increased their undercover operations to identify those establishments that we suspect of prostitution or human trafficking activities. If an establishment is suspected of violating Department of Defense and United States Forces Korea policies, the local U.S. military area commander places it off-limits to all U.S. service members, Department of Defense civilian and contract employees, and family members. This is accomplished through a public process by a local Armed Forces Disciplinary Control Board operating under the auspices of the Status of Forces Agreement. These independent bodies are empowered to ensure that only those businesses operating legal and safe establishments will benefit from the patronage and commerce of United States Forces Korea personnel.

We now have a common standard in use throughout the peninsula that identifies the indicators of prostitution and human trafficking activities for U.S. military leaders, law enforcement authorities, and individual service members with the publication of the United States Forces Korea Provost Marshal's "Prostitution and Human Trafficking Identification Guidebook." This reference is distributed to subordinate units within the Command and establishes our baseline standards that ensure all Korean businesses located in the vicinity of U.S. military installations are closely monitored in accordance with specific criteria.

The Command has also established and regularly advertises a 24-hour USFK telephone "hotline" for anyone to report suspected prostitution and human trafficking activities. Information received on this hotline is promptly directed to both the local U.S. military law enforcement authorities and area commanders for investigation and action.

In spite of all these efforts, we know that there are still some U.S. service members, Department of Defense civilians and contractor personnel who may continue to contact prostitutes and, thereby, be construed as supporting human trafficking. With this challenge in mind, this Command continues its efforts to identify and reduce any instances of these illegal activities by a combination of deliberate command presence coupled with aggressive law enforcement and investigative activities.

U.S. military area and unit commanders continue to employ Town, Shore and Courtesy Patrols to provide a visible official presence in the entertainment districts near U.S. military installations. The use of unarmed Courtesy Patrols has proven to be a useful tool for commanders to both ensure military service members frequenting establishments in these areas adhere to service standards for conduct and appearance, and to make certain all of our personnel have a safe environment during their off-duty hours. The units employing Town, Shore, and Courtesy Patrols have incorporated the "Prostitution and Human Trafficking Identification Guidebook" to ensure all patrol members are trained in the duties and responsibilities related to this issue. These patrols are empowered to identify to commanders and appropriate Korean authorities those establishments that might pose a force-protection, health, or criminal threat to our troops, as well as areas where prostitution or human trafficking is suspected of occurring.

Uniformed U.S. Military Police and Security Forces work in concert with Korean National Police to ensure the safety of our service members in selected areas outside of our U.S. military installations. Additionally, undercover operations are being conducted by U.S. military law enforcement agencies in establishments suspected of prostitution and human trafficking. These investigations, accomplished by highly-trained personnel, serve a law enforcement function as well as a deterrent role, as word quickly spreads of their existence and the seriousness of our multiple efforts.

Since January 2003, within Area I of South Korea alone, the location of the greatest number of allegations against U.S. personnel, five service members have received disciplinary action for solicitation of prostitution. As part of our aggressive ongoing efforts to curb prostitution and human trafficking in this area, our increased law-enforcement efforts have also resulted in the prosecution of 398 servicemen for related offenses, such as curfew violation and trespassing in posted off-limits locations. These service members were disciplined using non-judicial punishment, adverse administrative action, or trial by courts-martial for violating the Command's policies and regulations.

These numbers indicate the extent to which this Command is vigorously addressing and enforcing policies and regulations implemented to attack the issues of prostitution and human trafficking in the entertainment districts adjacent to U.S. military installations. Additionally, we are continuously evaluating and updating our list of off-limits business establishments based on information we receive that indicates these businesses are unsafe or are associated with illegal activities. Currently, this list numbers over 600 bars, restaurants and clubs, and even includes entire sections of towns or cities that are forbidden to United States Forces Korea personnel across the peninsula.

Perhaps the most important partner in the Command's combined efforts has been the Republic of Korea Government, and its diplomatic corps and law enforcement agencies to help to address the worldwide problem of human trafficking. The close cooperation between the U.S. Embassy Seoul and the Korean Ministry of Foreign Affairs and Trade has already resulted in refined visa policies that are targeted at closing loopholes that have been exploited by human traffickers in the past. A case in point is the Republic of Korea Government's most recent initiative to cease issuing E-6 "Entertainment Visas" to dancers who intend to work in entertainment establishments near U.S. military installations.

U.S. Military Police and Korean National Police forces conduct combined patrols, and, as part of their duties, assess and report indicators of prostitution or human trafficking in entertainment districts near U.S. military installations. Additionally, monthly meetings between the U.S. Forces Korea Provost Marshal's office and the Korean National Police have included prostitution and human trafficking among the priorities that had previously focused primarily on force protection and collaborative efforts to solve criminal cases of mutual interest.

United States Forces Korea continues to be encouraged by our host nation's efforts to engage the problems of prostitution and human trafficking. The "Prevention of Prostitution Act" of 1995 marked a significant step forward, and will be enhanced when the two newest statutes, enacted on 22 March 2004, are scheduled to go into effect on 23 September 2004. The "Act on Prevention of Sex Trade and Protection of Victims Thereof" and the "Act on Punishment of Facilitating in Sex Trade and Other Associated Acts" will greatly help the Republic of Korea's efforts to seriously confront the problems of an institutional sex-trade and to combat prostitution and human trafficking.

Independently, the Korean National Police have conducted a focused investigation of illegal prostitution, both in establishments surrounding U.S. military installations and nation-wide across the Republic of Korea. During the course of its human rights protection investigations, the Korean National Police have arrested 660 business owners, and rescued 209 Koreans and foreign nationals from confinement or slavery. The Korean Ministry of Justice is also considering a program offering rewards of over \$17,000 dollars for information leading to the arrest of sex slave traders. This new program will even allow information obtained by anonymous informers to be used as evidence in a court of law.

The Korean National Police have also recently established a Women and Juvenile Division within its Crime Prevention Bureau to focus on prostitution and human trafficking as it relates to the Korean sex industry. The Women and Juvenile Division has established a multi-lingual hot-line to help women and children who may be victims of human traffickers.

The outstanding support United States Forces Korea has received from our host nation has been indicative of its serious cooperation with us on these issues at every level. Recognizing that the problems of prostitution and human trafficking are not only limited to the immediate vicinity of U.S. military installations, the Republic of Korea has recently established an independent task force that seeks to close down all of the nation's brothels and institutionalized red-light districts by 2007.

The U.S. Department of Defense Inspector General has conducted three on-site visits to Korea and was particularly encouraged by the Command's enhanced "core values" training, our aggressive efforts to place establishments off-limits that are even suspected of illegal activities, and our success in obtaining the cooperation of Korean authorities to combat prostitution and human trafficking.

Internally, the United States Forces Korea Inspector General serves as an independent mechanism to evaluate the degree of our success in these various programs and policies. Charged with conducting numerous inspections, audits and surveys, it is able to report on the efficacy of our strategies in administering a zero tolerance approach to prostitution and human trafficking. Recommendations from the Inspector General's activities have already resulted in the formation of the Command's Prostitution and Human Trafficking Working Group, the development of the Prostitution and Human Trafficking core training curriculum, changes to the Command's policies and regulations, and an increased awareness of these issues by all United States Forces Korea personnel.

We are not finished in our efforts; this is an ongoing concern and one that this Command takes very seriously. We fully understand the corrosive effects that prostitution and human trafficking have on the moral fabric of both our societies, and we intend to continue combating this corrosive effect until it is eradicated.

I want to close by reminding you of the outstanding work that your U.S. forces are engaged in throughout the Korean Peninsula each and every day, 24-hours a day. You have every reason to be proud of the service of your Soldiers, Sailors, Airmen, and Marines, and Department of Defense civilians and contractor personnel in Korea who serve this nation honorably under difficult circumstances. Their remarkable professionalism and dedication to this nation's principles are a reflection of the strength of our society. It is my honor to serve with them and to represent them here today.

**PREPARED STATEMENT OF
DR. SARAH E. MENDELSON, SENIOR FELLOW,
CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES**

**IMPLEMENTATION OF DOD POLICY
WITH REGARD TO TRAFFICKING IN HUMANS**

Chairman Hunter, Chairman Smith and Members of the Committees:

Thank you for inviting me to participate in this issue forum on the implementation of the Department of Defense (DOD) policy on human trafficking. My name is Sarah Mendelson, and I am senior fellow at the Center for Strategic and International Studies. It is an honor to be here.

My comments today focus on what should be a central component in the DOD policy—addressing the links between peacekeeping operations and the trafficking of women and girls for sexual exploitation. First, I will address the security implications of human trafficking. Then, I turn to the general lack of awareness, misperceptions and organizational issues that my research suggests will impede comprehensive implementation of DOD's policy. Finally, I discuss a number of recommendations that follow from the research.

I. SECURITY IMPLICATIONS OF TRAFFICKING IN PERSONS (TIP)

The vast majority of uniformed service people—both U.S. and international—as well as civilian contractors who support peacekeeping operations do so honorably. They risk their lives to help repair the damage and destruction of war. Tragically, however, international and human rights organizations have documented a disturbing correlation: where one finds international deployments, one also sees a dramatic rise in the number of trafficked women and girls. This phenomenon is especially striking in the Balkans. Those peacekeepers who serve with honor are being tainted by the minority who purchase sex with these women and girls and by the even smaller minority who actively engage in the grave human rights abuse of trafficking.

Human trafficking in post-conflict regions has security implications that to date have been overlooked or downplayed by defense officials and militaries. First, networks that traffic in humans also traffic in guns and narcotics. Human trafficking therefore actively shapes the security environment by providing criminals with revenue. Second, military misconduct is a threat to any mission. When that misconduct involves human rights abuses, it affects the credibility and reputation of peacekeepers and can enrage local populations. When those implicated are also responsible for force protection, they can compromise their main military mission. In short, the security implications of human trafficking involve acts of omission, such as turning a blind eye, and of commission, from unwittingly putting money in the hands of traffickers when purchasing sex to actively trafficking women and girls. The level of harm to the U.S. Armed Forces, to peacekeeping missions, and to thousands of trafficked women and girls obviously varies but to be clear, all these acts, including the most common—looking the other way—involve some degree of harm.

The adoption of the DOD policy on human trafficking is potentially an extremely important step in addressing this critical issue. I welcome the recent policy directive to commanders. Based on my research, however, I have concerns about the implementation of this policy. For the past 18 months, I have explored how uniformed service members and contractors who have served in Bosnia and Kosovo, as well as officials at DOD, NATO and the UN understand the issue of trafficking in persons. My research has focused on

documenting attitudes, knowledge and organizational cultures, and how they all impact combating trafficking. To do this, I have conducted several dozen in-depth interviews, dozens of informal conversations as well as correspondence with uniformed service people (including several one- and two-star generals, colonels, and majors), civilian policy makers, and defense contractors. My field work included observation of the DOD/IG assessment of human trafficking in Bosnia and Kosovo in June 2003.

Today I have time only to summarize a few of the findings and will focus on the most common attitudes as well as on organizational cultures. The research alerts us to various challenges DOD will face and indicates what sorts of resources are needed yet not presently deployed.

Specifically, my research suggests that many uniformed service members, civilian contractors as well as civil servants:

- tend to deny the links between trafficking and peacekeeping deployments,
- fail to understand the security implications of both human rights abuse and unwitting support of organized crime,
- tend to conflate trafficking with legalized prostitution.

My research suggests the lack of awareness and the misperceptions are so widespread that they will greatly inhibit the comprehensive implementation of DOD's zero-tolerance policy.

Attitudes and organizational cultures appear themselves to be obstacles to change and to drive the current low level of resources devoted to this problem. If DOD grasped the security implications of peacekeeper involvement in human rights abuse, including trafficking in women and children, the resources would be more forthcoming. If the DOD were to address organized crime in post-conflict regions in a comprehensive, robust manner, it would be impossible to ignore human trafficking. To create a taboo on human trafficking—whether for forced prostitution or other forms such as forced labor—will require significantly more resources, organization and leadership than DOD has allocated. To change the hearts and minds of uniformed personnel and civilian contractors on this issue will require an entirely different implementation effort than is currently underway.

