Inslaw

Inslaw, Inc. is a small, Washington, D.C.-based, information technology company. In the mid-1970s, Inslaw developed for the United States Department of Justice a highly efficient, people-tracking, software program known as: Prosecutor's Management Information System (Promis). Inslaw's principal owners, William Anthony Hamilton and his wife, Nancy Burke Hamilton, later sued the United States Government (acting as principal to the Department of Justice) for not complying with the terms of the Promis contract and for refusing to pay for an enhanced version of Promis once delivered. This allegation of software piracy led to three trials in separate federal courts and two congressional hearings.

INSLAW, Incorporated	
Type	Private
Industry	Information Technology
Founded	Washington, D.C., U.S. (March 3, 1982)
Founder(s)	William Anthony Hamilton
Headquarters	Washington, D.C.
Products	CJIS, MODULAW, PROMIS
Website	http://www.inslawinc.com

During ensuing investigations, the Department of Justice was accused of deliberately attempting to drive Inslaw into Chapter 7 liquidation; and of distributing and selling stolen software for covert intelligence operations of foreign governments such as Canada, Israel, Singapore, Iraq, Egypt, and Jordan; and of becoming directly involved in murder.

Later developments implied that derivative versions of Enhanced Promis sold on the black market may have become the high-tech tools of worldwide terrorists such as Osama Bin Laden and international money launderers and thieves. Yet, today, nothing conclusive has been shown to support any allegations of wrongdoing on the part of anyone.

Contents

Origins

Inslaw, once called the **Institute for Law and Social Research**[1], was a non-profit business created in 1974 by William Anthony Hamilton, "a former analyst with the National Security Agency and onetime contract employee of the CIA."[2] Inslaw's original software product, Promis, was a database designed to handle papers and documents generated by law enforcement agencies and courts. Promis was a people-tracking program which had the power to integrate innumerable databases regardless of their languages, or regardless of their operating platforms. "Every use of Promis in the court system is tracking people," explained 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."[3]

Promis was funded almost entirely by government funds;[1] therefore versions created prior to January 1978 were in the public domain. On January 1, 1978, amendments to the Copyright Act of 1976 took effect, automatically conferring upon Inslaw as the author of Promis five exclusive software copyright rights, none of which could be waived except by explicit, written waiver. The federal government negotiated licenses to use but not to modify or to distribute outside the federal government some but not all versions of Promis created after the January 1978 effective-date of the copyright amendments.[4] In 1981, after Congress liquidated the Justice Department's Law Enforcement Assistance Administration (LEAA) (which had been the primary source of funds for Inslaw's development of Promis), the company became known as **Inslaw, Inc.**, a for-profit corporation created to further develop and market Promis and other Promis-derivative software product(s).

The newly created corporation made significant improvements to the original software. The resulting product came to be known alternately as Promis '82 or Enhanced Promis, a 32-bit architecture *VAX* 11/780 version.

Enhanced Promis contract

In 1981, Edwin Meese, then an advisor to President Ronald Reagan, announced an $800 million budget in an effort to overhaul the computer systems of the Justice Department, the Federal Bureau of Investigation (FBI), and other law enforcement agencies.[5] The following year, the Department of Justice awarded Inslaw a $9.6 million, three-year, cost-plus-incentive-fee contract to implement a pilot program in 22 of the largest Offices of the United States Attorneys using the older 16-bit architecture *Prime* version (as in *Wang*, or *IBM*), which the government had a license to use.[4]

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While Promis could have gone a long way toward correcting the Department's longstanding need for a standardized case-management system, the contract between Inslaw and Justice quickly became embroiled for over two decades in bitter controversy.[6] The conflict centered on whether or not the Justice Department owed Inslaw license fees for the new, 32-bit architecture *VAX* version *if the government substituted* that version for the older 16-bit *Prime* version which had been the subject of the original contract.

