



2010

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Recommended Citation

"Contractors and the Ultimate Sacrifice," *Service Contractor*, Sept. 2010, at 16-18.

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Contractors and the Ultimate Sacrifice

by Steven L. Schooner and Collin D. Swan, the George Washington University Law School

Throughout the last decade, as the military struggled with armed conflicts in Iraq and Afghanistan, the media scrupulously chronicled the mounting death toll of U.S. military personnel. THE WASHINGTON POST's online "Faces of the Fallen" feature not only identifies deceased soldiers, but humanizes each loss with a photograph, biographical information, and a description of each service member's final action.

The major trend observed recently is that, after the fatality count exceeded 5,500 in the second quarter of 2010, security gains achieved in Iraq are seemingly being displaced with increasing violence in Afghanistan.¹ But that snapshot of the human sacrifice remains far from complete.

The public continues to fail to understand how contractor personnel are increasingly making the ultimate sacrifice alongside, or in lieu of, service members. Accordingly, the number of U.S. military casualties reported in the media does not accurately represent the actual human cost of these conflicts. Indeed, the total number of what might be termed "total U.S. fatalities" now should exceed 7,500.

That's because, as of June 2010, more than 2,008 contractors have been killed in Iraq and Afghanistan. Another 44 contractors killed were in Kuwait, many of whom supported the same missions. On top of that, more than 44,000 contractors have been injured, of which more than 16,000 were seriously wounded (see Figure 3). While these numbers rarely see the light of day, Figure 1 reflects the

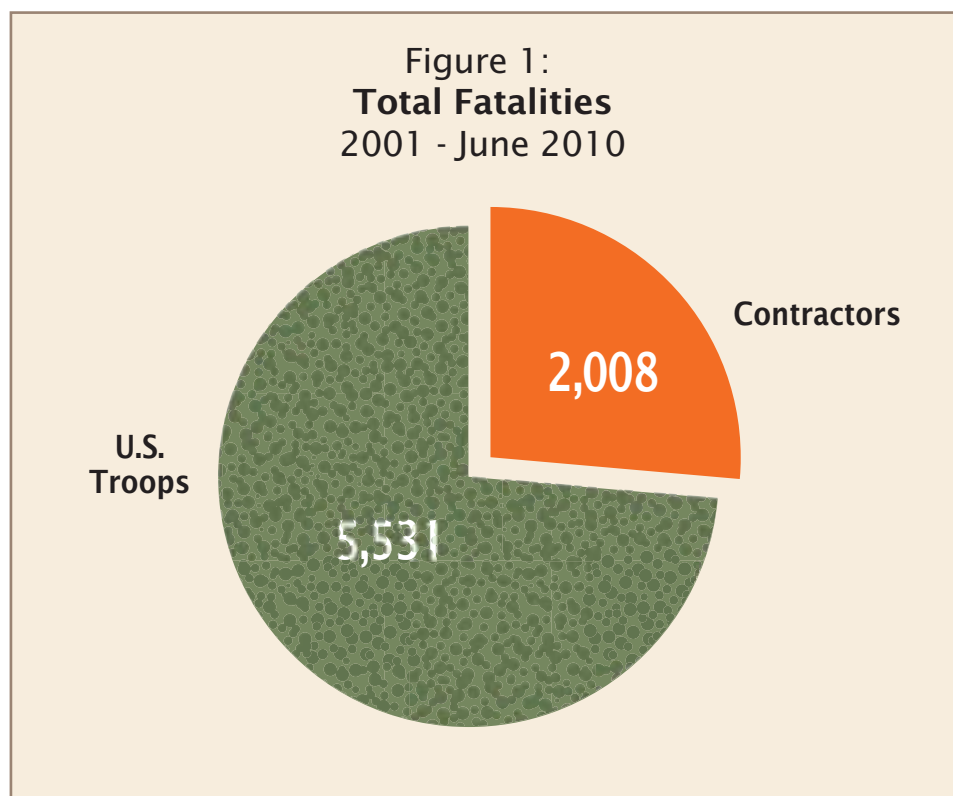


Figure 2: Total Fatalities / 2001 - June 2010

	US Troops	Contractors
Iraq	4,400	1,487
Afghanistan	1,131	521
Total	5,531	2,008

Figure 3: Contractor Injuries / 2001 - June 2010

	US Troops	Contractors
Iraq	12,766	36,023
Afghanistan	3,444	8,129
Total	16,210	44,152

startling fact that *contractor deaths now represent over twenty-five (25) percent of all U.S. fatalities since the beginning of these military actions.*