II. GAPS IN KNOWLEDGE AND LACK OF AWARENESS

Because human trafficking is a central activity for criminal networks in post-conflict regions, it poses intrinsic security threats to peacekeeping missions. Yet the absence of awareness concerning the links between human trafficking and peacekeeping operations is simply pervasive. While experts have extensively documented that trafficking follows deployments, most officials I spoke with denied or downplayed the issue and not surprisingly then, its importance. During a November 2003 research trip to Brussels, a U.S. defense official at NATO dismissed human trafficking as “too low a priority for the intelligence community to be interested” even though many missions already monitor trafficking in guns and drugs, and even though, in some locations, human trafficking may generate more revenue than drugs. In June 2003, one U.S. Brigadier General in Bosnia explained that organized crime “is the dragon we are trying to slay and it is one that only SFOR can slay.” When asked if this included human trafficking, he replied, that is “not a subject that I spend much time thinking about. [This is the] first time I have spent any time thinking about it....That's petty crime; I'm after the big criminals.”

That commands in Bosnia and Kosovo task analysts to track trafficking in guns and drugs but not in humans suggests the command climate has not been especially conducive to combating TIP.

There have been real consequences to inaction: not only have crimes against thousands of women and girls gone unpunished, criminal networks have acquired revenue and possibly guns, and the missions of establishing safe and secure regional environments have been undermined.

Certainly I have spoken with many officers and policy advisors at, for example, NATO's Allied Forces North and at Allied Forces South, who fully recognize the threats of trafficking and who look forward to NATO's implementation of its policy. Others have been open to learning more about human trafficking. As U.S. Brig. Gen. Daniel J. Keefe, Commander of the Multinational Brigade-East at Camp Bondsteel in Kosovo explained: "We don't know much about it but would like to learn more. Come teach us. We have lots to do but this sounds like something we should know more about and how we fit in – both the good and the bad." The view, however, of another general at EUCOM who had years of command experience in the Balkans was more common. He considered the DOD efforts undertaken to assess human trafficking as "waste, fraud and abuse."

One U.S. officer labeled the denial of links between peacekeeping and trafficking as "the honorable man" syndrome. Many in the military might be reluctant to acknowledge the links because it would mean recognizing they have been posted to regions where thousands of women and girls had been trafficked but have done nothing about it. The realization of having turned a blind eye conflicts with their conception of their own identity as honorable men. I encountered another variation on this theme: "the honorable institution" syndrome. Many who serve and who have served in the U.S. military have, understandably, tremendous devotion to the institution.

They take a highly protective approach to the organization, and they find it painful and even cognitively difficult to address the fact that some service members, or those supporting military missions, engage in illegal and criminal activities. Equally, they find it difficult to believe the system in place has not rooted out those responsible or punished them.

The attitudes of denial and disbelief are in part a by-product of the difficulty documenting this phenomenon, but they are also the result of specific decisions not to record or respond to the crime. Trafficking is generally underreported and has been an especially low priority of law enforcement in many parts of the world. In military commands, what is considered intelligence worthy of collection is often driven from the top down. For example, human trafficking in the Balkans has been virtually absent from official military reports because commanders have never made it part of intelligence collection even while they tracked trafficking in drug and arms

Hopefully, this will change with the 16 September 2004 directive from Secretary Rumsfeld to commanders. Again, the lack of awareness and misperception will pose serious challenges to its implementation.

Numerous interviews reveal uniformed service members routinely encountered trafficked victims on their patrols, and even civilian contractors as "clients" or exploiters of these women and girls. Interviews with Special Forces officers in Bosnia and Kosovo suggest that they are particularly likely to come in contact with trafficked victims, but they never regarded human trafficking as something they should be concerned about. As one Special Forces officer who served in Bosnia in 1998 and in Kosovo in 2001 explained, "I

don't think the intelligence community is all that interested in the fate of these poor Moldovan and Ukrainian girls." An inquiry to Special Operations Command confirmed such information was rarely recorded.

The indifference of the intelligence and larger military community to human trafficking has also been driven by the misperception that the victims they encountered were willing participants.

My research suggests a majority of uniformed service members and civilian contractors conflate what some call "regular prostitution" with human trafficking. The prevalence of this misperception will also prove a serious impediment to implementation of DOD's new policy.

In fact, the misperceptions of and reluctance to deal with human trafficking are intense enough that some argue the link between peacekeeping operations and TIP is simply a fact of life, about which nothing can be done. Others argue that when peacekeepers purchase sex it is in the interest of the mission and that it is a soldier's right. One U.S. Army lieutenant colonel billeted to NATO in Kosovo in 2000 described to me how soldiers and commanding officers would likely perceive such a situation:

It is irrelevant that these women are prisoners because [the soldiers] are thinking 'holy mackerel, here is a great opportunity.' Would we [officers] think that is a detriment to the mission? I would want to understand why it is detrimental. The commanding officer may be thinking: ... 'this guy [his soldier] is happy and he is happier if he had a half hour with a beautiful 17 year old—whether he knows she is forced or not—he is happier—he will do his mission better' ... the commander can be a great guy but maybe he will turn a blind eye—and think that boys will be boys.

While this perspective hopefully is not widespread, DOD faces an enormous challenge in tackling such attitudes and changing how officers and those they command understand and respond to trafficked victims.

III. HOW ORGANIZATIONAL CULTURES CAN IMPEDE POLICY IMPLEMENTATION

Organizational cultures combined with misperception have fostered a permissive atmosphere, minimal response and institutional reluctance to combat trafficking. The recognition of such conditions is one key step toward getting serious change. Comprehensive implementation requires addressing a set of additional factors however—it will mean anticipating how the policy on combating trafficking may conflict with other duties and priorities.

One particular case is worth mentioning because it highlights this dynamic of competing priorities. In summer 2000 in Kosovo, several young NATO military officers were explicitly instructed to ignore the grave human rights abuses committed against young women and girls in the name of another competing policy objective, in this case, the NATO-Russia relationship.

Documents show one of the officers—a U.S. Army major—wrote his commander describing a brothel located 200 meters from the Russian contingent's base where women and girls were held against their will and where troops had been seen entering and exiting. The officer had reason to believe (and this was confirmed by UN police and by victim's assistance groups) that the Russian contingent was actively engaged in human trafficking. The memo made its way up the chain of command at KFOR, where a senior officer handed it over to the Russians. Other documents reveal no action was taken except that

the major was blacklisted by the Russian military contingent. The log of 29 July 2000 records senior KFOR officers anxious “to put this incident as far behind us as possible.”

In the lead-up to and during my travels with the DOD/IG inspectors to Bosnia and Kosovo in June 2003, I also observed an organizational culture that will make it more difficult to implement the zero-tolerance policy. While DOD is in the early stages of actual implementation, this culture appears to be shaping an overall effort that is less than comprehensive. For example, in the spring and summer of 2003, the limited resources and personnel that the DOD/IG assigned to the trafficking assessment suggested to some inside DOD that while it reported to Congress that it was doing a “thorough, global and extensive” investigation, it was in fact not. I was informed by DOD officials close to the assessment that those in the IG office with final responsibility for the Balkan report “will wash this report; they are washing the Korea report.” Also worrisome, the DOD/IG investigators had received no training in how to research trafficking in Bosnia and Kosovo. DOD’s methodology was unsophisticated. Typically meetings on bases would begin with questions such as “we are here to investigate possible complicity with human trafficking.

Do you have any problems with trafficking here?” Those interviewed not surprisingly usually responded “No, we don’t” and that often was taken at face value. Finally, some findings in the final report “Assessment of DOD Efforts to Combat Trafficking in Persons, Phase II—Bosnia- Herzegovina and Kosovo” (December 2003) do not paint the full picture of what I observed.

The lack of training and methodology of the investigation shaped the results—evidence would have to fall in the laps of the inspectors rather than them uncovering it. This is essentially what happened. On one base, a uniformed service member who oversaw a particular DOD contract told us of several incidents in the previous months where civilian contractor employees had purchased sex from females believed to have been trafficked to the region from Eastern Europe.

He had learned of these incidents by accident. This information was confirmed by the program manager of the contract who described his arrangement with the local police: when his employees were picked up during raids, the police would call him to pick up his men. After firing them, he would handle their rapid return to the United States without them being charged. When the manager of the contract said “we have had three incidents in the last six months,” this should have indicated a possible larger problem requiring different methods of investigation. Instead, the DOD inspectors concluded the problem was not serious. One inspector referred to them as “human interest stories.” Another said, “small numbers means a small problem.” The December 2003 IG report characterized these as “limited and primarily anecdotal” (p.25).

I felt there was probably more to this story and was gratified months later when three senior representatives from the company agreed to meet. They not only confirmed the information we had heard but explained that there had been an additional extremely serious incident: a company employee on that particular base had facilitated trafficking by arranging for other DOD civilian contract employees to have sex with females supplied by a trafficker. This employee hired another company employee as a bodyguard, who purchased a weapon ostensibly for that purpose. When the provost marshal was informed of this, the employee facilitating trafficking was fired and immediately sent home. The man with the gun was held for seven days and then fired after an investigation. Like the well-documented cases involving DynCorp in Bosnia, possession of a weapon was viewed by those on base as more egregious than potential involvement in trafficking.

This case is illustrative of many issues plaguing civilian contractors that bear directly on the enforcement of DOD trafficking policies. While at first glance it may appear that rapid repatriation signified that the contractor was proactively addressing the issue, the consequence is no investigation and hence no prosecution. The local police conclude erroneously that these Americans are immune from prosecution. Moreover, since there is no official record, these men could be hired by another company and facilitate trafficking elsewhere. Finally, it reveals how little control and visibility the command on base has over the contractors. Officially, the DOD considers contractors “just another tool to accomplish the mission, not a separate workforce, with separate needs, to manage.”¹ In the theatre of operations, they appeared quite separate.

More generally, what the inspectors understood as constituting a problem seems to have been shaped by a general organizational culture inside DOD that was not invested in combating trafficking. My observation of the IG’s Bosnia and Kosovo trafficking assessment led me to wonder what the inspectors meant by “zero tolerance.” The inspectors had begun one meeting with trafficking experts from the OSCE by stating, “We have a zero tolerance policy, but we understand that there will always be instances and always be bad apples.” Other times, they would begin meetings explaining “our issue is larger than following individuals engaging in misconduct. This is about larger systemic issues versus onesies and twosies.” This suggested they perceived DOD would only respond if the numbers got above a certain, unspecified threshold. These observations have led me to conclude it is possible to have a zero tolerance policy that masks a culture of tolerance.

IV. RECOMMENDATIONS

Given the extensive misperception and lack of awareness, the initial DOD effort, as it has been explained to me in numerous meetings and conversations, appears to be a minimal response, somewhat akin to trying to combat the spread of HIV through training on the internet. Change in the uniformed service members’ and contractors’ behavior will require new social and cultural norms. To this end, DOD leadership should resist thinking that one or two fixes alone (e.g. long-distance training modules) will have the decisive impact in addressing the trafficking- 1 U.S. GAO, “Military Operations: Contractors Provide Vital Services to Deployed Forces but Are not Adequately Addressed in DOD Plans,” GAO-03-695, June 2003, p. 19. [peacekeeping link](#). Instead, the comprehensive implementation of the DOD policy will require ownership, leadership and organization. Specifically, I recommend the following actions:

- Rather than spreading new responsibilities to DOD staff who are already overburdened, and rather than tasking personnel who are not especially interested in the issue, DOD efforts on human trafficking should be centralized in an office directed by a Deputy Assistant Secretary of Defense. The model could be the office recently established to address sexual assault within the military.
- To compensate for the lack of in-house expertise at DOD, the Secretary of Defense should appoint a panel of external advisors who combine peacekeeping experience and a recognized expertise on human trafficking to assess what this office would require in terms of staff and budgets, and to help guide the work of the office.
- Policy makers should prioritize the education and awareness of commanders, Special Operations Forces, intelligence officers, military police and inspectors. It is vital that training be done with consistent and institutionalized input from experts such as the

panel of advisors. Training should draw on case studies and be as mission specific as possible showing how, for example, TIP affects and undermines the mission.

- To counter the invisibility of trafficking, commanders should make TIP an intelligence requirement in regions where they already track drug and arms trafficking.
- Commanders should assign senior members of the command to lead task forces on bases to address the issue, and to meet regularly with local anti-trafficking experts from international and local nongovernmental organizations.
- The DOD should conduct a comprehensive awareness campaign on the issue of human trafficking. As part of this effort, the DOD should fund large, random sample surveys across the services on attitudes and issues related to trafficking and use these data to design messages to raise awareness. Tracking surveys conducted after the awareness campaign has been underway can be used to test its effectiveness, as well as the impact of training.
- Civilian contractor employees must receive pre-deployment and in-theatre training on trafficking. Managers must be trained separately on this issue and must be warned that ad hoc arrangements with local law enforcement are not only unethical, but seriously undermine the rule of law, and therefore, the mission.
- When evidence merits prosecution, service members and contractors should be prosecuted. To this end, companies must end rapid repatriation of alleged offenders.
- The DOD IG should devote increased attention and resources to examine civilian contractor complicity in human trafficking in post-conflict regions.