Espionage

In February 1983, an Israeli government official scheduled a meeting with Inslaw through the Justice Department's contract agent, Peter Videnieks.[nb 1] The purpose of that meeting was for a Promis briefing and demonstration; the Israeli Ministry of Justice intended to computerize its own prosecution offices. Although it was believed that the Israeli government official was a prosecuting attorney, it was later discovered upon closer examination that the official was really Rafi Eitan, "Director of LAKAM, a super-secret agency [within] the Israeli Ministry of Defense responsible for collecting scientific and technical intelligence information from other countries through espionage."[7][8] Herein is where Inslaw's case becomes convoluted.[nb 2]

Following the Israeli meeting, the Justice Department obtained Inslaw's new, 32-bit, Enhanced Promis from Inslaw at the start of the second year of their Implementation Contract by modifying that contract and by promising to negotiate the payment of license fees.[4][6] One month later, the U.S. government began to find fault with some of Inslaw's services, and with negotiated billing rates. The government then began to withhold unilaterally each month increasing amounts of payments due Inslaw for implementation services.[9] The Justice Department agent responsible for making payments was a former, fired Inslaw employee, C. Madison Brewer.[3] Brewer would later claim in federal court that everything he did regarding Inslaw was approved by Deputy Attorney General D. Lowell Jensen.[nb 3] "Brewer was aided in his new DoJ job by Peter Videnieks," wrote *Wired (magazine)*, "Videnieks was fresh from the Customs Service where he oversaw contracts between that agency and Hadron, Inc., a company controlled by [Edwin] Meese and Reagan-crony Earl Brian. Hadron, a closely held government systems consulting firm, was to figure prominently in the forthcoming scandal."[3] Both Brewer and Videnieks had obtained their positions under suspicious circumstances, according to the Chicago-based weekly, *In These Times*.[10][nb 4] Furthermore, "Before moving over to the Justice Department and taking charge of the Promis program in September 1981," wrote *In These Times*, "Videnieks had

administered three contracts between the Customs Service and Hadron...[Hadron] was in the business of integrating information-managing systems such as Promis into federal agencies."[10][nb 5]

Simultaneously with the withholding of payments in the 1983 Modification 12 agreement, the government then substituted the enhanced *VAX* version of Promis for the old *Prime* version originally specified in the contract. However, the government failed to negotiate the payment of license fees as promised, claiming that Inslaw had failed to prove to the government's satisfaction that Inslaw had developed the enhanced version with private, non-government funds and that the enhanced version was not otherwise required to be delivered to the government under any of its contracts with Inslaw—that is, Inslaw had provided it *voluntarily*.[6]

Yet beneath the surface of this background was a belief that the primary focus of certain top-level individuals within the DoJ was to perpetuate international, covert intelligence operations—for example, to enable Israeli signal intelligence to "surreptitiously access the computerized Jordanian dossiers on Palestinians."[7]

Enhanced Promis was eventually installed in a total of forty-four federal prosecutors' offices following the Modification 12 agreement.[nb 6]

Elliot Richardson alluded to Earl Brian's alleged involvement in an op-ed opinion in the *New York Times*.[15] Brian later sued, but lost.[16]

According to affidavits filed by William Hamilton, as the contract details were modified, Hamilton then received a phone call from Dominic Laiti, chief executive of Hadron. Laiti wanted to buy Inslaw. Hamilton refused. According to Hamilton's affidavits, Laiti then warned him that Hadron had friends in government and if Inslaw did not want to sell willingly, Inslaw could be coerced.[3][6]

By February 1985, the government had withheld payment of almost $1.8 million for Inslaw's implementation services, plus millions of dollars in Old Promis license fees. Inslaw filed for Chapter 11 bankruptcy protection.[17] Meanwhile, the government began highly suspicious activities to force Inslaw into Chapter 7 liquidation.[6][11]

Federal investigations into allegations of theft

In his court cases, William Hamilton was represented by several attorneys, one of whom was lawyer Elliot Richardson, formerly the United States Attorney General under President Richard Nixon.