Not surprisingly, the carnage has been greater in Iraq, where more than 1,487 contractors have died since 2003 (see Figure 2). In Afghanistan, at least 521 contractors have perished.

Who Is Keeping Score?

Unfortunately, most government agencies, including the military services, initially made little or no effort to keep track of how many contractors they employed in Iraq and Afghanistan, much less the number of contractors killed or wounded. Congress eventually intervened, and, in response to the FY 2008 National Defense Authorization Act, the Defense Department created the Synchronized Predeployment and Operational Tracker (SPOT). SPOT is designed to track information on contingency contractor operations, including contractor casualties. However, Government Accountability Office reports confirm that SPOT remains an inadequate source of this critical information.

Indeed, the most reliable data on contractor fatalities and injuries comes from the Labor Department's Division of Longshore and Harbor Worker Compensation, which tracks contractor injuries and deaths based upon insurance claims submitted under the Defense Base Act.² The Defense Base Act database, however, only reflects a contractor's death if the family or employer seeks insurance compensation. Accordingly, the actual number of contractor fatalities is probably higher than is currently known.

Until recently, the data derived from Defense Base Act insurance claims could only be obtained through Freedom of Information Act requests.³ Today, however, Labor publishes much of this information on its website, a positive step towards increasing the public's awareness of contractor casualties.

Disturbing Trends

While the enormity of the contractor sacrifice gives pause, what is even more striking is that—in both Iraq and Afghanistan—contractors are bearing an increasing proportion of the annual death toll. In 2003, contractor deaths

