



The INSLAW Octopus

Software piracy, conspiracy, cover-up, stonewalling, covert action: Just another decade at the Department of Justice

By Richard L. Fricker

The House Judiciary Committee lists these crimes as among the possible violations perpetrated by "high-level Justice officials and private individuals":

>> Conspiracy to commit an offense >> Fraud >> Wire fraud >> Obstruction of proceedings before departments, agencies and committees >> Tampering with a witness >> Retaliation against a witness >> Perjury >> Interference with commerce by threats or violence >> Racketeer Influenced and Corrupt Organizations (RICO) violations >> Transportation of stolen goods, securities, moneys >> Receiving stolen goods

Bill Hamilton, Inslaw & PROMIS

Who:

Bill Hamilton and his wife, Nancy Hamilton, start Inslaw to nurture PROMIS (Prosecutors Management Information Systems).

Why #1:

The DOJ, aware that its case management system is in dire need of automation, funds Inslaw and PROMIS. After creating a public-domain version, Inslaw makes significant enhancements to PROMIS and, aware that the US market for legal automation is worth \$3 billion, goes private in the early '80s.

Why #2:

Designed as case-management software for federal prosecutors, PROMIS has the ability to combine disparate databases, and to track people by their involvement with the legal system. Hamilton and others now claim that the DOJ has modified PROMIS to monitor intelligence operations, agents and targets, instead of legal cases.

By late November, 1992 the nation had turned its attention from the election-weary capital to Little Rock, Ark., where a new generation of leaders conferred about the future. But in a small Washington D.C. office, Bill Hamilton, president and founder of Inslaw Inc., and Dean Merrill, a former Inslaw vice president, were still very much concerned about the past.

The two men studied six photographs laid out before them. "Have you ever seen any of these men?" Merrill was asked. Immediately he singled out the second photo. In a separate line up, Hamilton's secretary singled out the same photo.

Both said the man had visited Inslaw in February 1983 for a presentation of PROMIS, Inslaw's bread-and-butter legal software. Hamilton, who knew the purpose of the line-up, identified the visitor as Dr. Ben Orr. At the time of his visit, Orr claimed to be a public prosecutor from Israel.

Orr was impressed with the power of PROMIS (Prosecutors Management Information Systems), which had recently been updated by Inslaw to run on powerful 32-bit VAX computers from Digital Equipment Corp. "He fell in love with the VAX version," Hamilton recalled.

Dr. Orr never came back, and he never bought anything. No one knew why at the time. But for Hamilton, who has fought the Department of Justice (DOJ) for almost 10 years in an effort to salvage his business, once his co-workers recognized the man in the second photo, it all made perfect sense.

For the second photo was not of the mysterious Dr. Orr, it was of Rafael Etian, chief of the Israeli defense force's anti-terrorism intelligence unit. The Department of Justice sent him over for a look at the property they were about to "misappropriate," and Etian liked what he saw. Department of Justice documents record that one Dr. Ben Orr left the DOJ on May 6, 1983, with a computer tape containing PROMIS tucked under his arm.

What for the past decade has been known as the Inslaw affair began to unravel in the final, shredder-happy days of the Bush administration. According to Federal court documents, PROMIS was stolen from Inslaw by the Department of Justice directly after Etian's 1983 visit to Inslaw (a later congressional investigation preferred to use the word "misappropriated"). And according to sworn affidavits, PROMIS was then given or sold at a profit to Israel and as many as 80 other countries by Dr. Earl W. Brian, a man with close personal and business ties to then-President Ronald Reagan and then-Presidential counsel Edwin Meese.

A House Judiciary Committee report released last September found evidence raising "serious concerns" that high officials at the Department of Justice executed a pre-meditated plan to destroy Inslaw and co-opt the rights to its PROMIS software. The committee's call for an independent counsel have fallen on deaf ears. One journalist, Danny Casolaro, died as he attempted to tell the story (see sidebar), and boxes of documents relating to the case have been destroyed, stolen, or conveniently "lost" by the Department of Justice.

But so far, not a single person has been held accountable.

WIRED has spent two years searching for the answers to the questions Inslaw poses: Why would Justice steal PROMIS? Did it then cover up the theft? Did it let associates of government officials sell PROMIS to foreign governments, which then used the software to track political dissidents instead of legal cases? (Israel has reportedly used PROMIS to track troublesome Palestinians.)

The implications continue: that Meese profited from the sales of the stolen property. That Brian, Meese's business associate, may have been involved in the October Surprise (the oft-debunked but persistent theory that the Reagan campaign conspired to insure that US hostages in Iran were held until after Reagan won the 1980 election, see sidebar). That some of the moneys derived from the illegal sales of PROMIS furthered covert and illegal government programs in Nicaragua. That Oliver used PROMIS as a population tracking instrument for his White House-based domestic emergency management program.

Each new set of allegations leads to a new set of possibilities, which makes the story still more difficult to comprehend. But one truth is obvious: What the Inslaw case presents, in its broadest possible implications, is a painfully clear snapshot of how the Justice Department operated during the Reagan-Bush years.

This is the case that won't go away, the case that shows how justice and public service gave way to profit and political expediency, how those within the administration's circle of privilege were allowed to violate private property and civil rights for their own profit.

Sound like a conspiracy theorist's dream? Absolutely. But the fact is, it's true.