Two different federal bankruptcy courts made fully litigated *findings of fact* in the late-eighties ruling that the Justice Department "took, converted, and stole"[nb 7] the Promis installed in U.S. Attorneys' Offices "through trickery, fraud, and deceit,"[nb 8] and then attempted "unlawfully and without justification"[nb 9] to force Inslaw out of business so that it would be unable to seek restitution through the courts.[6]

Three months after the initial verdict, George F. Bason, Jr., the federal judge presiding over the Bankruptcy Court for the District of Columbia (http://www.dcb.uscourts.gov) , was denied reappointment to a new 14-year term on the bench by the U.S. Court of Appeals for the District of Columbia, the appointing authority.[nb 10] His replacement, S. Martin Teel, took over shortly after Judge Bason announced his oral findings of malfeasance against Inslaw by the Justice Department; Teel had been the Justice Department Tax Division attorney who had argued unsuccessfully before Judge Bason for the forced liquidation of Inslaw.[18][19] Leigh Ratiner (of Dickstein, Shapiro and Morin, which was the 10th largest firm in Washington at the time) was fired in October 1986; he had been the lead counsel for Inslaw and had filed the suit against the Justice Department in federal bankruptcy court. His firing came reportedly amidst "back channel"[7] discussions involving: the DoJ, his law firm's senior partner, and the Government of Israel; moreover, there were rumors that the Mossad had arranged a payment of $600,000 to Ratiner's former firm as a separation settlement. [nb 11]

Then, in September 1991, the House Judiciary Committee issued the result of a three-year

Then, in September 1991, the House Judiciary Committee issued the result of a three-year investigation. House Report **102-857** *Inslaw: Investigative Report*[6] confirmed the Justice Department's theft of Promis. The report was issued after the Justice Department convinced the D.C. Circuit Court of Appeals on a jurisdictional technicality to set aside the decisions of the first two federal bankruptcy courts.[nb 12] The House Committee also reported investigative leads indicating that friends of the Reagan White House had been allowed to sell and to distribute Enhanced Promis both domestically and overseas for their personal financial gain and in support of the intelligence and foreign policy objectives of the United States.[3][15][21] The report even went so far as to recommend specifically further investigations of both former-Attorney General Edwin Meese and businessman, Earl Brian, for their possible involvement in illegally providing or selling Promis "to foreign governments including Canada,[22] Israel,[8][23] Singapore, Iraq,[2] Egypt, and Jordan."[6] The Democratic Majority called upon the Attorney General Dick Thornburgh to compensate Inslaw immediately for the harm that the government had "egregiously" inflicted on Inslaw. The Republican Minority dissented. The Committee was divided along party lines 21–13. Attorney General Thornburgh ignored the recommendations, and reneged on agreements made with the committee.[6]

Attorney General Dick Thornburgh repeatedly reneged on agreements made with the House committee to provide full and open access to information and witnesses[6]

Inslaw Affair divides into two separate issues

On November 13, 1991, newly appointed, Attorney General William Barr, appointed a retired federal judge, Nicholas J. Bua, as Special Counsel to advise him on the allegations that high-ranking officials had acted improperly for personal gain to bankrupt Inslaw.[24]

William Barr appointed Special Counsel, Nicholas J. Bua, to advise him on what had become known by 1991 as the *Inslaw Affair*.

By June 1993, a 267-page *Bua Report*[18][25] was released, clearing Justice officials of any impropriety.[26] Inslaw's attorney, Elliot Richardson immediately wrote Inslaw's 130-page *Rebuttal* with evidence suggesting Bua's report was riddled with errors and falsehoods.[19] On September 27, 1994, Attorney General Janet Reno released a 187-page review concluding "that there is no credible evidence that Department officials conspired to steal computer software developed by Inslaw, Inc. or that the company is entitled to additional government payments." [27] Yet, according to *Wired (magazine)*, "Reno's report was released the same day [that] the House Judiciary Committee passed **HR 4862**[28], a bill which would have bound the U.S. Court of Federal Claims legally to independently investigate the Inslaw case—thus circumventing the Department of Justice's claims of innocence;"[29] however, HR 4862 was defeated by a partisan committee-vote later that night before it was set to go before the full House.