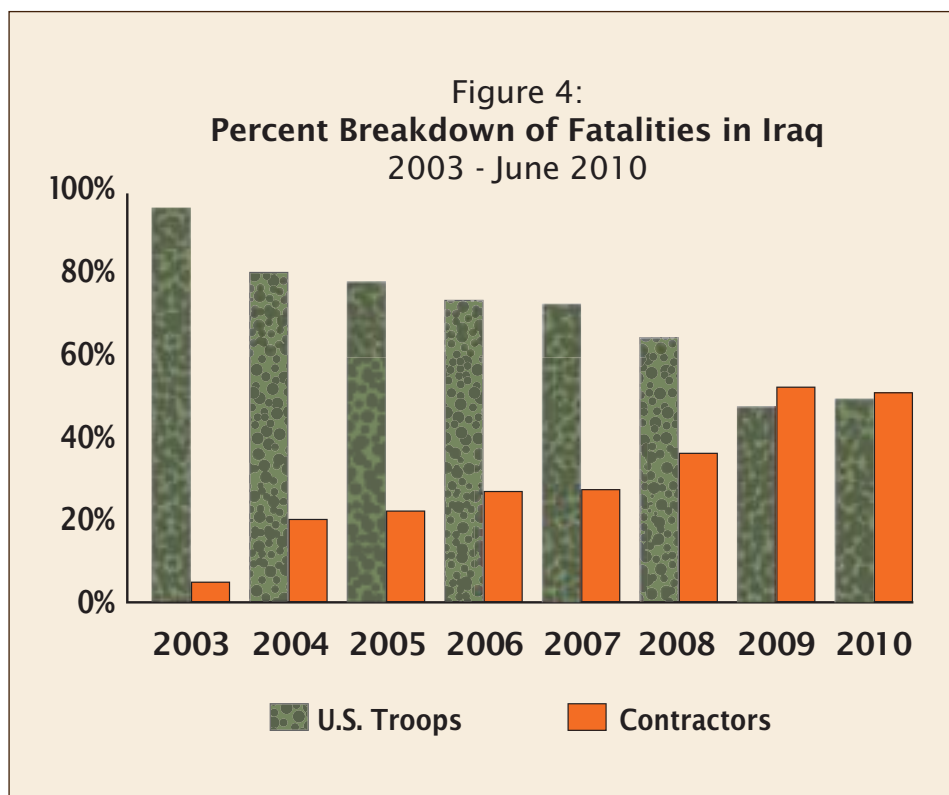


Figure 5: Iraq Fatalities
Jan. 2009 - June 2010

Contractors	204
US Troops	188

represented only 4 percent of all fatalities in Iraq and Afghanistan. From 2004 to 2007, that number rose to 27 percent. From 2008 to the second quarter of 2010, contractor fatalities accounted for an eye-popping 40 percent of the combined death toll. In the first two quarters of 2010 alone, contractor deaths represented more than half—53 percent—of all fatalities. This point bears emphasis: since January 2010, more contractors have died in Iraq and Afghanistan than U.S. military soldiers. In other words, contractors supporting the war effort today are losing more lives than the U.S. military waging these wars. Indeed, two recent estimates suggest private security personnel working for DoD in Iraq and Afghanistan – a small percentage of the total contractor

Figure 7: Afghanistan Fatalities
Jan. 2010 - June 2010

Contractors	232
US Troops	195

workforce in these regions – were 1.8 to 4.5 times more likely to be killed than uniformed personnel.⁴

The situation in Iraq mirrors this proportional trend. While the number of military deaths stayed relatively constant between 2004 and 2007, the number of contractor deaths steadily increased. Contractor fatalities represented only 5 percent of the annual death toll in 2003, but quickly exceeded 20 percent in 2004, and reached 36 percent in 2008 (see Figure 4). In 2009 and 2010, contractor deaths actually surpassed military deaths (see Figure 5). And the trend line indicates the carnage could become worse.

In Afghanistan, the trend is quickly worsening. From 2005 to 2008, contractor fatalities represented only 20-30 percent of the annual death toll. That

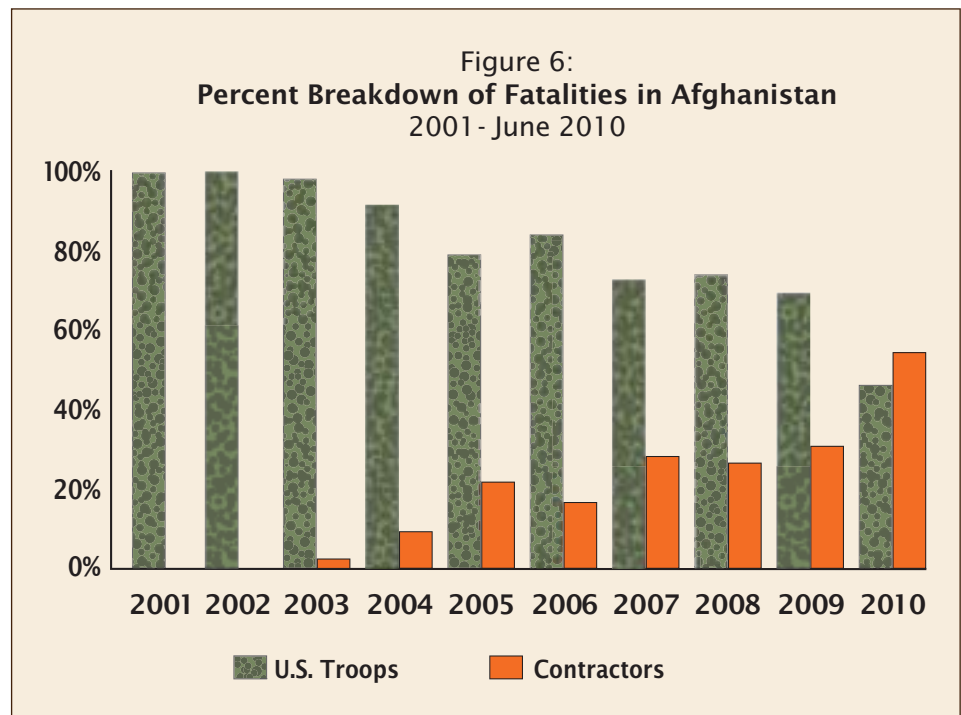
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percentage, however, rose to shocking levels in recent years; contractor deaths represented 36 percent of all fatalities in 2009, and 56 percent of all fatalities so far in 2010 (see Figure 6). Similar to Iraq, more contractors have died in Afghanistan in 2010 than U.S. soldiers (see Figure 7). Not surprisingly, more than two-thirds of all contractor fatalities in Afghanistan occurred within the last two years.