The Background

Imagine you are in charge of the legal arm of the most powerful government on the face of the globe, but your internal information systems are mired in the archaic technology of the 1960s. There's a Department of Justice database, a CIA database, an Attorney's General database, an IRS database, and so on, but none of them can share information. That makes tracking multiple offenders pretty darn difficult, and building cases against them a long and bureaucratic task.

Along comes a computer program that can integrate all these databases, and it turns out its development was originally funded by the government under a Law Enforcement Assistance Administration grant in the 1970s. That means the software is public domain ... free!

Edwin Meese was apparently quite taken with PROMIS. He told an April 1981 gathering of prosecutors that PROMIS was "one of the greatest opportunities for [law enforcement] success in the future." In March 1982, Inslaw won a \$9.6 million contract from the Justice Department to install the public domain version of PROMIS in 20 US Attorney's offices as a pilot program. If successful, the company would install PROMIS in the remaining 74 federal prosecutors' offices around the country. The eventual market for complete automation of the Federal court system was staggering: as much as \$3 billion, according to Bill Hamilton. But Hamilton would never see another federal contract.

Designed as a case-management system for prosecutors, PROMIS has the ability to track people. "Every use of PROMIS in the court system is tracking people," said Inslaw President Hamilton. "You can rotate the file by case, defendant, arresting officer, judge, defense lawyer, and it's tracking all the names of all the people in all the cases."

What this means is that PROMIS can provide a complete rundown of all federal cases in which a lawyer has been involved, or all the cases in which a lawyer has represented defendant A, or all the cases in which a lawyer has represented white-collar criminals, at which stage in each of the cases the lawyer agreed to a plea bargain, and so on. Based on this information, PROMIS can help a prosecutor determine when a plea will be taken in a particular type of case.

But the real power of PROMIS, according to Hamilton, is that with a staggering 570,000 lines of computer code, PROMIS can integrate innumerable databases without requiring any reprogramming. In essence, PROMIS can turn blind data into information. And anyone in government will tell you that information, when wielded with finesse, begets power. Converted to use by intelligence agencies, as has been alleged in interviews by ex-CIA and Israeli Mossad agents, PROMIS can be a powerful tracking device capable of monitoring intelligence operations, agents and targets, instead of legal cases.

At the time of its inception, PROMIS was the most powerful program of its type. But a similar program, DALITE, was developed under another LEAA grant by D. Lowell Jensen, the Alameda County (Calif.) District Attorney. In the mid-1970s, the two programs vied for a lucrative Los Angeles County contract and Inslaw won out. (Early in his career, Ed Meese worked under Jensen at the Alameda County District Attorney's office. Jensen was later appointed to Meese's Justice Department during the Reagan presidency.)

In the final days of the Carter administration, the LEAA was phased out. Inslaw had made a name for

itself and Hamilton wanted to stay in business, so he converted Inslaw to a for-profit, private business. The new Inslaw did not own the public domain version of PROMIS because it had been developed with LEAA funds. But because it had funded a major upgrade with its own money, Inslaw did claim ownership of the enhanced PROMIS.

Through his lawyers, Hamilton sent the Department of Justice a letter outlining his company's decision to go private with the enhanced PROMIS. The letter specifically asked the DOJ to waive any proprietary rights it might claim to the enhanced version. In a reply dated August 11, 1982, a DOJ lawyer wrote: "To the extent that any other enhancements (beyond the public domain PROMIS) were privately funded by Inslaw and not specified to be delivered to the Department of Justice under any contract or other agreement, Inslaw may assert whatever proprietary rights it may have."

Arnold Burns, then a deputy attorney general, clarified the DOJ's position in a now-critical 1988 deposition: "Our lawyers were satisfied that Inslaw's lawyers could sustain the claim in court, that we had waived those [proprietary] rights."

The enhancements Inslaw claimed were significant. In the 1970s the public-domain PROMIS was adapted to run on Burroughs, Prime, Wang and IBM machines, all of which used less-powerful 16-bit architectures. With private funds, Inslaw converted that version of PROMIS to a 32-bit architecture running on a DEC VAX minicomputer. It was this version that Etian saw in 1983. It was this version that the DOJ stole later that year through a pre-meditated plan, according to two court decisions.

The Dispute Grows

On a gorgeous spring morning in 1981, Lawrence McWhorter, director of the Executive Office for US Attorneys, put his feet on his desk, lit an Italian cigar, eyed his subordinate Frank Mallgrave and said through a haze of blue smoke: "We're out to get Inslaw."

McWhorter had just asked Mallgrave to oversee the pilot installation of PROMIS, a job Mallgrave refused, unaware at the time that he was being asked to participate in Inslaw's deliberate destruction.

"We were just in his office for what I call a B.S. type discussion," Mallgrave told WIRED. "I remember it was a bright sunny morning.... (McWhorter) asked me if I would be interested in assuming the position of Assistant Director for Data Processing...basically working with Inslaw. I told him...I just had no interest in that job. And then, almost as an afterthought, he said 'We're out to get Inslaw.' I remember it to this day."

After Mallgrave refused the job, McWhorter gave it to C. Madison "Brick" Brewer. Brewer at one time worked for Inslaw, but was allowed to resign when Hamilton found his performance inadequate, according to court documents. Brewer was then hired into the Department of Justice specifically to oversee the contract of his former employer. (The DOJ's Office of Professional Responsibility ruled there was no conflict of interest.) He would later tell a federal court that everything he did regarding Inslaw was approved by Deputy Attorney General Lowell Jensen, the same man who once supervised DALITE, the product which lost a major contract to Inslaw in the 1970s.