With the issuance of its new policy in January of this year, the Department of Defense has taken an important first step in addressing the problem of combating human trafficking. But a comprehensive response will require DOD to do much more than it has done so far in implementation. I trust that both the Department and the Congress will take my recommendations to heart in addressing this important human rights and security issue.

Thank you.

**PREPARED STATEMENT OF
MARTINA E. VANDENBERG,
ATTORNEY, JENNER & BLOCK**

Mr. Chairman and Members of the Committees:

It is an honor to testify before you today on the issue of Department of Defense policy on trafficking in persons. My name is Martina Vandenberg, and I am an attorney in private practice with the firm of Jenner & Block and the author of the Human Rights Watch report, *Hopes Betrayed: Trafficking in Women and Girls to Post-Conflict Bosnia and Herzegovina for Forced Prostitution*. I would like to thank Congressman Hunter, Congressman Smith, and all the members for providing a rare opportunity to address an issue too often ignored and neglected: impunity for traffickers and links to peacekeeping operations.

I will focus today on three key areas. First, I will provide a brief synopsis of the findings of the Human Rights Watch report and examine the history of impunity for U.S. contractors in Bosnia- Herzegovina. Second, I will examine the Military Extraterritorial Jurisdiction Act and its usefulness as a tool to combat trafficking. And third, I will provide an evaluation of the Department of Defense's implementation efforts, including the requirements set forth in National Security Presidential Directive-22 (NSPD-22).

**I. IMPUNITY FOR CONTRACTORS AND TRAFFICKING IN WOMEN
AND GIRLS TO POST-CONFLICT BOSNIA AND HERZEGOVINA
FOR FORCED PROSTITUTION.**

By 1998, brothels and nightclubs littered the countryside in Bosnia and Herzegovina, many of them filled with women and girls trafficked from the former Soviet Union. Stripped of their passports, physically and sexually abused, sold from "owner" to "owner," and trapped in debt bondage, these women and girls found themselves forced to provide sexual services to paying clients, both local and foreign. Traffickers' promises of lucrative opportunities in Western Europe as waitresses, dancers, housekeepers and in the sex industry evaporated upon arrival in Bosnia and Herzegovina, where the women quickly learned that they would earn no money.

Human Rights Watch uncovered at least eight cases of U.S. personnel who allegedly purchased trafficked women and girls. Let me give you just one example. On June 26, 2000, a young woman appeared at a United Nations International Police Task Force (IPTF) office in Bosnia and Herzegovina. According to the official incident report, an American contractor serving with the Stabilization Force (SFOR) had purchased her from a brothel owner for 3,000 Deutsch Marks (approximately U.S. \$1,388). After the purchase, she lived with the American contractor in his private house in Dubrave, near a U.S. military base. According to the International Police Task Force officer who interviewed the woman, "[The] girl was sold, and her last owner was [a U.S. contractor]. He bought her for himself...She lived with him like a prostitute." Moreover, the purchase by the U.S. contractor marked the third time she had been sold. Traffickers had promised her a job in Italy as a waitress, but instead sold her first in Hungary and then in Yugoslavia. From there she was trafficked to Bosnia and Herzegovina and forced to provide sexual services in a nightclub near a U.S. military base.

The United Nations Mission in Bosnia and Herzegovina uncovered this case but did nothing. The official IPTF incident report states, "No further meetings with her planned. We do not expect any development of the case." In fact, the case might never have come to light but for a whistleblower, Ben Johnston, who reported the purchase of women from

brothels to the U.S. Army Criminal Investigation Division at Eagle Base in Tuzla. Just a few weeks before the trafficking victim turned up at the IPTF station, U.S. Army CID investigators, acting on Johnston's tip, confronted a U.S. contractor. According to the CID report, the contractor, who I will call "K," told the investigators that he had purchased the young woman and an Uzi 9mm automatic submachine gun in a package deal from a local brothel owner. In a sworn statement, "K," a DynCorp employee, claimed that he had bought the young woman to free her and that she lived with him "as a housemate." CID referred the case to the local police for prosecution for illegal possession of a weapon and procuring and pandering. "K" immediately left the country.

In all, Johnston identified eight DynCorp employees who allegedly admitted to him that they had purchased women and girls from brothels in 1999 and 2000. Some had used the women for sexual services and as domestic servants. After Johnston leveled these charges against his fellow workers, the U.S. Army placed him in protective custody. DynCorp fired him. His official letter of discharge from DynCorp stated that he had committed "misconduct, violations of standards and conditions of employment" by bringing "discredit to the company and the U.S. Army while working in Tuzla, Bosnia and Herzegovina." Johnston sued, and in August 2002, DynCorp settled with him for an undisclosed sum.

The DynCorp employees who returned home in 1999 and 2000 after allegations of involvement in trafficking surfaced enjoyed impunity. Not one faced criminal prosecution.

Local police officials in Bosnia and Herzegovina certainly knew about U.S. contractor involvement in trafficking-related activities. Local police had even videotaped the nightclub parking lots, filled with U.S. vehicles bearing contractor plates. The chief of police in Zivinice, a village near the U.S. SFOR Eagle Base, told me in an interview:

Two times DynCorp employees were sent home [to the United States]. Maybe four or six were sent home. The girls talked about ["K"], and they have ["K"] on video. One of the guys made porno movies with two of the women. It is a crime in Bosnia. We couldn't bring charges against him under Annex IA of [the Dayton Agreement]. That annex states that people who are in the IC [international community] mission are not under our jurisdiction. They will be prosecuted in their own countries. When we find a foreigner is involved, this is the biggest problem for us. We can't do anything against them—they are above the law.

The involvement of U.S. contractors in trafficking in Bosnia and Herzegovina not only undermined efforts to establish rule of law, it also exacerbated the already rampant corruption among local law enforcement authorities. The United Nations Mission in Bosnia and Herzegovina documented another case in which a U.S. contractor allegedly paid two local police officers 300 Deutsch Marks (\$138) to obtain a fraudulent visa to regularize the status of a Moldovan woman purchased from a brothel owner. Neither the contractor, nor the police officers who allegedly accepted the bribe, faced criminal penalties.

As the examples above illustrate, at the time of the Human Rights Watch investigation (1999–2002), impunity for trafficking was the rule, not the exception. This held true for DOD contractors as well as contractors working for other federal agencies, such as the Department of State. In testimony before Congress in 2002, Robert Gifford of the State Department Bureau for International Narcotics and Law Enforcement Affairs testified that six U.S. police officers had been sent home from Bosnia and Herzegovina for "sexual misconduct." A December 2001 internal State Department memorandum, obtained by Human Rights Watch through a FOIA request, documented one particularly egregious case:

In a fairly clear-cut case, an American officer was fired after he admitted that he “bought out the contract” of a 19-year-old woman trafficked from Russia with whom he co-habitated for six months.

Again, the U.S. contractor was fired, but faced no criminal charges. At the time, zero tolerance—of a kind—pervaded the contractor community: not the “zero tolerance” touted in NSPD-22, but zero tolerance for whistleblowers. In addition to Ben Johnston, Kathryn Bolkovac, an International Police Task Force officer through a Department of State contract, made allegations that fellow IPTF officers had purchased trafficking victims and engaged in trafficking-related offenses. She was also fired.

II. THE MILITARY EXTRATERRITORIAL JURISDICTION ACT OF 2000

At the time these allegations emerged, the Military Extraterritorial Jurisdiction Act of 2000 (MEJA) was in place and available for prosecutions of DOD contractors. It was not used. To the best of my knowledge, there has not been a single prosecution of a Department of Defense contractor using MEJA. Make no mistake: that stunning statistic does not reflect an absence of allegations of U.S. contractor involvement in trafficking-related offenses. It reflects a failure of political will to enforce the law.

Four years after passage of MEJA, the U.S. government still has no regulations in place to implement the law fully, and it has rarely been brought to bear in prosecutions. The Department of Defense says that in the past four years, it has used MEJA twice. A search of legal databases turned up only one case, the prosecution of a young civilian woman for killing her husband, an Air Force staff sergeant, in Turkey.

After years of foot-dragging, the Deputy Secretary of Defense forwarded draft regulations for MEJA to the Chairmen and Ranking Members of the Senate and House Judiciary Committees in June of this year. They should take effect later this month. The Department of Defense, while failing to promulgate the regulations required by the statute, always noted that MEJA federal jurisdiction exists even without the implementing regulations. So why no prosecutions? I would point to two factors: the first I have already mentioned—a failure of political will. The second factor—intimately related to the first—is a lack of understanding of the seriousness of trafficking among those charged with investigating these crimes. This ignorance or incompetence has doomed investigations, scuttling potential prosecutions.

The U.S. Army CID investigation in Bosnia provides an egregious example. There, the investigators treated the purchase of an Uzi as more serious than the purchase of a human being, which they classified as “procuring and pandering.” The untrained investigators also apparently accepted at face value the DOD contractor's claim that he had “rescued” the Moldovan trafficking victim by purchasing her. Indeed, the final CID report characterized the contractor's purchase of the woman from a nightclub owner as the purchase of her “freedom.” There is no evidence in the report that the investigators ever interviewed the trafficking victim.

Yet it is obviously the victim, not the perpetrator, who can say whether she was “rescued” or simply purchased as chattel to be held in sexual servitude by yet another “owner.” Without effective training for military investigators, U.S. contractors committing trafficking offenses may continue to enjoy impunity and even to portray themselves as heroes freeing “sex slaves” from bondage.

The absence of trafficking prosecutions among U.S. Department of Defense contractors, who clearly fall within MEJA's ambit, has sent a strong message that "zero tolerance" is nothing more than rhetoric. This is particularly true in light of the widely publicized allegations made by Johnston, the whistleblower, who accused fellow DynCorp employees of trafficking in women and girls in Congressional testimony on April 24, 2002.

While the regulations that take effect this month may aid in the belated implementation of MEJA, they cannot plug the jurisdictional gaps left by the Act itself. MEJA covers only Department of Defense contractors, excluding individuals employed under contracts with any other agency—including the Department of State, the Central Intelligence Agency, and the Department of the Interior. While the torture scandals in Iraq and Afghanistan catapulted MEJA into the public eye, experts investigating the involvement of U.S. citizens in human trafficking in the Balkans had already concluded that MEJA was deeply flawed. Just as MEJA's extremely limited coverage and scope prevented it from being used to prosecute CIA and Department of Interior contractors accused of torture in Afghanistan and Iraq, so too MEJA failed to provide jurisdiction to prosecute U.S. police officers accused of trafficking-related offenses in Bosnia and Herzegovina while on contract to the Department of State.

Two and a half years ago, trafficking experts began advocating for the passage of an amendment to MEJA that would close this jurisdictional gap. Bush administration officials have repeatedly said that they were drafting such an amendment. On April 24, 2002, Ambassador Nancy Ely-Raphel, then-Director of the State Department's Office to Monitor and Combat Trafficking in Persons, testified that "the Criminal Division [of the Justice Department] is currently drafting a proposed amendment to MEJA of 2000 that would extend federal jurisdiction to include all U.S. government employees and contractors who work in a law enforcement capacity abroad." Four years later, we still do not have such an amendment in place.

Since the allegations of torture by U.S. contractors in Afghanistan and Iraq, there has been a flurry of amendments. On May 19, 2004, Congressmen Shays and Price introduced a bill on contractor accountability. The Price-Shays bill, HR 4390 (the "MEJA Clarification Act"), would extend application of MEJA to "any civilian employee, contractor, or subcontractor of DOD or any other federal agency that is supporting the mission of DOD or working in an occupied territory." On May 18, 2004, Congressman Meehan introduced a similar bill, the "Contractor Accountability Act," HR 4387, designed to extend jurisdiction to any contractor of "any other Federal agency...to the extent that such employment relates to supporting the mission of the Department of Defense overseas." In June 2004, the Senate approved the Sessions and Schumer Amendment to the Fiscal Year 2005 defense authorization bill. The amendment extended jurisdiction to persons working for any federal agency "in support of a Defense Department mission abroad."

But these amendments, responding to public outrage over the Abu Ghraib scandal, would do little to remedy the jurisdictional gap identified by trafficking experts. The language of these all three amendments still requires a nexus to the Department of Defense. While the amendments would certainly help clarify the application of MEJA to DOD contractors, the trafficking offenses allegedly committed by U.S. police officers serving with United Nations missions in Kosovo and Bosnia and Herzegovina as Department of State contractors would not fall under the extended jurisdiction, allowing these perpetrators to continue to enjoy impunity.