The following May, the United States Senate asked the U.S. Court of Federal Claims [nb 13] to determine if the United States owed Inslaw compensation for the government's use of Promis. On July 31, 1997, Judge Christine Miller, the hearing officer for the U.S. Court of Federal Claims ruled that all of the versions of Promis were in the public domain and that the government had therefore always been free to do whatever it wished with Promis.[4][30][31] The following year, the appellate authority, a three-judge Review Panel of the same court, upheld Miller's ruling; yet, it also determined that Inslaw had never granted the government a license to "modify Promis to create derivative software" although Inslaw was automatically vested with the exclusive copyright rights to Promis. The Review Panel then held that the United States would be liable to Inslaw for copyright infringement damages if the government had created any unauthorized derivatives from Promis, but noted that Inslaw "had failed to prove in court that the government had done so;" moreover, the Board held that the issue of "derivative works" was "of no consequence."[nb 14] Inslaw challenged this interpretation but the Review Panel refused Inslaw's request to reopen discovery. In August 1998, Chief Judge Lorin Smith of the U.S. Court of Federal Claims sent an Advisory Report to the Senate, noting that the court had not found that the United States owes Inslaw compensation for the government's use of Promis, and enclosing the decision of the hearing officer and the decision of the Review Panel.[4]

Janet Reno released her review of the *Bua Report* on the same day that the House Select Committee on the Judiciary brought HR 4862 to the floor for a vote.

On the other hand, according to William Hamilton, the government flatly denied during all court proceedings what it later admitted, *i.e.* that agencies such as the Federal Bureau of Investigation (FBI) and other U.S. intelligence agencies[19] used a Promis-*derivative* to keep track of their classified information.[9]

Later developments

In early 1999, the British journalist and author, Gordon Thomas, published an authorized history of the Israeli Mossad titled *Gideon's Spies: The Secret History of the Mossad*. The book quotes detailed admissions by the former long-time deputy-director of the Mossad, Rafi Eitan, about the partnership between Israeli and U.S. intelligence in selling to foreign intelligence agencies in excess of $500 million worth of licenses to a trojan horse version of Promis, in order to spy on them.[23]

In 2001, the *Washington Times* and *Fox News* each quoted federal law enforcement officials familiar with debriefing former FBI Agent Robert Hanssen as claiming that the convicted spy had stolen copies of a Promis-*derivative* for his Soviet KGB handlers.

Robert Hanssen

They further alleged that the software was used within the FBI and other U.S. intelligence agencies to track internal intelligence, and was used by intelligence operatives to track international interbank transactions.[32] These reports further stated that Osama bin Laden later bought copies of the same Promis-derivative on the Russian black market (*blat*) for $2 million.[33] It was believed then that al Qaeda used the software to penetrate database systems to move funds throughout the banking system, and to evade detection by U.S. law enforcement. [34]

FBI, ACS, and FOIMS

In May 2006, a former aide in the Office of the Vice President of the United States pleaded guilty to passing top-secret classified information to plotters trying to overthrow the president of the Philippines. Leandro Aragoncillo, an FBI intelligence analyst at the time of his arrest, was believed to have operated his deception using archaic database software manipulated by the FBI in order to evade the 1995 finding of the U.S. Court of Federal Claims with regard to Inslaw's rights to
derivative works.[35] [9] [36] Additionally,