Brewer, who now refuses to comment on the Inslaw case, was aided in his new DOJ job by Peter Videnieks. Videnieks was fresh from the Customs Service, where he oversaw contracts between that agency and Hadron, Inc., a company controlled by Meese and Reagan-crony Earl Brian. Hadron, a closely held government systems consulting firm, was to figure prominently in the forthcoming scandal.

According to congressional and court documents, Brewer and Videnieks didn't tarry in their efforts to destroy Inslaw. After Inslaw's installation of public domain PROMIS had begun, the DOJ claimed that Inslaw, which was supporting the installation with its own computers running the enhanced version of

PROMIS, was on the brink of bankruptcy. Although Inslaw was contracted to provide only the public domain PROMIS, the DOJ demanded that Inslaw turn over the enhanced version of PROMIS in case the company could not complete its contractual obligations. Inslaw agreed to this contract modification, but on two conditions: that the DOJ recognize Inslaw's proprietary rights to enhanced PROMIS, and that the DOJ not distribute enhanced PROMIS beyond the boundaries of the contract (the 94 US Attorney's offices.)

The DOJ agreed to these conditions, but requested Inslaw prove it had indeed created enhanced PROMIS with private funds. Inslaw said it would, and the enhanced software was given to the DOJ.

Once the DOJ had control of PROMIS, it dogmatically refused to verify that Inslaw had created the enhancements, essentially rendering the contract modification useless. When Inslaw protested, the DOJ began to withhold payments. Two years later, Inslaw was forced into bankruptcy.

As the contract problems with DOJ emerged, Hamilton received a phone call from Dominic Laiti, chief executive of Hadron. Laiti wanted to buy Inslaw. Hamilton refused to sell. According to Hamilton's statements in court documents, Laiti then warned him that Hadron had friends in the government and if Inslaw didn't sell willingly, it would be forced to sell.

Those government connections included Peter Videnieks over at the Justice Department, according to John Schoolmeester, Videnieks' former Customs Service supervisor. Laiti and Videnieks both deny ever meeting or having any contact, but Schoolmeester has told both WIRED and the House Judiciary Committee it was "impossible" for the pair not to know each other because of the type of work and oversight involved in Hadron's relationship with the Customs Service. Schoolmeester also said that because of Brian's relationship with then-President Reagan (see sidebar), Hadron was considered an "inside" company.

The full-court press continued. In 1985 Allen & Co., a New York investment banking concern with close business ties to Earl Brian, helped finance a second company, SCT, which also attempted to purchase Inslaw. That attempt also failed, but in the process a number of Inslaw's customers were warned by SCT that Inslaw would soon go bankrupt and would not survive reorganization, Hamilton said in court documents.

Broke and with no friends in the government, on June 9, 1986, Inslaw filed a \$30 million lawsuit against the DOJ in bankruptcy court. Inslaw's attorney for the case (he was later fired from his firm under extremely suspicious circumstances -- see sidebar) was Leigh Ratiner of the Washington firm Dickstein, Shapiro & Morin. Ratiner chose bankruptcy court for the filing based on the premise that Justice, the creditor, had control of PROMIS. He explained recently, "It was forbidden by the Bankruptcy Act for the creditor to exercise control over the debtor property. And that theory -- that the Justice Department was exercising control -- was the basis that the bankruptcy court had jurisdiction.

"As far as I know, this was the first time this theory had been used," Ratiner told WIRED. "This was ground-breaking. It was, in fact, a legitimate use of the code."

It worked, but to only a point. In 1987, Washington, D.C., bankruptcy judge George Bason ruled in a scathing opinion that Justice had stolen PROMIS through "trickery, fraud and deceit." He awarded Inslaw \$6.8 million in damages and, in the process, found that Justice Department officials made a concerted effort to bankrupt Inslaw and place the company's enhanced PROMIS up for public auction (where it would then be fodder for Brian's Hadron). Bason's findings of fact relied on testimony from Justice employees and internal memoranda, some of which outlined a plan to "get" PROMIS software.

Bason cited the testimony of a number of the government's defense witnesses as being "unbelievable" and openly questioned the credibility of others. In his 216-page ruling, Bason cites numerous instances where testimony from government witnesses is contradictory. (In a private interview with WIRED he noted that as a bankruptcy judge he was precluded from bringing perjury charges against government employees, but he had recommended to various congressional panels that an inquiry was necessary.)

When the DOJ appealed, a federal district court affirmed Bason, ruling that there was "convincing, perhaps compelling support for the findings set forth by the bankruptcy court." But the D.C. Circuit Court of Appeals reversed the case on a legal technicality, finding that the bankruptcy court had no jurisdiction to hear the damages claim. A petition to the Supreme Court in October 1991 was denied review.

The IRS got into the act as well. Inslaw was audited several times in the course of their battles with the Department of Justice. In fact, the day following the bankruptcy trial, S. Martin Teel, a lawyer for the IRS, requested that Judge Bason liquidate Inslaw. Bason ruled against Teel. As a coda to the lawsuit, Bason, a respected jurist, was not re-appointed to the bench when his term expired. His replacement? S. Martin Teel. (Bason has testified before Congress that the DOJ orchestrated his replacement as punishment for his rulings in the Inslaw case.)