The current jurisdictional picture appears fairly bleak. Department of Defense contractors legally can be prosecuted, but are not. And even if one of the House amendments should pass, State Department contractors serving with international organizations abroad still could not be prosecuted. With status of forces agreements (SOFAs) guaranteeing immunity from domestic prosecution in Bosnia and Herzegovina and around the world, the lack of prosecution in the United States means that impunity remains the rule.

III. NSPD-22 AND DEPARTMENT OF DEFENSE IMPLEMENTATION EFFORTS

I will close with an assessment of the Department of Defense's implementation of NSPD-22, released on December 16, 2002. The Directive states, "Department and agency heads shall, within 90 days of the effective date of this Directive, promulgate plans to implement this Directive." Based on that deadline, a plan should have been in place within the Department of Defense in March 2003. It is now September 2004, eighteen months later, and time for an evaluation:

- *Training:* The Department of Defense does not yet have a training module in place. The proposed module, which I and several colleagues had an opportunity to review briefly in a meeting with DOD, was drafted by a DOD subcontractor with absolutely no prior expertise on trafficking. Although a more recent, revised version of the module is much improved, incorporating some of the recommendations made by non-governmental organization experts, in my opinion it does not go far enough to challenge the deep-seated passivity or ignorance about trafficking offenses that we have seen in Bosnia and Herzegovina. The module relies on a lecture format with PowerPoint slides, failing to engage the audience with the kind of personal case studies or discussions that can shake callous attitudes toward prostitutes and inspire investigators to treat trafficking as the outrageous human rights violation that it is.
- *Contractor accountability:* Although required by NSPD-22 and the Trafficking Victims Protection Reauthorization Act of 2003, 22 U.S.C. 7101 (PL 108-193), the Department of Defense has apparently not yet incorporated a condition into existing contracts permitting termination of grants, contracts, or cooperative agreements if the contractor engages in trafficking or uses forced labor in the performance of the grant, contract, or cooperative agreement. Nor has DOD yet promulgated a new clause for the Defense Federal Acquisition Regulations Supplement (DFARS) for inclusion in all future contracts. And although the Inspector General's Phase II Report on Bosnia and Herzegovina and Kosovo envisions imposition of administrative penalties on contractors, it does not appear that any such sanctions have ever been imposed.
- *Evaluation programs and the need for benchmarks:* The Inspector General's reports on South Korea and Bosnia and Herzegovina indicate that there is a need for enhanced training on investigative techniques relating to trafficking. One fundamental gap pervades trafficking investigations by the U.S. government: the lack of trafficking victims' testimonies. The women's voices—and their side of the story—are often missing. As noted above, without direct testimony from trafficking victims, a U.S. contractor purchasing trafficking victims can claim that he has committed a "rescue" and not a crime. While this would certainly run afoul of the zero tolerance policy, it is unclear whether it would trigger a criminal prosecution. As the DOD develops benchmarks to measure adherence to the zero tolerance policy, it must develop mechanisms for incorporating the experiences of trafficking victims into the evaluation.

Finally, DOD must provide immediate and specialized training for agents tasked with investigating trafficking allegations.

- *Victim assistance:* NSPD-22 states, “The policy of the United States is to treat trafficked people as victims.” So far, the DOD has treated trafficking victims as largely invisible, or as willing participants complicit in the crime. The MEJA regulations make no mention of victims whatsoever, leaving open the question of how testimony against U.S. contractors will be gathered and presented. The reality is, victims cannot agree to testify against traffickers without some form of witness protection. It does not appear that DOD has considered the need to protect or assist victims, or to coordinate with non-governmental organizations in the field that provide assistance to victims.
- *MEJA implementation:* Although we are now mere days away from the regulations' entry into force, political will and sophisticated criminal investigations will be necessary to bring effective prosecutions. Political will must come from the top down, beginning with the Office of the Secretary of Defense. Sophisticated investigations, on the other hand, require a bottom-up approach, which is why vigorous training, financial support, statutory tools, and careful supervision are necessary.
- *MEJA amendment:* The Department of Defense has contracted with some civilian agencies through the Department of Interior and other agencies. DOD should immediately and wholeheartedly support efforts to amend MEJA to cover contractors that are outside the narrow scope of MEJA's jurisdiction.
- *Intelligence and information gathering:* the DOD Inspector General's report on Bosnia and Kosovo, published in December 2003, concluded that the information the inspectors were able to collect in the field “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.” It does not appear that DOD has subsequently put any of these reporting requirements or procedures in place.
- *Cooperation with local law enforcement:* NSPD-22 calls for “cooperation on investigations and prosecutions...as appropriate” with local law enforcement agencies. As noted above, law enforcement officials in Bosnia and Herzegovina viewed the United States as more of a hindrance than a help to anti-trafficking investigations. In some cases, U.S. contractors who could have served as witnesses in criminal cases against local traffickers boarded the next plane home after being caught in brothel raids by local police and International Police Task Force officers. As the Bosnian police chief aptly stated, U.S. contractors remain “above the law.” DOD needs to take steps to ensure that those individuals who can give relevant testimony remain to do so.
- *Ending impunity:* U.S. DOD contractors in Bosnia and Herzegovina, who are in theory subject to local prosecution for crimes outside the scope of their functional immunity, could have been prosecuted for trafficking-related offenses by local authorities under the Dayton Agreement. However, local authorities feared bringing such prosecutions. One local NGO activist from Bosnia and Herzegovina told participants at a NATO side meeting that victims who wish to bring charges against their traffickers are advised to remain silent about any involvement of U.S. personnel. Allegations of U.S. involvement are the fastest way to scuttle a prosecution, even of a local trafficker, the activist said. DoD should foster, rather than hamper, cooperation with local prosecu-

tors, even if it opts to invoke U.S. jurisdiction over U.S. citizens. At present, DoD is neither effectively facilitating the prosecution of trafficking offenders in the United States nor is it helping local prosecutors to hold traffickers accountable.

V. CONCLUSIONS

The recent anti-trafficking policy memoranda released by Deputy Secretary of Defense Paul Wolfowitz (January 30, 2004) and Secretary Donald Rumsfeld (September 16, 2004) are commendable for their strongly worded condemnations of all forms of trafficking—including involuntary servitude and debt bondage—and their frank recognition of the role that DoD contractors can play in trafficking in peacekeeping operations. But, DoD's actions do not match this ambitious rhetoric. Secretary Rumsfeld's stated commitment to take “every step possible to combat Trafficking in Persons” has not translated into results in the field. Without implementation, the stated policy of “zero tolerance” will make zero difference in the lives of trafficking victims. Zero prosecutions speaks for itself.

**MATERIALS SUBMITTED FOR THE RECORD
BY HON. CHRISTOPHER H. SMITH, CHAIRMAN,
COMMISSION ON SECURITY AND COOPERATION IN EUROPE**

**THE WHITE HOUSE PRESS RELEASE REGARDING NSPD-22,
DATED FEBRUARY 25, 2003**

**TRAFFICKING IN PERSONS
NATIONAL SECURITY PRESIDENTIAL DIRECTIVE**



For Immediate Release
Office of the Press Secretary
February 25, 2003

Trafficking in Persons National Security Presidential Directive

President George W. Bush has signed a National Security Presidential Directive to advance the United States Government's fight against trafficking in persons, a modern day form of slavery. This policy directive follows from the President's actions taken on February 13, 2002, when he signed Executive Order 13257 to establish a Cabinet-level Interagency Task Force to Monitor and Combat Trafficking in Persons.

Generally speaking, trafficking in persons refers to actions, often including use of force, fraud, or coercion, to compel someone into a situation in which he or she will be exploited for sexual purposes, which could include prostitution or pornography, or for labor without compensation, which could include forced or bonded labor. The United States is committed to the eradication of human trafficking both domestically and abroad. It is a crime that is an affront to human dignity.

Trafficking in persons is often linked to organized crime, and the profits from trafficking enterprises help fuel other illegal activities. The growth of vast transnational criminal networks supported in part by trafficking in persons fosters official corruption and threatens the rule of law. The administration policy includes the use of law enforcement tools, prevention efforts, and victim protection and assistance.

According to some estimates, each year at least 700,000 and possibly as many as 4 million people, primarily women and children, are trafficked around the world, including thousands into the United States. Many victims are lured from their homes with promises of well-paying jobs. Once they are deprived of the opportunity to return home, they are forced or coerced into prostitution, domestic servitude, farm or factory labor, or other types of forced labor. A significant number of children are trafficked worldwide. Prostitution and related activities, which are inherently harmful and dehumanizing, contribute to the phenomenon of trafficking in persons, as does sex tourism, which is an estimated \$1 billion per year business worldwide. The exposure of trafficked people to abuse, deprivation and disease, including HIV, is unconscionable.

Our commitment to eradicate trafficking includes: vigorously enforcing U.S. laws against all those who traffic in persons; raising awareness at home and abroad about hu-

man trafficking and how it can be eradicated; identifying, protecting, and assisting those victims exploited by traffickers; reducing the vulnerability of individuals to trafficking through increased education, economic opportunity, and protection and promotion of human rights; employing diplomatic and foreign policy tools to encourage other nations, the UN and other multilateral institutions to work with us to combat this crime, draft and enforce laws against trafficking, and hold accountable those engaged in it.

The United States Government's specific efforts to combat trafficking in persons include:

- The Department of State's Office to Monitor and Combat Trafficking in Persons assessed the progress of 165 governments in addressing trafficking and published findings in the second annual Trafficking in Persons Report. Former Congressman John Miller was recently named to head the office.
- In FY 2002 the Department of State funded over 110 anti-trafficking programs in some 50 countries. Assistance includes shelters for trafficking victims, support for return and reintegration for victims, and law enforcement training.
- The Department of Justice prosecuted 76 traffickers in FY 2001 and 2002, three times as many as in the previous two years. It has 125 open trafficking investigations as of today—nearly twice as many as in January 2001.

The Department of Justice conducted its largest ever anti-trafficking training for federal prosecutors and agents in October 2002 at the Department's training facility in South Carolina. In December 2002, the Justice Department held the first Department summit on protecting children from prostitution and launched a pilot program to enable communities to respond to this problem.

The Immigration and Naturalization Service issues the "T visa" to enable certain trafficking victims to live and work legally in the United States for three years while their cases are investigated and prosecuted.

The Department of Justice and the Department of Health and Human Services are working together to certify hundreds of trafficking victims so that they may receive federal and state benefits and services including employment authorization, housing, and medical care.

The Department of Health and Human Services [HHS] has implemented a process for certifying victims of a severe form of trafficking so that victims may receive the wide-range of services that help them to recover and gain self-sufficiency. To date, HHS has certified over 370 victims.

The Department of Health and Human Services has provided over \$4 million in grant funding to non-profit organizations throughout the country which provide community education, outreach, and direct assistance to victims of trafficking. Combined with HHS's outreach efforts, these grantees have already reached well over 3,000 individuals and organizations throughout the country, increasing knowledge, fostering program development and encouraging a call to action to stop severe forms of trafficking.

Since January 2001, the United States Agency for International Development [USAID] has significantly increased its support for anti-trafficking activities in developing and transition countries. In FY 2002 USAID spent more than \$10 million in over 30 countries in which there are significant levels of severe forms of trafficking in persons.

The Department of Labor negotiated a \$1.2 million cooperative agreement with the International Research and Exchanges Board, a non-governmental organization, to con-

duct a two-year anti-trafficking project in Eastern Europe. Started in November 2001, this program aims to prevent the trafficking of women by creating viable economic alternatives for at-risk women in seven major cities.

The Department of Labor has supported projects through the International Labor Organization's International Program on the Elimination of Child Labor to address child trafficking in 17 countries around the world. These projects rescue children from trafficking and exploitative work situations and provide them with rehabilitation services and educational opportunities. They also undertake efforts to prevent children from being trafficked in the first place.

The Department of Labor's Employment and Training Administration (ETA) sent a Directive to its field offices outlining the provisions of the Trafficking Victims Protection Act of 2000 allowing victims to receive job training and other services without regard to their immigration status. The services provided at ETA One-Stop Centers, such as job search assistance, career counseling and occupational skills training, may be of significant value to trafficking victims.

MATERIALS SUBMITTED FOR THE RECORD
BY HON. CHRISTOPHER H. SMITH, CHAIRMAN,
COMMISSION ON SECURITY AND COOPERATION IN EUROPE



DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

JAN 30 2004

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
COMMANDERS OF THE COMBATANT COMMANDS
DIRECTORS OF DEFENSE AGENCIES

SUBJECT: Combating Trafficking in Persons in the Department of Defense

As set forth in National Security Presidential Directive/NSPD-22, "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." The Commander in Chief has decreed that all departments of the United States Government will take a "zero tolerance" approach to trafficking in persons.