> The 9-11 Commission called attention to the fact that the FBI did not install the current version of its case management software, called the ACS (Automated Case Support) system, until October 1995 and [to the fact that ACS was obsolete from the time the FBI developed it in the mid-1990s because it was based on "1980s technology". Although the 9-11 Commission offered no explanation for why the FBI used obsolete technology to develop its ACS case mnagement software in 1995, the apparent explanation is that the FBI simply renamed its 1980s technology case management software, which was called FOIMS and was based on PROMIS, and translated it in October 1995 into a different computer programming language in order to obstruct a court hearing that the U.S. Senate had ordered earlier that year. The Senate had ordered the court in May 1995 to determine whether the United States owes Inslaw compensation for the government's use of PROMIS, and the court, in turn, ordered outside software experts to compare the FBI's software with PROMIS, but the FBI modified its software and told the court that it no longer retained the unmodified first 11 years (1985 through 1995) of its own case management software.]
> —*boxed information added by David Dastych*
> > —William A. Hamilton,"FBI's Incapacitating Cover-Up", *Wprost*[36]

In 2006, there were further allegations of the misuse of Promis. Writing in the *Canada Free Press*, the former Polish CIA operative and now international journalist, David Dastych alleged that "Chinese Military Intelligence (PLA-2) organized their own hackers department, which [exploited] Promis [database systems] [in the] Los Alamos and Sandia national laboratories to steal U.S. nuclear secrets"[36]; however, the *prima facie* value of that allegation was lost in a realization that the U.S. Government could not convict the suspected 2001 spy.[37]

The U.S. Government has never paid Inslaw Inc. for any of these unauthorized uses of Promis.

"Inslaw deserves to be compensated," wrote nationally syndicated columnist, Michelle Malkin, in *The Washington Times*.[38] "More importantly, the American people deserve to know the truth: Did government greed and bureaucratic hubris lead to a wholesale sellout of our national security?"[36]

Deaths allegedly related to the Inslaw case

While investigating elements of this story, journalist Danny Casolaro died in what was twice ruled a suicide. Prior to his death, Casolaro had warned friends if they were ever told he had committed suicide not to believe it, and to know he had been murdered.[39] Many have argued that his death was suspicious, deserving closer scrutiny; some have argued further, believing his death was a murder, committed to hide whatever Casolaro had uncovered.[7] "I believe he was murdered," wrote former Attorney General Elliot Richardson in the *New York Times*, " but even if that is no more than a possibility, it is a possibility with such sinister implications as to demand a serious effort to discover the truth."[15] Kenn Thomas and Jim Keith discuss this in their book, *The Octopus: Secret Government and the Death of Danny Casolaro*[nb 15] Writing on behalf of a majority opinion in *House Report 102-857*, Committee Chairman, Jack Brooks (D-TX) wrote, "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."[6].

Notes

1. ^ Peter Videnieks was the Contract Officer who oversaw the Promis contract for the Department of Justice Management Division.[6]
2. ^ For a complete discussion of details surrounding Israel's involvement in Inslaw's affairs see: William Hamilton's "Addendum to the Bua Rebuttal:Executive Summary"[7]; Jonathan Pollard; and Ari Ben Menashe's "Profits of War".[8]
3. ^ 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, [an] Alameda County (Calif.) District Attorney at the time. In the mid-seventies, the two programs vied for a lucrative Los Angeles County contract and Inslaw won out. (Early in his career, Ed Meese [had] worked under Jensen at the Alameda County District Attorney's office. Jensen was later appointed to Meese's Justice Department during the Reagan presidency.)[3] Both Jensen and Meese became serious targets for congressional investigators.
4. ^ According to a December 1989 affidavit filed by William Hamilton, the stage was set for Inslaw's takeover in the summer of 1981 when the Justice Department removed two key department officials involved in the Promis procurement: Patricia Goodrich, then project manager at the Justice Department for Promis, and Betty Thomas, then contracting officer in charge of purchasing the Promis software and administering the resulting contract. Goodrich's position was filled by C. Madison Brewer; and Thomas was told to step aside or be charged with "non-feasance". She was then replaced by Peter Videnieks, formerly with the US Customs Service.[10]
5. ^ Originally incorporated in 1964 under the name Bio-Rad (http://www.answers.com/topic/bio-rad-laboratories-inc-1) , Hadron had evolved from the "ashes of Xonics",[11] a medical devices company whose directors by 1975 had run afoul of the United States Securities and Exchange Commission's trading rules.[3] Hadron was located in Vienna, Virginia, and was known not only as a laser maker manufacturer[12] but also as a company which "specialized in litigation support for government".[13] Hadron was owned in part by venture-capitalists Earl Brian (7.7%), Dominic Laiti, and 13 other unknown (currently) partners.[12] Hadron eventually evolved into present-day, Analex Corporation (http://www.answers.com/topic/analex-corporation) , a "leading provider of mission-critical professional services to federal government clients." In January 2007, Analex North America was sold to *QinetiQ*, an international defense technology company with headquarters in UK, North America, and Australia.[14]
6. ^ The federal bankruptcy court in January 1988 asserts that the number of U.S. Attorneys Offices that received the 32-bit architecture version of Promis was forty-four. This finding was confirmed by the federal district court in November 1989. There were a total of 93 or 94 U.S. Attorneys Offices which received Enhanced Promis but the litigation (*Inslaw v. United States Government*) concerned only a subset of 44.
7. ^ Judge George F. Bason; INSLAW Inc. v. United States, Ch 11. Case No. 85 00070, Adv. No. 86-00069, transcript of oral decision, p.9 (Bankruptcy. District of Columbia. September 28, 1987). ["took,