But Inslaw's troubles did not end with bankruptcy. Frustrated by Attorney General Dick Thornburgh's stubborn refusal to investigate the DOJ or appoint an independent prosecutor, Elliot Richardson, President Nixon's former attorney general and a counsel to Inslaw for nearly 10 years (he retired this January), filed a case in U.S. District Court demanding that Thornburgh investigate the Inslaw affair. In 1990, the court ruled that a prosecutor's decision not to investigate -- "no matter how indefensible" -- cannot be corrected by any court. Another loss for Inslaw.

Broke and still attempting to revive itself, Inslaw has not refiled its suit, preferring to wait for a new administration and a new DOJ.

By this time, the spinning jennies of the conspiracy network had grasped the Inslaw story and were all-too-eager to put their stitch in the unraveling yarn. According to documents and affidavits filed during court cases and congressional inquiries, the Hamiltons and their lawyers began receiving phone calls, visits and memos from a string of shadowy sources, many of them connected to international drug, spy and arms networks. Their allegations: That Earl Brian helped orchestrate the October Surprise for then-candidate Reagan, and that Brian's eventual payment for that orchestration was a cut of the PROMIS action. Brian and the DOJ then resold or gave PROMIS to as many as 80 foreign and domestic agencies. (Brian adamantly denies any connection to Inslaw or the October Surprise.)

These sources, which include ex-Israeli spy Ari Ben Menashe and a computer programmer of dubious reputation, Michael Riconosciuto, allege that PROMIS had been further modified by the DOJ so that any agency using it could be subject to undetected DOJ eavesdropping -- a sort of software Trojan Horse. If these allegations are true, by the late 1980s PROMIS could have become the digital ears of the US Government's spy effort -- both internal and external. Certainly something the administration wouldn't want nosy congressional committees looking into.

The diaphanous web of more than 30 sources who offered information to Inslaw were not "what a lawyer might consider ideal witnesses," Richardson admitted. But their stories yielded a surprising consistency. "The picture that emerges from the individual statements is remarkably detailed and consistent," he wrote in an Oct. 21, 1991 New York Times Op Ed.

The Congressional Investigation

The string of lawsuits and widening allegations caught the eye of House Judiciary Committee Chairman Jack Brooks, D-Texas, who in 1989 launched a three-year investigation into the Inslaw affair. In the resulting report, the Committee suggested that among others, Edwin Meese, while presidential counselor and later as attorney general, and D. Lowell Jensen, a former assistant and deputy attorney general and now a US district judge in San Francisco, conspired to steal PROMIS.

"High government officials were involved," the report states. "... (S)everal individuals testified under

oath that Inslaw's PROMIS software was stolen and distributed internationally in order to provide financial gain and to further intelligence and foreign policy objectives."

"Actions against Inslaw were implemented through the Project Manager (Brick Brewer) from the beginning of the contract and under the direction of high-level Justice Department officials," the report says. "The evidence...demonstrates that high-level Department officials deliberately ignored Inslaw proprietary rights and misappropriated its PROMIS software for use at locations not covered under contract with the company."

The Committee report accuses former Attorney General Dick Thornburgh of stonewalling congressional inquiries, turning a blind eye to the possible destruction of evidence within the Justice Department, and ignoring the DOJ's harassment of employees questioned by Congressional investigators.

Rep. Brooks told WIRED that the report should be the starting point for a grand jury investigation. The owners of Inslaw, Brooks said, were "ravaged by the Justice Department...treated like dogs."

Brooks' committee voted along party lines, 21-13, to adopt the investigative report on Aug. 11, 1992. The report asked then-Attorney General William Barr to "immediately settle Inslaw's claims in a fair and equitable manner" and "strongly recommends that the Department seek the appointment of an Independent Counsel."

As he did with the burgeoning Iraqgate scandal and as his predecessor did before him, Barr refused to appoint an independent counsel to the Inslaw case, relying instead on a retired federal judge, in this case Nicholas Bua, who reported to Barr alone. In other words, the DOJ was responsible for investigating itself.

"The way in which the Department of Justice has treated this case, to me, is inexplicable," Richardson told WIRED. "I think the circumstances most strongly suggest that there must be wider ramifications."

The Threads Unravel

Proof of those wider ramifications are just starting to leak out, as DOJ and other agency employees begin to talk, although for the most part they spoke to WIRED only on condition of anonymity.

On Nov. 20, 1990, the Judiciary Committee wrote a letter asking CIA director William Webster to help the committee "by determining whether the CIA has the PROMIS software."

The official reply on December 11th: "We have checked with Agency components that track data processing procurement or that would be likely users of PROMIS, and we have been unable to find any indication that the Agency ever obtained PROMIS software."

But a retired CIA official whose job it was to investigate the Inslaw allegations internally told WIRED that the DOJ gave PROMIS to the CIA. "Well," the retired official told WIRED, "the congressional committees were after us to look into allegations that somehow the agency had been culpable of what would have been, in essence, taking advantage of, like stealing, the technology [PROMIS]. We looked into it and there was enough to it, the agency had been involved."

How was the CIA involved? According to the same source, who requested anonymity, the agency accepted stolen goods, not aware that a major scandal was brewing. In other words, the DOJ robbed the bank, and the CIA took a share of the plunder.