It is the policy of the Department of Defense that trafficking in persons will not be facilitated in any way by the activities of our Service members, civilian employees, indirect hires, or DoD contract personnel. Following the policy set by the Commander in Chief, DoD opposes prostitution and any related activities that may contribute to the phenomenon of trafficking in persons as inherently harmful and dehumanizing. Trafficking in persons is a violation of human rights; it is cruel and demeaning; it is linked to organized crime; it undermines our peacekeeping efforts; and it is incompatible with military core values.

The responsibilities of commanders and supervisors at all levels are clear, as codified by Congress under Title 10. Those statutory provisions require commanders and others in authority "to be vigilant inspecting the conduct of all persons who are placed under their command; to guard against and suppress all dissolute and immoral practices, and to correct . . . all persons who are guilty of them." Efforts to combat trafficking in persons in DoD begin with the recognition that all commanding officers and other DoD officers and employees in positions of authority are expected to conduct themselves in a manner that is consistent with statutory requirements for exemplary conduct.

I expect those in authority at all levels to examine opportunities for combating trafficking in persons and consider the attached objectives as part of that effort.

Attachment:
As stated

A handwritten signature in black ink, appearing to read "Paul Wolfowitz".



U19895 /03

Objectives of DoD Efforts to
Combat Trafficking in Persons

- The education of 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.
- Within their authority to do so, increased 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 to host country authorities involved in the battle against trafficking in persons.
- Consistent with U.S. and host-nation law, the incorporation of provisions in overseas service contracts that prohibit any activities on the part of contractor employees that support or promote trafficking in persons and impose suitable penalties on contractors who fail to monitor the conduct of their employees.
- A systemic method for evaluating efforts to combat trafficking in persons as part of ongoing evaluation and inspection programs conducted by Inspector General organizations.



**MATERIALS SUBMITTED FOR THE RECORD
BY HON. CHRISTOPHER H. SMITH**

THE SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

SEP 16 2004

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
COMMANDERS OF THE COMBATANT COMMANDS
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
DIRECTORS OF DEFENSE AGENCIES

SUBJECT: Combating Trafficking in Persons

I want to offer my view on this important matter to augment the January 30, 2004 memo on this subject.

Trafficking in Persons is the third largest criminal activity in the world, after illegal arms and drugs sales. It enslaves thousands of people. I am especially concerned with commercial sex exploitation and labor trafficking practices in areas near our overseas locations.

I want commanders at all levels to ensure their units are trained to understand and recognize indicators of this serious crime. I also want commanders to work with host nation law enforcement to identify businesses and establishments that are involved in trafficking for sexual exploitation. Once violators are identified, commanders then should take appropriate steps to put those establishments off limits to DoD members--military, civilian and contract civilian. No leader in this department should turn a blind eye to this issue.

Commanders need to be vigilant to the terms and conditions of employment for individuals employed by DoD contractors in their Areas of Operations. Trafficking includes involuntary servitude and debt bondage. These trafficking practices will not be tolerated in DoD contractor organizations or their subcontractors in supporting DoD operations.

Further, commanders should make full use of all tools available, including DoD Inspectors General and criminal investigative organizations, to combat these prohibited activities.

I am committed to taking every step possible to combat Trafficking in Persons.



OSD 11599-04



NATO/EAPC/PFP UNCLASSIFIED

8 June 2004

DOCUMENT
EAPC(C)D(2004)0029

To: EAPC Ambassadors

From: Secretary General

NATO POLICY ON COMBATING TRAFFICKING IN HUMAN BEINGS

1. Attached is a NATO policy on combating trafficking in human beings approved by the North Atlantic Council. The NATO policy reflects close consultation between Allies, PfP Partners, Mediterranean Dialogue Countries and troop contributing nations taking part in NATO led operations. The policy also draws on the experience of OSCE, UN and experts from government and non-government organisation.
2. In agreeing this NATO Policy on Combating Trafficking in Human Beings the Allies have also agreed that the policy be forwarded to NATO Heads of State and Government for endorsement at the Istanbul Summit. Partners are invited to associate themselves with this NATO Policy.
3. At that EAPC Ambassadors meeting on 16 June I will invite EAPC Ambassadors to agree that the NATO policy be forwarded to EAPC Heads of State and Government for their endorsement at Istanbul.

(Signed) Jaap de Hoop Scheffer

1 Annex

3 Appendices

Original: English

NATO POLICY ON COMBATING TRAFFICKING IN HUMAN BEINGS

1. This NATO policy takes into account the universal condemnation of the crime of trafficking in human beings and reiterates that it constitutes a serious abuse of human rights, especially affecting women and children. It is a transnational problem, requiring concerted multilateral action if it is to be defeated. Trafficking in human beings, affects countries of origin, countries of transit and countries of destination. This modern day slave trade fuels corruption and organised crime. It has the potential to weaken and destabilise fragile governments and runs counter to the goals of NATO-led efforts especially in South Eastern Europe. A zero-tolerance policy regarding trafficking in human beings by NATO forces and staff, combined with education and training, is required.
2. Allies reaffirm their commitment to promoting peace and security in the Euro-Atlantic Area and to combating the trafficking in human beings and agree the following policy. NATO will support and sustain further development of practical cooperation between nations and between NATO and other international institutions such as the UN, OSCE and International Organisation for Migration. NATO will also consult with NGOs active in this field with a view to improving its existing mechanisms and measures for the implementation of the present policy. Close exchange of information and experience between NATO and the EU should also be developed in accordance with agreed procedures.
3. This policy on combating the trafficking in human beings aims to reinforce efforts by NATO and individual nations to prevent and combat trafficking and the commitments undertaken in the context of other international organisations including the “UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,” and the OSCE Action Plan to Combat Trafficking in Human Beings. NATO and non-NATO troop contributing nations will develop and implement various measures that discourage the demand by their military and civilian personnel that fosters all forms of exploitation of persons.
4. In the context of this policy trafficking means, the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat of use of force or other forms of coercion, of abduction, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purposes of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others, or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.
5. This policy is developed by NATO in consultation with its Partners and nations contributing forces to NATO-led operations. Allies re-affirm their commitment to ratification, acceptance or approval of the UN Convention and relevant Protocol and agree:

- (a) to review national legislation and report on national efforts to meet obligations associated with the UN Convention and its Protocol in accordance with the relevant decisions taken by the Parties to those treaties;
- (b) to encourage all nations contributing forces to NATO- led operations to ratify, accept or approve the UN Convention Against Organised Crime and relevant Protocol and adhere to the OSCE Code of Conduct;
- (c) that this policy is aimed at securing standards of individual behaviour;
- (d) that all personnel taking part in NATO led-operations should receive appropriate training to make them aware of the problem of trafficking and how this modern day slave trade impacts on human rights, stability and security, as well as being informed of their own responsibilities and duties and the respective responsibilities of International Organisations in this field;
- (e) in the conduct of operations, to continue efforts, within their competence and respective mandates, to provide support to responsible authorities in the host country in their efforts to combat trafficking in human beings;
- (f) to incorporate contractual provisions that prohibit contractors from engaging in trafficking in human beings or facilitating it and impose penalties on contractors who fail to fulfil their obligations in this regard; and
- (g) to evaluate implementation of their efforts as part of the ongoing reviews carried out by the competent authorities.

6. In order to ensure maximum effectiveness of the present policy, NATO nations commit themselves to ensure full national implementation of this policy. Non-NATO Troop contributing nations are expected to take similar steps upon joining a NATO-led operation.

7. NATO personnel serving at NATO Headquarters and its Agencies as well as those taking part in NATO led operations should continue to conduct themselves with regard to the highest professional standards and with respect to national as well as international law.

NATO Guidelines on Combating Trafficking in Human Beings for Military Forces and Civilian Personnel Deployed in NATO-led Operations

Introduction and scope

1. The present guidance is intended for the use of military and civil elements that, while not being NATO staff, participate in operations under NATO command and control. Its aim is twofold:
 - (a) to define the basic standards of behaviour to which NATO-led forces must adhere in the course of their work; and
 - (b) to define the parameters within which NATO deployed forces can, within their competence and respective mandate, provide support to responsible authorities in the host country in their efforts to combat trafficking in human beings.
2. This guidance is aimed at highlighting the general principles and activities that participating nations are expected to request from their nationals. It is not exhaustive and will require, as appropriate, specific implementing actions by individual nations and forces to be fully effective. This includes, where necessary, ratifying/acceding to/approving the “UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime” and implementing its requirements, as well as ensuring implementation of the present guidelines.

General Principles

3. Forces conducting operations under NATO command and control are prohibited from engaging in trafficking in human beings or facilitating it. This prohibition also applies to any civilian element accompanying such forces, including contractors.
4. Forces conducting PSO under NATO command and control, will support, within their competence and mandate, the efforts of responsible authorities in the host country in combating trafficking in human beings.

Definitions

5. With reference to the definition of trafficking in human beings, Allies reaffirm their adherence to and compliance with the provisions of Article 3 of the “UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.”

6. In particular, trafficking in human beings means the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat of use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purposes of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others, or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

Implementing Guidelines

7. The implementation of the principles at Paragraphs 3 and 4, above, can only be successful if appropriate implementing measures are taken by NATO Authorities and Troop Contributing Nations.
8. For NATO Authorities this includes as a standing requirement:
 - (a) the development of specific policy provisions, within existing PSO doctrine, for the role of NATO-led forces in supporting, within their competence and mandate, the efforts of responsible authorities in the host country to combat trafficking in human beings;
 - (b) the establishment, at NATO educational institutions (NS, NDC), of specific training modules devoted to raising the awareness of the issues connected to the trafficking in human beings and of the means to combat it. These modules will be designed and implemented with the advice of anti-trafficking experts, including intergovernmental and non-governmental organisations with expertise in this area; and
 - (c) the development of an evaluation mechanism to analyse progress on combating trafficking, as well as of a confidential and transparent NATO internal reporting mechanism on violations of the present policy.
9. In the planning and conduct of PSO, NATO Authorities will:
 - (a) include in the relevant portions of the Operational Plan (OPLAN), specific measures, within their competence and mandate, to support the effort of responsible authorities in the host country in combating the trafficking in human beings;
 - (b) include, in the pre-deployment phase, specific training on issues related to trafficking in human beings;
 - (c) assess the conformity of contributing forces to the principles defined in this document; and

- (d) identify within the Area of Operations, local and international organisations with capacity for protecting and housing adult and child victims of trafficking and the establishment of appropriate liaison arrangements with such organisations.
10. As a standing requirement, troop contributing nations will organise specific training modules preparing their forces and accompanying civilian elements and contractors for PSO. Such modules may include training on the issue of trafficking in human beings and legal consequences stemming from the violation of anti-trafficking laws, as well as training on the means to support, within their competence and mandate, the efforts of responsible authorities in the host nation to combat trafficking in human beings. Similar modules may also be developed by PfP Training Centres and included, as appropriate, in their training curricula.
11. As a standing requirement, it is recommended that troop contributing nations:
- (a) review, if necessary their existing criminal legislation, including the enforcement of such legislation, to ensure that members of the forces—as well as civilian elements—who engage in trafficking in human beings, or facilitate it, are liable to appropriate prosecution and punishment;
 - (b) provide details of their national legislation and national efforts to combat trafficking;
12. In the planning and conduct of a NATO-led PSO, it is recommended that troop contributing nations:
- (a) conduct specific pre-deployment training on criminal issues including those related to trafficking in human beings and the means to combat it;
 - (b) conduct timely investigation and prosecution of cases of misconduct by members of their forces or civilian elements, including contractors;
 - (c) develop specific mechanisms for reporting crimes , including those related to trafficking in human beings;
 - (d) in accordance with national legislation, create and disseminate policies explicitly protecting whistleblowers who come forward with evidence of crimes, including trafficking in human beings, and
 - (e) in accordance with national legislation, retain records of misconduct by individuals, including, those related to trafficking in human beings, for use in recruitment, vetting and deployment.