The Need for an Accurate Tally

Over the course of the last decade, the public has become increasingly aware of the extent and criticality of the government's dependence upon contractors. DoD alone has an estimated 250,000 contractors employed in the CENTCOM region. According to a July 2010 Congressional Research Service (CRS) report, DoD employs almost as many contractors as uniformed personnel in Iraq. In Afghanistan, DoD employs over 30,000 more contractors than military personnel.⁵ This makes Iraq and Afghanistan the most contractor-dependant armed conflict in U.S. history. The only similar experience was when the U.S. deployed nearly as many contractors as troops in the Balkan conflicts of the 1990s. But the sheer number of contractors being employed in Iraq and Afghanistan—and, of course, the length of their service—distinguishes the extent of the reliance on contractors from any previous conflict.

While there are numerous operational and policy reasons for this use, the large number of contractor injuries in theater deserves an accurate tally.



To the extent that the mainstream news media has failed to give these disturbing trends sufficient attention, the public remains largely ignorant of the extent of the contractor community's sacrifice. That's a serious problem.

In a representative democracy, an honest, accurate tally is important for the public and the nation's elected leaders to understand the true human toll of these conflicts. Transparency in this regard is critical to any discussion of the costs and benefits of our efforts in Iraq and Afghanistan. An accurate accounting is also important for the public—and Congress—to grasp both the level of the military's reliance on contractors and the extent of these contractors' sacrifices.

Contractors have long and proudly served our country alongside the military.

Increasingly, they are making the ultimate sacrifice. The public owes these contractors the respect and gratitude they deserve.



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¹ Data on fatalities of U.S. military personnel is taken from the Defense Manpower Data Center, <http://siadapp.dmdc.osd.mil/personnel/CASUALTY/castop.htm>, (last visited July 17, 2010).

² Data on fatalities of U.S. contractors is taken from the Defense Base Act Case Summary by Nation, United States Department of Labor, <http://www.dol.gov/owcp/dlhwc/dbaallnation.htm>, (last visited July 17, 2010). Monthly data on contractor fatalities is taken from FOIA request, on file with authors.

³ See, Steven L. Schooner, *Why Contractor Fatalities Matter*, Parameters at 79 (Autumn 2008) (publishing initial data based upon FOIA requests), available at <http://www.carlisle.army.mil/usawc/parameters/Articles/08autumn/schooner.pdf>.

⁴ See Moshe Schwartz, Cong. Research Serv., Department of Defense Contractors in Iraq and Afghanistan: Background and Analysis 5 (July 2, 2010), available at <http://www.fas.org/sgp/crs/natsec/R40764.pdf>; Justin Elliott, Hundreds of Afghanistan Contractor Deaths Go Unreported, Salon, July 15, 2010, http://www.salon.com/news/politics/war_room/2010/07/15/afghan_war_contractors_dying.

⁵ See Moshe Schwartz, Cong. Research Serv., Department of Defense Contractors in Iraq and Afghanistan: Background and Analysis 5 (July 2, 2010), available at <http://www.fas.org/sgp/crs/natsec/R40764.pdf>.