But the CIA was not the only place where illegal versions of PROMIS cropped up. Canadian documents (held by the House Judiciary Committee and obtained by WIRED) place PROMIS in the hands of various

Canadian government agencies. These documents include two letters to Inslaw from Canadian agencies requesting detailed user manuals -- even though Inslaw has never sold PROMIS to Canada. Canadian officials now claim the letters were in error.

And, of course, the software was transferred to Rafael Etian's anti- terrorism unit in Israel. The DOJ claims it was the LEAA version, but former Israeli spy Ben Menashe and others claim it was the 32-bit version. According to Ben Menashe, other government departments within Israel also saw PROMIS, and this time the pitchman was Dr. Earl Brian. In a 1991 affidavit related to the bankruptcy proceedings, Ben Menashe claimed: "I attended a meeting at my Department's headquarters in Tel Aviv in 1987 during which Dr. Earl W. Brian of the United States made a presentation intended to facilitate the use of the PROMIS computer software."

"Dr. Brian stated during his presentation that all U.S. Intelligence Agencies, including the Defense Intelligence Agency, the Central Intelligence Agency, and the National Security Agency and the U.S. Department of Justice were then using the PROMIS computer software," Ben Menashe continued. While the credibility of his statements has been questioned, the Israeli government has admitted that Ben Menashe had access to extremely sensitive information during his tenure at the Mossad.

Asked why Israeli intelligence would have been so interested in Inslaw and PROMIS, Ben Menashe said, "PROMIS was a very big thing for us guys, a very, very big thing ... it was probably the most important issue of the '80s because it just changed the whole intelligence outlook. The whole form of intelligence collection changed. This whole thing changed it." PROMIS, Ben Menashe said, was perfect for tracking Palestinians and other political dissidents.

(Ben Menashe's superior during this period was Rafael Etian, or Dr. Ben Orr, as he was known during his 1983 visit to Inslaw.)

Apparently, Israel was not the only country interested in using PROMIS for internal security purposes. Lt. Col. Oliver North also may have been using the program. According to several intelligence community sources, PROMIS was in use at a 6,100-square-foot command center built on the sixth floor of the Justice Department. According to both a contractor who helped design the center and information disclosed during the Iran-Contra hearings, Oliver North had a similar, but smaller, White House operations room that was connected by computer link to the DOJ's command center.

Using the computers in his command center, North tracked dissidents and potential troublemakers within the United States as part of a domestic emergency preparedness program, commissioned under Reagan's Federal Emergency Management Agency (FEMA), according to sources and published reports. Using PROMIS, sources point out, North could have drawn up lists of anyone ever arrested for a political protest, for example, or anyone who had ever refused to pay their taxes. Compared to PROMIS, Richard Nixon's enemies list or Sen. Joe McCarthy's blacklist look downright crude. This operation was so sensitive that when Rep. Jack Brooks asked North about it during the Iran-Contra hearings, the hearing was immediately suspended pending an executive (secret) conference. When the hearings were reconvened, the issue of North's FEMA dealings was dropped.

A Thorough Cleaning at the White House?

If the case against the Department of Justice is so solid, why hasn't anything been done? The answer is timing. The next move belongs to retired Federal Judge Bua, since he was given oversight by Attorney General Barr in lieu of an independent counsel. And everyone, including Judge Bua, whose non-binding report was pending at WIRED's early December deadline, seems to be waiting for the new administration. Both the Clinton/Gore transition team and House majority leader Richard Gephardt had no comment on the Inslaw case pending Clinton's inauguration.

But a source close to Bua's investigation said the retired judge may present the DOJ with a bombshell. While not required to suggest a settlement, the source believes Bua will reportedly recommend that Inslaw be given between \$25 million and \$50 million for its mistreatment by the DOJ. (In last-minute negotiations, Inslaw attorney Elliot Richardson held brief meetings with DOJ officials in mid-December. Richardson pressed for a settlement ranging from \$25 million to \$500 million, but the DOJ balked, according to newspaper reports.)

But the question remains: Can the DOJ paper over the willful destruction of a company, the plundering of its software, the illegal resale of that software to further foreign policy objectives, and the overt obstruction of justice with \$25 million?

Bua's final recommendation, expected sometime before Clinton's inauguration, is that the Inslaw Affair "requires further investigation," the source said. That conclusion mirrors the House Judiciary Committee's report. Privately, many Democrats, including Gephardt, have expressed a strong desire to get to the bottom of the Inslaw case. Rep. Brooks will be pushing for yet another investigation of the scandal, this time independent of the Justice Department, according to Congressional sources. Once Bua's report is out, the next and possibly final move will be up to a new president, a new Congress, and, possibly, a renewed sense of justice.

SIDEBARS to the Inslaw Article

Earl W. Brian - The Consummate Insider

Dr. Earl W. Brian has made quite a career of riding Reagan and Meese's coattails. After a stint in Vietnam, where he worked as a combat physician in the unit that supplied air support for Operation Phoenix, Brian returned to California with a chest full of ribbons and a waiting job - as Secretary of Health - with then-Governor Reagan's administration. (Operation Phoenix, a well-documented CIA political assassination program, used computers to track "enemies" in Vietnam.)

In 1974, Brian resigned his cabinet post with Governor Reagan to run for the Senate against Alan Cranston. After his defeat, Brian moved into the world of business and soon ran into trouble. His flagship company, Xionics, was cited by the Security and Exchange Commission for issuing press releases designed to boost stock prices with exaggerated or bloated information. The SEC also accused Xionics of illegally paying "commissions" to brokers, according to SEC documents.