converted and stole"][6]

8. ^ INSLAW Inc, v. United States, 83 B.R., 89 (Bankruptcy. District of Columbia. 1988), p.158. ["trickery, fraud and deceit."][6]

9. ^ Judge William B. Bryant; INSLAW Inc. v. United States, opinion of U.S. District Court Judge William Bryant, November 1989, at p. 52A. ["acted willfully and fraudulently"][6]

10. ^ Out of 136 federal judges due for reappointment, Mr. Bason became one of four not reappointed.

11. ^ See subsection "Who Fired Inslaw's Lawyer?" *The INSLAW Octopus*, Wired magazine. 1993. p. 8[3] See also: *Rebuttal to the Bua Report: Executive Summary*[7]

12. ^ On May 7, 1989, the D.C. Circuit Court of Appeals overturned the lower courts rulings, finding that the bankruptcy courts lacked the jurisdiction to try copyright infringments. However, the appellate court left the *findings of fact* undisturbed. [20]

13. ^ The U.S. Court of Federal Claims has exclusive jurisdiction over copyright infringement claims against the U. S. Government.

14. ^ See: *Inslaw v. The United States, No. 95-338X, 48 C.F.R. § 3.101-1* (aka the *three-judge Review Panel*), section III. "Plaintiffs' Exceptions to the Hearing Officer's Report", B. "Inslaw's Rights in the Various Versions of PROMIS Software", para 9-10.[4]

15. ^ *The Octopus* was the name that Casolaro had intended to title his book. (See also: Alfred W. McCoy and Claire Sterling.)

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Further reading

- *The Octopus: Secret Government and the Death of Danny Casolaro* by Kenn Thomas and Jim Keith (Feral House, US, 2005, paperback ISBN 0-922915-91-1)
- *The Attorney General's refusal to provide congressional access to "privileged" INSLAW documents* : hearing before the Subcommittee on Economic and Commercial Law of the Committee on the Judiciary, House of Representatives, One Hundred First Congress, second session, December 5, 1990. Washington : U.S. G.P.O. : For sale by the Supt. of Docs., Congressional Sales Office, U.S. G.P.O, 1990. Superintendent of Documents Number Y 4.J 89/1:101/114
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External links

- Inslaw Inc (http://www.namebase.org/main2/Inslaw-Inc.html) at NameBase
- The Inslaw Affair (http://www.pinknoiz.com/covert/inslaw.html)
- "The PROMIS software, used by police, is bugged" (http://users.cyberone.com.au/myers/bugs.html)

Retrieved from "http://en.wikipedia.org/wiki/Inslaw"

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