**NATO GUIDANCE FOR THE DEVELOPMENT OF TRAINING
AND EDUCATIONAL PROGRAMMES TO SUPPORT
THE POLICY ON COMBATING THE TRAFFICKING IN HUMAN BEINGS**

1. Training and creating awareness are key elements to ensure the successful implementation of this policy. In particular, training will provide information required to identify trafficking and will put military and civilian personnel on notice of consequences for engaging in trafficking.
2. Two different kinds of training to be offered by NATO and national training institutions are envisaged for the implementation of the present policy:
 - (a) a general module, aimed at the personnel (military or civilian) to be employed in a NATO operation, with a twofold focus:
 - outline the characteristics of trafficking in human beings; and
 - summarise the national and international legal provisions which punish those who engage in trafficking in human beings, or facilitate it;
 - (b) specific modules, aimed at all those categories of personnel who have specific responsibilities, either under national legislation or under the present policy, to police the behaviour of personnel or take specific actions to combat trafficking.
3. The general module will need to include, as a minimum, the following elements:
 - (a) background information on the trafficking phenomenon, its origins, its victims, its perpetrators (organised crime) and an overview of the purposes for which human beings are trafficked including those links which exist between trafficking and the illegal sex industry;
 - (b) if the training is imparted in a pre-deployment context, an outline of the specific instances of trafficking to which personnel might be confronted in the deployment area from a security perspective. In this respect, training would address how trafficking in human beings supports other elements of organised crime that present a threat to the mission;
 - (c) guidelines to detect instances of trafficking or identify trafficked people, and how to deal with such events (reporting, actions to be taken, etc.); and
 - (d) a summary of the legal provisions affecting those who engage in trafficking or facilitate it.

4. The specific modules will contain, as a minimum, the following elements:
 - (a) For commanders and supervisors: how to deal with reports concerning involvement of their subordinates in trafficking and what measures to take; and
 - (b) For military police units which are part of national contingents: how to investigate allegations of involvement in trafficking by members of their national contingent, with specific focus on the sensitive aspects of such an investigation, such as victim identification and protection.

5. To ensure the greatest effectiveness training modules should:
 - (a) be provided to all levels of military and civilian personnel;
 - (b) include information tailored to the specific situation/requirement of the target audience;
 - (c) be developed with input from anti-trafficking experts of international and non-governmental organisations with experience in combating trafficking;
 - (d) where feasible focus on “train the trainers” events to ensure the dissemination of appropriate information at all levels;
 - (e) should include case studies, interactive methods of training; and
 - (f) make use of distance and computer based training.

**Guidelines for NATO Staff on Preventing the Promotion
and Facilitation of Trafficking in Human Beings**

Introduction and scope

1. The present rules set out the standards expected of all NATO staff in furtherance of the mandate of the North Atlantic Council, as laid out in PO(2003)185(INV).
2. These rules apply to all NATO staff, whether on post or deployed on mission on behalf of the Organisation.

General Principles

3. The basic principles for the behaviour of NATO Staff are laid down at Article 12.14, 13.1 and 13.2 of the NATO Civilian Personnel Regulations.
4. In conformity with established procedures and regulations with specific reference to trafficking in human beings, this means that:
 - (a) NATO staff shall not engage in trafficking in human beings, including for the purpose of sexual exploitation, nor they will facilitate it; and
 - (b) NATO staff shall have the duty to report to his/her supervisors any instance of human trafficking of which he/she may have become aware, as well as any concerns that he or she may have regarding the involvement of another NATO staff in trafficking in human beings including for the purpose of sexual exploitation.

Definitions

5. With reference to the definition of trafficking in human beings, NATO reaffirms its adherence to and compliance with the provisions of Article 3 of the "UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime."
6. In particular, trafficking in human beings means the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat of use of force or other forms of coercion, of abduction, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the pur-

poses of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others, or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

7. "NATO staff" means international civilian personnel (seconded or freelance), i.e. personnel of a NATO body recruited from among the nationals of members of the Alliance and filling international posts appearing on the approved establishment of that NATO body. The present policy applies also to consultants and temporary personnel.

Implementing Guidelines

8. In order to implement the principles spelled out at Paragraph 4, above, the following measures are required:
 - NATO Secretary General will, drawing upon the expertise acquired by other regional, international, intergovernmental, and non-governmental organisations and in coordination with the Director of the International Military Staff and NATO Strategic Commanders, develop specific guidelines which will define, i.a.:
 - (a) the specific standards of behaviour to which NATO staff will abide; and
 - (b) the investigative and disciplinary procedures to be implemented.
 - Member Nations will ensure that NATO staff who are under their jurisdiction and who have engaged in criminal activities related to trafficking in human beings, are prosecuted in accordance with their national legislation and procedures.

**MATERIALS SUBMITTED FOR THE RECORD
BY HON. CHRISTOPHER H. SMITH**

**U.N. DEPARTMENT OF PEACEKEEPING OPERATIONS
POSITION PAPER ON TRAFFICKING
IN PERSONS—EXECUTIVE SUMMARY**

INTRODUCTION

- i. This policy paper examines human trafficking as it relates to UN peacekeeping. It aims to define the problem in the context of UN peacekeeping and proposes a strategy for the Department of Peacekeeping Operations (DPKO) to address human trafficking, based on lessons from previous missions and consultations with partner organizations in anti-trafficking.

ISSUE

- ii. Human trafficking is a form of serious exploitation and abuse that is increasingly present in the UN peacekeeping environments. Trafficking exploits human beings for revenue through sex, forced labour and human organs. For peacekeeping (UN and other) there is a crisis of perception in relation to trafficking and the linked issue of sexual exploitation and abuse, which sees peacekeepers branded as more part of the problem than the solution, along with criticisms that the issue is not taken seriously by peacekeeping institutions. Allegations and incidences of peacekeeper involvement with trafficking run counter to UN principles. Such incidents can be extremely damaging to missions by undermining implementation of police reform and rule of law mandates, perpetuating linkages to organized crime and providing material for anti-UN elements, obstructionists and negative media campaigns.

APPROACH

- iii. Although peace operations are generally not well-suited, nor directly mandated, to deal with the challenges of combating human trafficking, DPKO is committed to playing a substantive support role in confronting human trafficking in mission areas. As the problem continues to grow, traffickers are likely to continue to target future missions as a source of demand, as clients for services. As such, the issue must be managed carefully by mission managers from the outset. The problem of human trafficking is a highly complex one, and the use of standardised anti-trafficking enforcement templates within UN peacekeeping missions is not recommended.
- iv. DPKO's approach to human trafficking will provide missions with the effective policy guidance and operational tools to enable them to better understand the phenomenon and to act locally in response to trafficking by supporting the expertise of others, in particular host governments. As a priority, DPKO and mission must break down widely-held perceptions of peacekeeping being part of the problem by demonstrating a serious understanding of, and engagement with, the issue to prevent, minimize and punish peacekeeper involvement in sexual exploitation and abuse.

DPKO FRAMEWORK TO DEAL WITH HUMAN TRAFFICKING

- v. DPKO will pursue a three-pronged framework to enable the Department and missions to better engage with human trafficking. This approach avoids applying formulaic responses to an issue that cannot be addressed effectively through a template solution. The approach is designed to be more flexible and can be scaled to ensure that the Department has a range of options to pursue human trafficking issues as they arise, which can be better tailored to the mission mandate and context.
- vi. This framework is an integrated approach to human trafficking to equip missions with the tools to assess and deal with trafficking and traffickers as a potential threat to the mission, as a serious crime, as a breach of human rights and as an affront to the rule of law. DPKO recognizes that although peacekeeping is not intrinsically well-suited to dealing with the complexities of human trafficking, there are support roles for UN peacekeepers that can complement the strengths and strategies of others in the anti-trafficking community. UN peacekeepers will play a minor but well-informed and supportive role in anti-trafficking efforts, while adopting a do no harm approach in their own relations with the host community. DPKO's approach to dealing with human trafficking in the context of UN peacekeeping operations is based on the following framework:

ONE GOAL

To ensure from the outset of any peace operation, that human trafficking, as a serious form of exploitation and abuse, is given due attention and is managed appropriately as a problem that can undermine core UN and peacekeeping objectives.

TWO OBJECTIVES

1. To establish a system to monitor, prevent, minimize, investigate and punish involvement of peacekeeping personnel in activities that support human trafficking and other sexual exploitation and abuse, in support of the Secretary-General's zero tolerance stance; and
2. Where mandated, have available the tools to establish and support national efforts to prevent and counter human trafficking in post-conflict environments, in particular through rule of law activities.

THREE PROGRAMMES OF ACTIVITY

1. Awareness and Training
2. Discipline, Accountability and Community Relations
3. Support to Anti-trafficking activities

INTRODUCTION

1. This paper examines the issue of human trafficking as it relates to UN peacekeeping. It aims to define the problem for UN peacekeeping and proposes a DPKO strategy to engage with the issue. The paper builds on lessons learned document from anti-trafficking experiences of UNMIK, UNMIBH and UNMISSET, and a broader assessment of the problem, drawing on discussions with national and international organizations and non-government organizations that deal with human trafficking.

DEFINITION

2. An agreed definition of human trafficking now exists under Article 3 of the Palermo Protocol on trafficking in persons, which has come into force on 25 December 2003. This internationally agreed definition focuses on exploitation of human beings—be it for sexual exploitation, other forms of forced labour, slavery, servitude, or for the removal of human organs. Trafficking takes place by criminal means through the threat or use of force, coercion, abduction, fraud, deception, abuse of positions of power or abuse of positions of vulnerability. It relates to all stages of the trafficking process: recruitment, transportation, transfer, harbouring or receipt of persons. Trafficking is not just a transnational crime across international borders—the definition applies to internal domestic trafficking of human beings.

ISSUE

3. Human trafficking is a destructive phenomenon afflicting many post-conflict environments and, which can seriously impede UN peacekeeping and other United Nations objectives in host countries. The trafficking of human beings is a serious crime and a severe form of exploitation and abuse which perpetuates insecurity, vulnerability and grave human rights abuses suffered by post-conflict societies. This is particularly so in situations where serious human rights violations and exploitation—such as sex slavery, forced labour (including child soldiers), forced pregnancy, forced pregnancy terminations and systematic rape campaigns—have been perpetrated during conflict, often as an organised feature of the conflict. The main victims of human trafficking are women and, very frequently, children.
4. In the peacekeeping context, human trafficking is simultaneously a gross violation of individual human rights and an assault on the rule of law. Human trafficking in post-conflict environments feeds social vulnerability and, in many instances, it is a major organized crime activity, which undermines the rule of law and supports the corruption of power structures, thus impacting on efforts to build a sustainable peace. Human trafficking is a low risk, high revenue primer for organized crime activities. Often the same figures that were in a position to exploit war-time economies are in a position to move quickly into high revenue, illicit goods and service economies in post-conflict environments.
5. Trafficking is a process which seeks out vulnerable individuals, and then exacerbates their vulnerability (through violence, forced movement, slavery, servitude, coercion, threat and / or deceit) and then subjects them to severe exploitation—often forced prostitution or forced labour—to generate revenue for a third party, often organised crime networks. As it is a fast, low cost, low risk and high revenue activity, organised crime groups may use human trafficking as an early method to

test routes and to identify corruptible officials. Once routes are established, commodities such as drugs and weapons are often used along the same routes. If rule of law and political structures are corrupted, then organised crime is very difficult to weaken making good governance and rule of law reform even more difficult to pursue.

6. Any influx of peacekeeping troops and other personnel, contractors, local combatants and reconstruction money will create a source of demand and locally accessible revenue in otherwise poor economies. In such circumstances, UN peacekeepers should expect to find trafficking and exploitation emerging in its areas of operations, even as the first personnel arrive. Senior managers of missions should assume that traffickers will target UN personnel for revenue, and can anticipate that criminal power structures behind trafficking will be actively seeking to capture and corrupt local law enforcement, judicial, bureaucratic and political targets as soon as possible. This can significantly undermine efforts by UN peacekeeping personnel or other partners to implement governance and rule of law mandates.

PEACEKEEPER INVOLVEMENT AND THE PERCEPTION CRISIS

7. The use of trafficking victims by peacekeepers for sexual and other services has been a source of major embarrassment and political damage to UN PKOs. Despite the fact that involvement is usually not widespread, the political and moral stigma attached to this behaviour can taint entire missions. This can leave missions exposed and vulnerable to attacks on their credibility with the community and key players in the peace process. Opponents of peace missions are increasingly aware that the issue can be effectively exploited to undermine the moral authority and political leverage of UN operations, especially in missions with governance and rule of law mandates.
8. There is a serious crisis in perception for peacekeeping. Peacekeepers have come to be seen as part of the problem in trafficking, rather than part of the solution. These perceptions and any substance behind them need to be addressed directly by DPKO. Although there is very little data available on the issue, and few cases have been fully investigated and proven, there is strong anecdotal evidence of peacekeeping personnel having been involved in the use (knowingly or unknowingly) of sexual services of trafficking victims. The lack of data in itself is a worrying indication of our weak systems to track and detect involvement in criminal acts and other breaches of discipline. The perception of peacekeeper involvement in the use of services by trafficked victims (and thus exploitation of their vulnerable position) is now widespread. Allegations have been made regarding the involvement of peacekeepers in facilitating and/or condoning trafficking. Again, there is little corroborating evidence available to prove or disprove such allegations.
9. This perception of a large-scale use of the services of victims by peacekeepers is exacerbated by an equally strong perception that peacekeeping institutions do not take the issue seriously. This latter perception is extremely damaging for peacekeeping and has been compounded by 'boys will be boys' attitudes of the past. It is essential that DPKO takes this issue seriously as it can undermine implementation of rule of law and institutional reform mandates, provide material for anti-UN elements, obstructionists and negative media campaigns, and impede the achievement of mission objectives and damage UN credibility.