At the close of the Reagan governorship, Brian was involved in a public scandal having to do with - surprise - stolen computer tapes. The tapes, which contained records of 70,000 state welfare files, were eventually returned - Brian claimed he had a right to them under a contract signed in the last hours of the administration. (Brian said he just wanted to develop a better way of doing welfare business.)

In 1980, Brian formed Biotech Capital Corp., a venture capital firm designed to invest in biological and medical companies. Ultimately, Brian has invested in and owned several companies, including FNN (Financial News Network) and UPI, both of which ended up in dire financial straits.

Ursula Meese, who like her husband knew Brian from the Reagan cabinet, was an early investor in Biotech, using \$15,000 (borrowed from Edwin Thomas, a Meese aide in the White House and another Reaganite from California) to purchase 2,000 shares on behalf of the Meese's two children, according to information made public during Meese's confirmation hearings for Attorney General.

It is those Reagan-Meese connections that continue to drag Brian into the Inslaw affair. For why would Brian, of all people, be the recipient of stolen PROMIS? PROMIS, after all, was a major part in government automation contracts estimated at \$3 billion, according to Inslaw President Bill Hamilton. That's quite a political plum.

One possibility is Ed and Ursula Meese's financial connections to Brian. Another is a payoff for Brian's role in the October Surprise. Even if he manages to evade the Inslaw allegations, Brian may still be in hot water. As of this writing, Financial News Network's financial dealings were under investigation by a Los Angeles Grand Jury, according to sources who have testified before it. - RLF

What A Surprise!

Earl W. Brian says he wasn't in Paris in October 1980, but investors were told a different story

As Inslaw President Bill Hamilton moved his company from non-profit status to the private sector in 1980, Ronald Reagan was running for President, negotiations for the release of the American hostages in Iran had apparently hit a snag, and Dr. Earl W. Brian was touring Canada touting stock in his newly acquired Clinical Sciences Inc.

History records that the hostages were released as Ronald Reagan took the Presidential oath of office, and that shortly thereafter, Inslaw received a \$9.6 million contract from the Department of Justice. At the same time, Earl Brian was appointed to a White House post to advise on health-care issues. Brian reported directly to Ed Meese. He also arranged White House tours to woo investors in his government contracting company, Hadron Inc., according to a Canadian investment banker who took a tour.

But these seemingly random historical connections between Inslaw, Hadron, the Reagan White House and Earl Brian take on a new meaning when considered in light of the "October Surprise," the persistent allegation that the Reagan campaign negotiated with Iranian officials to guarantee that US hostages would not be released before Reagan won election in 1980.

The October Surprise theory hinges in part on alleged negotiations between the Reagan campaign and the Iranians on the weekend of Oct. 17-21, 1980, in Paris, among other places. The deal, according to former Iranian President Abol Hassan Bani-Sadr, ex-Israeli spy Ari Ben Menashe, and a former CIA contract agent interviewed by WIRED, included the payment of \$40 million to the Iranians.

According to several sources, Earl Brian, one of Reagan's close advisors, made it quite clear that he was planning to be in Paris that very weekend. Ben Menashe, who says he was one of six Israelis, 12 Americans and 16 Iranians present at the Paris talks, said, "I saw Brian in Paris."

Brian was interviewed by Senate investigators on July 28, 1992, and denied under oath any connection with the alleged negotiations. He told the investigators he did not have a valid passport during the October 1980 dates. But according to court documents and interviews, Brian told Canadian investors in his newly acquired Clinical Sciences, Inc., that he would be in Paris that weekend. Brian acquired controlling interest in Clinical Sciences in the summer of 1980. Clinical Sciences was then trading at around \$2 a share. Brian worked with Janos P. Pasztor, a vice president and special situations analyst with the Canadian investment bank of Nesbitt, Thomson, Bongard Inc., to create a market of Canadian investors for the stock.

Pasztor later testified in court documents that Brian said he would be in Paris the weekend of October

17 to do a deal with the Pasteur Institute (a medical research firm).

Two other brokers, Harry Scully, a broker based in Halifax, Nova Scotia, and John Belton, a senior account executive with Nesbitt-Thomson from 1968 to 1982 who is suing Nesbitt-Thomson and Pasztor for securities fraud, also claim that they were told that Brian was in Paris that weekend.

But if Brian went to Paris to see the Pasteur Institute, he seems to have missed his appointment. An investigation by the Royal Canadian Mounted Police into Clinical Sciences stock transactions revealed that the Pasteur Institute had never conducted business with, or even heard of Brian.

When asked by WIRED to elaborate on Brian's 1980 trip, Pasztor said, "These are political questions and I don't want to become involved." He refused further comment. Brian contends that the dates of his trip were in error and that he went to Paris in April 1981, not October 1980. But the passport he turned over to Senate investigators did not contain a French entry or exit stamp for April 1981.

Through his lawyers, Brian refused to be interviewed for this story. - RLF

Earl W. Brian: Closet Spook?

Michael Riconosciuto, a computer programmer and chemist who surfs the spooky fringe of the guns-'n'-money crowd, is currently serving a federal prison sentence for drug crimes. From his jail cell he has given several interviews claiming knowledge of Inslaw and the October Surprise (he also claims his jail term is the DOJ's way of punishing him for his knowledge). Much of what he claims cannot be verified, other statements have failed to be verified conclusively.

