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Blackwater bodyguards promised immunity

State Department gave protection to all guards in deadly Iraq incident



Marwan Naamani / AFP - Getty Images

Blackwater has said its Sept. 16 convoy was under attack before it opened fire, killing 17 Iraqis. An investigation by the Iraqi government concluded that guards, like the ones shown, were unprovoked.

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AP Associated Press

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WASHINGTON - The State Department promised Blackwater USA bodyguards immunity from prosecution in its investigation of last month's deadly shooting of 17 Iraqi civilians, The Associated Press has learned.

As a result, it will likely be months before the United States can — if ever — bring criminal charges in the case that has infuriated the Iraqi government.

"Once you give immunity, you can't take it away," said a senior law enforcement official familiar with the investigation.

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An initial incident report by U.S. Central Command, which oversees military operations in Iraq, also indicated “no enemy activity involved” in the Sept. 16 incident. The report says Blackwater guards were traveling against the flow of traffic through a traffic circle when they “engaged five civilian vehicles with small arms fire” at a distance of 50 meters.

The FBI took over the case early this month, officials said, after prosecutors in the Justice Department’s criminal division realized it could not bring charges against Blackwater guards based on their statements to the Diplomatic Security investigators.

Official: Guards spoke after given protection

Officials said the Blackwater bodyguards spoke only after receiving so-called “Garrity” protections, requiring that their statements only be used internally — and not for criminal prosecutions.

At that point, the Justice Department shifted the investigation to prosecutors in its national security division, sealing the guards’ statements and attempting to build a case based on other evidence from a crime scene that was then already two weeks old.

The FBI has re-interviewed some of the Blackwater employees, and one official said Monday that at least several of them have refused to answer questions, citing their constitutional right to avoid self-incrimination. Any statements that the guards give to the FBI could be used to bring criminal charges.

A second official, however, said that not all the guards have cited their Fifth Amendment right against self-incrimination — leaving open the possibility for future charges. The official declined to elaborate.

Prosecutors will have to prove that any evidence they use in bringing charges against Blackwater employees was uncovered without using the guards’ statements to State Department investigators. They “have to show we got the information independently,” one official said.

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