10. While it is understood that DPKO is not able to exert full control over large concentrations of personnel and that discipline breaches do occur, there are forceful criticisms that peacekeeping institutions (both UN and other) do not see the issue as a serious one, and consequently do not have in place the policies, disciplinary controls, detection and investigation capacities or the political willingness required to address the situation in a serious manner. Critics also point to the perceived and actual impunity of some peacekeepers that have committed serious crimes, and the lack of adequate investigation and follow up by the UN and by Member States. The impunity issue continues to damage the reputation of UN missions, and careful consideration of the issue is warranted to examine ways to strengthen procedures.
11. Media, advocacy and watchdog organizations now regularly track the phenomenon of UN and peacekeeping involvement in such abuses and will continue to target incidences of UN peacekeeping involvement. This is rightly a source of extreme political embarrassment for the UN. All efforts must be taken to prevent it. The problem can also severely compromise a mission's relations with host governments, civil society and communities. The perceived or real abuse of the position of power as an international peacekeeping presence can irrevocably undermine mission relations with the host community and political partners. These negative perceptions, if not addressed through demonstrable action, may cause problems in mission relations with international organizations and NGO partners in the field, with host governments and communities, and the media. If peacekeeping is to be an effective tool for change in post-conflict environments, missions need to be able to build, and then use, leverage created by their moral authority and legitimacy as a responsible international force. Good community relations are essential and the abuse of human rights by peacekeepers should not be tolerated by DPKO, Member States and the host community. UN peacekeeping personnel should uphold and protect human rights in all aspects of their mandated duties.

HUMAN TRAFFICKING AND PROSTITUTION

12. In many mission areas it may be extremely difficult to differentiate between trafficking victims and local prostitution. Prostitution may be present owing to local poverty conditions and the need for access to income for poor families. These scenarios may or may not involve trafficking, but are likely to be highly exploitative nonetheless. It thus becomes very difficult to differentiate between trafficking victims, particularly victims of domestic trafficking, and vulnerable individuals in local populations that have had to resort to prostitution for income. The use of prostitutes by UN personnel in these environments is an exploitative activity.
13. This issue is addressed in the Secretary-General's Bulletin (SGB) on Sexual Exploitation and Abuse, which explicitly recognizes that the procurement of sexual services from nationals in a vulnerable context by a UN staff member (in a position of disproportionate power) constitutes an act of sexual exploitation, even where prostitution is not a crime. The firm position provided by the SGB, is a strong benchmark for the UN system, and DPKO should be clear that this extends to UN peacekeepers by logical extension. Linking a peacekeeping approach to broader efforts in the UN to counter sexual exploitation and abuse is an important step in ensuring that the problem is addressed systematically and in step with other UN System partners. Member States will be engaged proactively.

DPKO FRAMEWORK FOR DEALING WITH HUMAN TRAFFICKING

14. Human trafficking is a serious problem for modern peacekeeping. It is a damaging dynamic in post-conflict communities and an issue that has tainted peacekeeping in the past. Where peacekeepers become entangled in the issue through the use of trafficked victims for sex or other forms of forced labour, the problem compounds itself. International interest in this issue will be sustained, and criticism of UN involvement will continue to be severe. UN peacekeeping must find a way to engage seriously and constructively the issue both in DPKO and in field missions. Experience has shown that there is no easy solution for dealing with the issue of human trafficking. DPKO will deal with the issue within three broader frames of reference—human trafficking as, first, a grave and exploitative human rights abuse; second, as an issue of discipline and accountability for peacekeepers; and, third, as a serious crime and violation of international norms (often involving organised crime and corruption). To address the issue appropriately, a framework of interventions is required to lift DPKO's capacity in each of these three areas.
15. DPKO will adopt a framework approach to UN peacekeeping and human trafficking to pull together separate but linked activities across three programmes of work, each of which have broader impacts than just human trafficking. This approach requires strong commitment from DPKO senior management to ensure that personnel in missions, from senior managers down, are aware of the issue and that it must be addressed seriously both in the mission area and for the mission itself. It also requires commitment from Member States and the senior personnel they contribute to serve in UN Missions.
16. The framework is designed to equip missions with the tools to assess and deal with human trafficking in its various manifestations—as a potential threat to the mission, as a serious crime, as a breach of human rights and as an affront to the rule of law. The goal of the DPKO framework is:

To ensure from the outset of any peace operation, that human trafficking, as a serious form of exploitation and abuse, is given due attention and is managed appropriately as a problem, which can undermine core UN and peacekeeping objectives in the host country.

17. In pursuing this goal, the Department has two primary objectives:
 - (i) To establish a system to prevent, monitor, minimize, investigate and punish the involvement of UN peacekeeping personnel in activities that support human trafficking and other sexual exploitation and abuse in support of the Secretary-General's 'zero tolerance' stance;
 - (ii) Where mandated and requested, to have available the tools to establish or to support national efforts (with international partners) to prevent and counter human trafficking in post conflict environments, particularly in support of the rule of law.

18. These objectives are to be pursued through a framework of activity that builds on and supports existing efforts in three programmes:

- Awareness and Training
- Discipline, Accountability and Community Relations
- Support to Anti-trafficking Activities

Work plans have been established for each of these programmes, which will then need to be mainstreamed into the work of the Department and missions.

Programme One: Awareness and Training

19. This programme targets the overall lack of awareness in DPKO and of peacekeeping personnel in missions about human trafficking and sexual exploitation and abuse. It will attempt to develop information and awareness material that articulates the problem in a manner that is understood by peacekeeping personnel. This will include an awareness package and guidelines for missions to develop awareness materials locally. Awareness of trafficking will be embedded in a programme for broader awareness on exploitation and abuse, and the conduct of UN personnel. Training material will be developed for a peacekeeping audience, focusing on the roles and responsibilities of all peacekeepers as well as specific responsibilities for key individuals (SRSGs and senior managers, police, contingent commanders, etc.) from the outset of the mission. Training for commanders and managers on how to build an appropriate organisational culture on this issue is a priority. Systems and procedures will not be effective unless there is clear support from the leadership.
20. The programme will draw heavily on material from other organizations and it will focus on support to the Department's responsibilities to implement the SGB on Sexual Exploitation and Abuse and disciplinary issues. There is very little available in pre-existing material for training of peacekeeping personnel on these issues. Programme One will need to include an externally financed Peacekeeper Awareness and Training Project to develop training material for standard DPKO training modules (for managers, contingents, police and civilians), the development of awareness campaign material for ongoing DPKO use and adaptable templates or guidelines for missions on promoting awareness in mission areas. This should focus on the roles and responsibilities of peacekeepers.
21. Once developed, these training materials will require guidance to missions, headquarters personnel and to Member States on how to roll-out materials to missions and contingents. In DPKO, this will be done through the Headquarters training units, primarily through the standard generic training module (SGTM) approach. The awareness and training project should scope out requirements for ongoing technical support for DPKO and missions for awareness and training activities, including the development of further peacekeeper targeted materials on human trafficking, sexual abuse and exploitation and gender-based violence.

Programme Two: Discipline, Accountability and Community Relations

20. The current resourcing of disciplinary matters in the Department is presently not sufficient for an effective multi-mission disciplinary system to address serious breaches of discipline across all missions and all categories of personnel (civilians,

police and military). DPKO and missions require additional capacity to administer a more effective conduct, discipline and accountability system to help prevent and penalise breaches of disciplinary codes and the commission of crimes. For each category of PKO personnel, there needs to be a clear and effective procedural pathway and mechanisms for effective monitoring of behaviour, complaints reporting, mission to DPKO reporting, investigations, follow up and reporting on results of investigations and cases (pursued on both administrative and criminal grounds, in both the United Nations and national jurisdictions). Perceptions of impunity must be addressed squarely.

21. Efforts will build on the work being undertaken by the Disciplinary Working Group and will require additional resources to support and build on the proposals recommended by this Group and to identify future policy options. The Working Group has identified a range of weaknesses and solutions in the current discipline system. To improve the situation further, DPKO is seeking to improve the operationalisation of its enhanced disciplinary procedures in field missions. This requires further problem analysis and resourcing in the short term. Through this analysis, the Department will identify options to put in place a more robust system with clearer individual responsibility and accountability for monitoring and maintaining discipline; as well as stronger capacities for investigation of breaches of discipline in DPKO and in missions. Systems are currently inconsistent across missions and overall quite weak. Operational and administrative tools could be enhanced in missions such as greater use by mission management of military police, safety and security personnel, personnel conduct officers and administrative instructions such as off-limits lists. Recommendations will be developed following the systems analysis.
22. Work under this programme will also focus on identifying operational tools to implement the requirements of the SGB on Sexual Exploitation and Abuse in DPKO and missions. The Department and missions have not yet operationalised the requirements of this SGB in terms of reporting frameworks and effective monitoring, investigation and follow up. This work programme will examine the systems for detection of discipline problems in missions and the reporting, analysis and investigation (including criminal investigation capacities) for disciplinary matters, as well as the conduct of disciplinary proceedings and follow up in missions, at Headquarters and with Member States. It will include engagement with the Special Committee and Troop Contributing Countries (TCCs) on improving discipline and accountability (e.g. through TCC guidelines, guidance to contingent commanders, guidelines for police and experts on mission, contracts with private providers etc.) for all personnel.
23. Finally, this programme will seek to establish a greater culture of transparency and accountability in peacekeeping towards host communities and to establish within missions a better capacity to analyse the impact of the mission on host communities and establish systems to better receive and send messages to the community and civil society. Research will be undertaken into structures established in previous missions, for example, the analysis and community relations units that were set up in UNTAC to identify possible best practice in managing community relations and addressing problems in mission—community relations. The practices of other organisations in building community relations in similar operating environments should also be examined.

Programme Three: Support to anti-trafficking activities

24. This programme will produce guidance on activities to support host government national capacities to prevent and combat human trafficking where missions are mandated, and requested, to be involved in such activities. In missions where the mission has mandated responsibilities for executive governance, or major rule of law responsibilities, the options for engagement are greater. In traditional peace-keeping operations and missions without clearly mandated rule of law responsibilities, UN missions are unlikely to play a role in combating trafficking through enforcement activity, however, personnel need to be aware of the issue and report incidences to the competent authorities and to track the problem as it relates to the UN mission. Where anti-trafficking operations are mandated by the Security Council, DPKO should be able to provide mission with appropriate guidance on how to provide proactive support to the host government and partner organizations in addressing the problem. The overall approach must be to help develop and support sustainable national anti-trafficking structures.
26. Key activities under this Programme should include a draft guidance package for SRSGs on approaches to combating trafficking and for proactive strategies to assist host governments, where mandated and requested, as well as the collation of support tools for missions to assist in anti-trafficking efforts, including
 - Basic guidance for the detection and identification of trafficking activities in mission areas to be used by assessment missions and by mission personnel;
 - Operational materials on the approaches taken in executive and advisory missions (e.g. UNMIK / UNMISSET);
 - Guidelines on reporting procedures for personnel in missions
 - Training materials on trafficking for local police forces and judiciary (e.g. from the Stability Pact and UNODC);
 - Materials to help map key partner agencies in the field and their roles in relation to combating trafficking;
 - Model legislation and institutional arrangements for national plans of action to combat trafficking (e.g. OSCE / Stability Pact); and
 - A resource mobilisation concept to obtain specialist criminal investigation expertise from Member States (e.g. through secondment of criminal investigation experts) if law enforcement activity is required.

RESOURCING AND RESPONSIBILITIES

27. Under this three pronged approach, DPKO will develop a substantial set of tools for dealing with the problem of human trafficking. The Department will need to commit additional resources to the systems and materials development phase of the policy. There is not sufficient expertise in-house and this will need to be obtained to build a critical mass of guidance material. DPKO will need to seek external resources for specialized activities such as the development of training materials and the contents of a guidance package to missions. In missions, where trafficking emerges as a major problem, it is likely that specialist personnel should be obtained to help tailor the mission's approach to dealing with it.