But prior to his arrest in 1991, Riconosciuto provided the Hamiltons with an affidavit that once again brought Brian into the Inslaw picture. "I engaged in some software development and modification work in 1983 and 1984 on proprietary PROMIS computer software product," he stated. "The copy of PROMIS on which I worked came from the US Department of Justice. Earl W. Brian made it available to me through Wackenhut (a security company with close FBI and CIA connections) after acquiring it from Peter Videnieks, who was then a Department of Justice contracting official with the responsibility for PROMIS software. I performed the modifications to PROMIS in Indio, Calif.; Silver Springs, Md.; and Miami, Fla."

The modifications included a telecommunications "trap door" that would let the US Government eavesdrop on any other organization using the pirated software, Riconosciuto said.

Videnieks and Brian both told House investigators that they did not know Riconosciuto. After Riconosciuto was interviewed by House investigators, Videnieks refused to give Congress further interviews.

Although Brian denies any involvement with Inslaw or Riconosciuto, the House Judiciary Committee received a report from a special task force of the Riverside County, Calif., Sheriff's Office and District Attorney, stating that on the evening of Sept. 10, 1981, arms dealers, buyers and various intelligence operatives gathered at the Cabazon Indian Reservation near Indio, Calif., for a demonstration of night warfare weapons. The demonstration was orchestrated jointly by Wackenhut and the Cabazon Indian tribe. (Many published reports allege that the Wackenhut/Cabazon joint venture served as a weapons fencing operation for Oliver North's Iran- Contra dealings.)

According to Indio city police officers hired to provide security, those attending included Earl W. Brian, who was identified as "being with the CIA," and Michael Riconosciuto. - RLF

US Deputy Attorney General Jensen Lost Once To Inslaw

Could It Be He Wanted to Even The Score? At the time of its inception, PROMIS was the most powerful program of its type. But a similar program, DALITE, was developed under another LEAA grant by D. Lowell Jensen, the Alameda County, Calif., District Attorney. In the mid-1970s, the two programs vied for a lucrative Los Angeles County contract and Inslaw won out.

Early in his career, Attorney General-to-be Edwin Meese worked under Jensen at the Alameda County District Attorney's office. Jensen was later appointed as Deputy Attorney General into Meese's Justice Department.

C. Madison "Brick" Brewer, accused by the House Judiciary Committee of deliberately misappropriating PROMIS, testified in federal court that everything he did regarding Inslaw was approved by D. Lowell Jensen, the same man who once supervised DALITE.

Was Israel's PROMIS to Crush the Infitada?

Asked why Israeli intelligence would have been so interested in Inslaw and PROMIS, ex-Israeli spy Ari Ben Menashe said: "PROMIS was a very big thing for us guys, a very, very big thing ... it was probably the most important issue of the '80s because it just changed the whole intelligence outlook. The whole form of intelligence collection changed. This whole thing changed it." Why? PROMIS, Ben Menashe said, was perfect for tracking the Palestinian population and other political dissidents.

Did Oliver North Use PROMIS?

Apparently, Israel was not the only country interested in using PROMIS for internal security purposes. Lt. Col. Oliver North also may have been using the program. According to several intelligence community sources, PROMIS was in use at a 6,100-square-foot command center built on the sixth floor of the Justice Department. According to both a contractor who helped design the center and information disclosed during the Iran-Contra hearings, Oliver North had a similar, but smaller, White House operations room that was connected by computer link to the DOJ's command center.

Who Fired Inslaw's Lawyer?

As the Inslaw-DOJ battle was joined in bankruptcy court, Inslaw's chief attorney, Leigh Ratiner, was fired from Dickstein, Shapiro & Morin, the firm where he had been a partner for 10 years. His firing came after another Dickstein partner, Leonard Garment, met with Arnold Burns, then-deputy attorney general of the DOJ.

Garment was counsel to President Richard Nixon and assistant to President Gerald Ford. He testified before a Senate inquiry that he and Meese discussed the Inslaw case in October 1986, and afterward he met with Burns. Two days later Ratiner was fired.

The terms of the financial settlement between Ratiner and his firm were kept confidential, but WIRED has been told by ex-Israeli spy Ari Ben Menashe that Israeli intelligence paid to have Ratiner fired, and that the money was transferred through Hadron Inc., the same company that Earl Brian used to distribute illegal copies of PROMIS. Through informed sources, WIRED has independently confirmed portions of Ben Menashe's allegations.

Ben Menashe has told WIRED that he saw a memo in Israel, written in Hebrew, requesting funds for "a lawyer." He claims to have seen the memo at the office of a joint Mossad (Israeli CIA), Internal Defense Forces and Military committee specializing in Israeli-Iran relations. Israel admits that Ben Menashe

handled communications at this level and therefore would have had access to such transmissions.

Ben Menashe said the money was used as Ratiner's settlement payment. "The money was transferred, \$600,000, to Hadron," he said. As to why Hadron was used, Ben Menashe claims: "Because [Brian] was involved quite deeply." He said Ratiner was unaware of the source of the settlement funds.

Ratiner, contacted after the Ben Menashe interview, said he had never disclosed the amount of the separation settlement to anyone. He is limited contractually by his former firm from discussing any specifics of the firing. Asked if Ben Menashe's figures were correct, Ratiner said, "I can't comment because it would be the same as revealing them." WIRED located a deep background source who confirmed that the amount was "correct almost to the penny."

Ratiner said he was shocked at the allegations of money laundering. "Dickstein, Shapiro is the 10th largest firm in Washington and I had no reason to think it was other than reputable," he said. "Why is it that everyone who comes in contact with the Inslaw case becomes a victim?" - RLF

A Dead Journalist Raises Some Eyebrows

Among the many strong conclusions of the "House Judiciary Committee Report on the Inslaw Affair" was this rather startling and brief recommendation: "Investigate Mr. Casolaro's death."

Freelance reporter Danny Casolaro spent the last few years of his life investigating a pattern which he called "The Octopus." According to Casolaro, Inslaw was only part of a greater story of how intelligence agencies, the Department of Justice and even the mob had subverted the government and its various functions for their own profit.

Casolaro had hoped to write a book based on his reporting. His theories, which some seasoned investigative journalists have described as naive, led him into a Bermuda Triangle of spooks, guns, drugs and organized crime. On August 10th, 1991, he was found dead in a Martinsburg, W. Va., hotel room. Both wrists were deeply slashed.

Casolaro's death has only deepened the mystery surrounding Inslaw. Among the more unusual aspects of his death: He had gone to Martinsburg to meet an informant whose name he never revealed. He had called home the afternoon before his death to say he would be late for a family gathering. Martinsburg police allowed his body to be embalmed before family members were notified and warned hotel employees not to speak to reporters. The hotel room was immediately scrubbed by a cleaning service. Casolaro had told several friends and his brother that if anything ever happened to him, not to believe it was an accident. And his notes, which witnesses saw him carry into the hotel, were missing.

His death was ruled a suicide by Martinsburg and West Virginia authorities several months later. Friends, relatives and some investigators still cry foul.

A source close to retired Federal Judge Nicholas Bua (the Bush Administration appointee who is investigating Inslaw) said Bua will not come to any conclusions regarding Casolaro's fate. "I don't know if he committed suicide or if it was murder," the source said. "But the evidence is consistent with both theories. There are things that bother me but ... certainly no one can be indicted on the evidence that is available."

What does that mean? Either an independent investigation drums up more evidence, or the case may never be solved.

The House Judiciary Committee may have written what could be called the final word on Danny Casolaro's inexplicable death: "As long as the possibility exists that Danny Casolaro died as a result of his investigation into the Inslaw matter, it is imperative that further investigation be conducted." - RLF

InslawGate?

Elliot Richardson, President Nixon's former attorney general (he was fired when he refused to fire Archibald Cox during the Watergate scandal) has been a counsel to Inslaw for nearly 10 years (he retired this January). In a Oct. 21, 1991 New York Times Op Ed, Richardson wrote: "This is not the first time I have had to think about the need for an independent investigator. I had been a member of the Nixon Administration from the beginning when I was nominated as Attorney General in 1973. Confidence in the integrity of the Watergate investigation could best be insured, I thought, by entrusting it to someone who had no prior connection to the White House. With Inslaw, the charges against the Justice Department make the same course even more imperative.

"When the Watergate special prosecutor began his inquiry, indications of the President's complicity were not as strong as those that now point to a broad conspiracy implicating lesser Government officials in the theft of Inslaw's technology."

A Well-Covered Coverup?

The House Committee Report contained some no-holds-barred language on the issue of stonewalling:

"One of the principle reasons the committee could not reach any definitive conclusion about Inslaw's allegations of a high criminal conspiracy at Justice was the lack of cooperation from the Department," the report states. "Throughout the two Inslaw investigations, the Congress met with restrictions, delays and outright denials to requests for information and to unobstructed access to records and witnesses.

"During this committee's investigation, Attorney General Thornburgh repeatedly reneged on agreements made with this committee to provide full and open access to information and witnesses ... the Department failed to provide all the documents subpoenaed, claiming that some of the documents ... had been misplaced or accidentally destroyed."

Rep. Jack Brooks and the House Committee On the Inslaw Case

The string of lawsuits and widening allegations caught the eye of House Judiciary Committee Chairman Jack Brooks, D-Texas, who in 1989 launched a three-year investigation into the Inslaw affair. In the resulting report, the Committee suggested that among others, Edwin Meese, while presidential counselor and later as attorney general, and D. Lowell Jensen, a former assistant and deputy attorney general and now a U.S. district judge in San Francisco, conspired to steal PROMIS.

"There appears to be strong evidence," the report states, "as indicated by the findings in two Federal Court proceedings as well as by the committee investigation, that the Department of Justice 'acted willfully and fraudulently,' and 'took, converted and stole,' Inslaw's Enhanced PROMIS by 'trickery fraud and deceit.' "

"While refusing to engage in good faith negotiations with Inslaw," the report continues, "Mr. Brewer and Mr. Videnieks, with the approval of high-level Justice Department officials, proceeded to take actions to misappropriate the Enhanced PROMIS software."

Furthermore, the report states, "several individuals have stated under oath that the Enhanced PROMIS software was stolen and distributed internationally in order to provide financial gain to Dr. Brian and to further intelligence and foreign policy objectives for the United States."

Rep. Brooks told WIRED that the report should be the starting point for a grand jury investigation. The

owners of Inslaw, Brooks said, were "ravaged by the Justice Department ... treated like dogs."

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