28. Materials developed under Programme One will be fed into the standardized generic training modules, and maintained through the central training systems of DPKO. Responsibility for implementation of Programme Two activities and follow up on discipline and accountability will need to be assigned (and resourced) following the systems analysis. Once materials have been developed under programme three, the Peacekeeping Best Practices Unit will maintain this guidance package.

**MATERIALS SUBMITTED FOR THE RECORD
BY HON. CHRISTOPHER H. SMITH, CHAIRMAN,
COMMISSION ON SECURITY AND COOPERATION IN EUROPE**

United Nations

ST/SGB/2003/13



Secretariat

9 October 2003

Secretary-General's Bulletin

Special measures for protection from sexual exploitation and sexual abuse

The Secretary-General, for the purpose of preventing and addressing cases of sexual exploitation and sexual abuse, and taking into consideration General Assembly resolution 57/306 of 15 April 2003, "Investigation into sexual exploitation of refugees by aid workers in West Africa", promulgates the following in consultation with Executive Heads of separately administered organs and programmes of the United Nations:

**Section 1
Definitions**

For the purposes of the present bulletin, the term "sexual exploitation" means any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. Similarly, the term "sexual abuse" means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

**Section 2
Scope of application**

2.1 The present bulletin shall apply to all staff of the United Nations, including staff of separately administered organs and programmes of the United Nations.

2.2 United Nations forces conducting operations under United Nations command and control are prohibited from committing acts of sexual exploitation and sexual abuse, and have a particular duty of care towards women and children, pursuant to section 7 of Secretary-General's bulletin ST/SGB/1999/13, entitled "Observance by United Nations forces of international humanitarian law".

2.3 Secretary-General's bulletin ST/SGB/253, entitled "Promotion of equal treatment of men and women in the Secretariat and prevention of sexual harassment", and the related administrative instruction¹ set forth policies and procedures for handling cases of sexual harassment in the Secretariat of the United Nations. Separately administered organs and programmes of the United Nations have promulgated similar policies and procedures.

¹ Currently ST/AI/379, entitled "Procedures for dealing with sexual harassment".

Section 3
Prohibition of sexual exploitation and sexual abuse

3.1 Sexual exploitation and sexual abuse violate universally recognized international legal norms and standards and have always been unacceptable behaviour and prohibited conduct for United Nations staff. Such conduct is prohibited by the United Nations Staff Regulations and Rules.

3.2 In order to further protect the most vulnerable populations, especially women and children, the following specific standards which reiterate existing general obligations under the United Nations Staff Regulations and Rules, are promulgated:

(a) Sexual exploitation and sexual abuse constitute acts of serious misconduct and are therefore grounds for disciplinary measures, including summary dismissal;

(b) Sexual activity with children (persons under the age of 18) is prohibited regardless of the age of majority or age of consent locally. Mistaken belief in the age of a child is not a defence;

(c) Exchange of money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour, is prohibited. This includes any exchange of assistance that is due to beneficiaries of assistance;

(d) Sexual relationships between United Nations staff and beneficiaries of assistance, since they are based on inherently unequal power dynamics, undermine the credibility and integrity of the work of the United Nations and are strongly discouraged;

(e) Where a United Nations staff member develops concerns or suspicions regarding sexual exploitation or sexual abuse by a fellow worker, whether in the same agency or not and whether or not within the United Nations system, he or she must report such concerns via established reporting mechanisms;

(f) United Nations staff are obliged to create and maintain an environment that prevents sexual exploitation and sexual abuse. Managers at all levels have a particular responsibility to support and develop systems that maintain this environment.

3.3 The standards set out above are not intended to be an exhaustive list. Other types of sexually exploitive or sexually abusive behaviour may be grounds for administrative action or disciplinary measures, including summary dismissal, pursuant to the United Nations Staff Regulations and Rules.

Section 4
Duties of Heads of Departments, Offices and Missions

4.1 The Head of Department, Office or Mission, as appropriate, shall be responsible for creating and maintaining an environment that prevents sexual exploitation and sexual abuse, and shall take appropriate measures for this purpose. In particular, the Head of Department, Office or Mission shall inform his or her staff of the contents of the present bulletin and ascertain that each staff member receives a copy thereof.

3.3 above has occurred. This action shall be taken in accordance with established rules and procedures for dealing with cases of staff misconduct.

4.3 The Head of Department, Office or Mission shall appoint an official, at a sufficiently high level, to serve as a focal point for receiving reports on cases of sexual exploitation and sexual abuse. With respect to Missions, the staff of the Mission and the local population shall be properly informed of the existence and role of the focal point and of how to contact him or her. All reports of sexual exploitation and sexual abuse shall be handled in a confidential manner in order to protect the rights of all involved. However, such reports may be used, where necessary, for action taken pursuant to section 4.2 above.

4.4 The Head of Department, Office or Mission shall not apply the standard prescribed in section 3.2 (b), where a staff member is legally married to someone under the age of 18 but over the age of majority or consent in their country of citizenship.

4.5 The Head of Department, Office or Mission may use his or her discretion in applying the standard prescribed in section 3.2 (d), where beneficiaries of assistance are over the age of 18 and the circumstances of the case justify an exception.

4.6 The Head of Department, Office or Mission shall promptly inform the Department of Management of its investigations into cases of sexual exploitation and sexual abuse, and the actions it has taken as a result of such investigations.

Section 5

Referral to national authorities

If, after proper investigation, there is evidence to support allegations of sexual exploitation or sexual abuse, these cases may, upon consultation with the Office of Legal Affairs, be referred to national authorities for criminal prosecution.

Section 6

Cooperative arrangements with non-United Nations entities or individuals

6.1 When entering into cooperative arrangements with non-United Nations entities or individuals, relevant United Nations officials shall inform those entities or individuals of the standards of conduct listed in section 3, and shall receive a written undertaking from those entities or individuals that they accept these standards.

6.2 The failure of those entities or individuals to take preventive measures against sexual exploitation or sexual abuse, to investigate allegations thereof, or to take corrective action when sexual exploitation or sexual abuse has occurred, shall constitute grounds for termination of any cooperative arrangement with the United Nations.

Section 7

Entry into force

The present bulletin shall enter into force on 15 October 2003.

(Signed) Kofi A. Annan
Secretary-General

**MATERIALS SUBMITTED FOR THE RECORD
BY HON. CHRISTOPHER H. SMITH, CHAIRMAN,
COMMISSION ON SECURITY AND COOPERATION IN EUROPE**

**OSCE PARLIAMENTARY ASSEMBLY
EDINBURGH DECLARATION'S RESOLUTION
ON COMBATING TRAFFICKING IN PERSONS (JULY 2004)**

RESOLUTION ON COMBATING TRAFFICKING IN HUMAN BEINGS

1. Reiterating its view, as expressed in previous resolutions of the Assembly, that trafficking in human beings threatens the security of the OSCE region, undermines the rule of law, promotes corruption and also violates human rights and human dignity,
2. Underscoring the importance of a comprehensive approach to trafficking in human beings, comprising the prevention of trafficking, the protection of victims and witnesses and the prosecution of criminals,
3. Recognizing that combating trafficking in human beings must be fought in countries of origin, countries of transit and countries of destination,
4. Being aware that trafficking in human beings is a transnational criminal activity that needs a transnational response from governments,
5. Emphasizing the responsibility of the participating States to fulfil their commitments to combat trafficking in human beings, in particular those contained in the Moscow document of 1991, Charter of European Security of 1999, as well as in the OSCE Ministerial Council decisions of 2000, 2001, 2002 and 2003,
6. Taking in to account that traffickers modify their modus operandi as governments start to enforce anti-trafficking legislation, so as to escape prosecution,
7. Welcoming the convening of the Conference on Trafficking in Human Beings at the OSCE Parliamentary Assembly's fall meeting in Rhodes, Greece,
8. Welcoming also the fact that the conference will be held in conjunction with a Parliamentary Forum on the Mediterranean, since citizens of the OSCE Participating States are trafficked to and/or through the territories of some Mediterranean Partners for Co-operation, The OSCE Parliamentary Assembly:
9. Calls on the OSCE participating States to implement the OSCE Action Plan to Combat Trafficking in Human Beings, to support the work of the Anti-Trafficking Mechanism created by the 2003 Maastricht Ministerial Council Decision No. 2 and to continue supporting the work of ODIHR and all other relevant OSCE Institutions and Bodies;
10. Urges all participating States to sign and ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which supplements the United Nations Convention against Transnational Organized Crime;
11. Calls upon all participating States to sign and ratify the Optional Protocol to the Convention on the Rights of Child, on the Sale of Children, Child Prostitution and Child Pornography, and also the International Labour Organizations Convention 182, calling for immediate action to ban the worst forms of child labour, including child prostitution and child pornography;

12. Insists that all participating States ensure that their national legislative and other measures provide adequate measures to combat trafficking in human beings, and that trafficking in human beings is criminalized as a serious crime and also that a framework for victim protection is provided;
13. Appeals to participating States, especially countries of origin of victims of trafficking, to take measures in countering factors which contribute to an individual's vulnerability, especially discrimination based on sex, race or ethnicity, physical or sexual abuse, exploitation or institutionalisation of children, and lack of equal access to economic opportunities, and also to increase the level of school attendance, in particular amongst girls and minority groups, and to enhance job opportunities for women;
14. Appeals to participating States, especially countries of destination of victims of trafficking, to work out a multi-agency programme of monitoring, administrative controls and intelligence gathering on the labour market, especially the sex industry, to reduce "the invisibility of exploitation," and also to take measures to address the demand for activities of persons trafficked for the purposes of sexual exploitation and forced labour;
15. Calls upon the participating States to ensure that victims of trafficking and witnesses are not subject to criminal prosecution solely as a direct result of having been trafficked;
16. Urges participating States to consider the provision of temporary or permanent residence permits to victims of trafficking in human beings and witnesses, taking into account such factors as potential danger to victims' and witnesses' safety;
17. Urges also the participating States to ensure that victims of trafficking and witnesses are effectively protected through the establishment of National Referral Mechanisms, shelter, provision of documents, social assistance, legal advice and assistance in voluntary repatriation, rehabilitation and social reintegration;
18. Insists that participating States take into account the special needs of children and address their best interest concerning care, appropriate housing, education and possible repatriation, to ensure the child's safety, protection, rehabilitation and reintegration in all circumstances;
19. Encourages participating States to create special anti-trafficking units, to develop community-policing programmes and to enhance co-operation between law enforcement authorities and elements of civil society;
20. Urges participating States to step up their co-operation in combating trafficking in human beings through co-ordination on inquiries, exchange of experts and information on methods used by criminal groups;
21. Encourages participating States to provide training for border officials, law enforcement authorities, judges, prosecutors, immigration and other relevant authorities in all aspects of trafficking in human beings, especially in human rights and child- and gender-sensitive issues;
22. Appeals to the participating States to undertake, in co-operation with relevant NGOs and other elements of civil society, information campaigns to generate public awareness about trafficking in human beings;
23. Requests that the participating States acknowledge and undertake measures to address the role of military service members, and civilians accompanying the military in a deployment, in contributing to the demand for trafficking in human beings;

24. Requests also that participating States examine the sufficiency of their national laws and regulations, particularly military codes and domestic laws with extraterritorial applications, to ensure that a legal basis exists to enforce anti-trafficking laws and policies with respect to a State's citizens when serving on a peacekeeping or military deployment abroad;
25. Urges the OSCE Sofia Ministerial Council to adopt a Decision regarding the responsibilities of participating States to address the role of military service members, and civilians accompanying the military, in the trafficking in human beings, including the adoption and implementation of appropriate policies, codes of conduct, training and accountability mechanisms;
26. Calls upon the OSCE Sofia Ministerial Council to give particular attention to the problems of trafficking in human beings in uncontrolled, occupied territories, ensuring constant international control and monitoring under the auspices of the corresponding OSCE institutions by sending special missions to the conflict zone along the line of contact for observation and study of the situation on the ground, in order to gather the requisite information on problems of trafficking in human beings;
27. Recommends that the OSCE Parliamentary Assembly's fall meeting in Rhodes initiates a discussion on developing co-operation in combating trafficking in human beings between the Mediterranean Partners for Co-operation and the OSCE participating States;
28. Looks forward to good co-operation between the OSCE Parliamentary Assembly's Special Representative on Human Trafficking and the OSCE Special Representative on Human Trafficking.

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