Prior to Recent CIA and NSA Oversight Problems, U.S. Intelligence Sold Half a Billion Dollars Worth of Stolen Software to Steal Intelligence Secrets from Foreign Intelligence Agencies while Producing Profits for Contractor with White House Ties; Stole Same Software to Track U.S. Intelligence Information; but Never Took Responsibility for Resulting Cases of Espionage Against the United States.

> " … this a defining moment for the oversight of our Intelligence Community. How Congress responds and how this is resolved will show whether the Intelligence Committee can be effective in monitoring and investigating our nation's intelligence activities, or whether our work can be thwarted by those we oversee.
>
> "I believe it is critical that the committee and the Senate reaffirm our oversight role and our independence under the Constitution of the United States."
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> (Excerpt from the March 11, 2014 Senate Floor Statement by Senate Intelligence Chairman Dianne Feinstein on discovering the CIA's covert surveillance of the computer system the committee used for its investigation into the CIA's Detention and Interrogation Program, including the CIA's torture of prisoners.)

In July 2014, the CIA Inspector General issued a report confirming the CIA had unconstitutionally and illegally spied on its overseers at the Senate Intelligence Committee. CIA Director Brennan issued an apology.

NSA's "Follow the Money" Electronic Surveillance of Bank Transfers.
Israel's Sale of SIGINT Backdoor Version of PROMIS to Foreign Intelligence and Law Enforcement Agencies
CIA's Sale and Distribution of PROMIS as Standard Database Software for U.S. Intelligence Community
CIA-orchestrated Sales of SIGNIT Backdoor Version of PROMIS to Semiconductor Manufacturers in 25 Countries
DEA's Sales of SIGINT Backdoor Version of PROMIS to Drug Interdiction Units of Middle East Governments

Beginning in June 2013, highly classified documents leaked by Edward Snowden, a former NSA contractor, have exposed, among other things, NSA's bulk collection of telephone and email communications of Americans and others unsuspected of wrongdoing; untruthful denials of such practices by President Obama and U.S. intelligence officials; and approval of this kind of bulk

domestic collection by the oversight authorities created in the late 1970s to safeguard the Constitutional rights of Americans, including the House and Senate intelligence committees and the Foreign Intelligence Surveillance Court.

Earl W. Brian is a businessman who served both in the California cabinet of Governor Reagan and in the White House during the first two years of the Reagan Presidency. Brian controlled Hadron, Inc., a computer systems vendor to U.S. intelligence agencies, by the start of the Reagan Presidency. While seeking contracts from the Shah of Iran, Brian had reportedly disclosed to Rafi Eitan, a senior Israeli intelligence official, during a meeting in Teheran in the 1970s, his interest in finding a way to profit personally from the PROMIS database software that INSLAW, Inc., a Washington, D.C. software company, had developed. During the first year of the Reagan Presidency, Brian, described as a "CIA businessman," was reportedly observed, during a local Indio, California police surveillance, attending a nearby weapons demonstration for Eden Pastora and other leaders of the Nicaraguan Contras. A CIA-funded Joint Venture between the Wackenhut Corporation, a giant private security company, and the tiny Cabazon Indian Tribe of Indio, California, had allegedly organized that September 1981 weapons demonstration. Another function of the Joint Venture, according to a March 1991 affidavit from Michael Riconosciuto, its former Research Director, was to modify unauthorized copies of INSLAW's PROMIS database software for sale by Brian to foreign intelligence and law enforcement agencies, including Canada's.

In the INSLAW affair, the U.S. Department of Justice misappropriated hundreds of millions of dollars worth of copies of the PROMIS database software during the 1980s and 1990s; covertly sold or disseminated the stolen PROMIS software to banks, foreign intelligence and law enforcement agencies, and other targets of U.S. electronic surveillance, including semiconductor companies that manufacture integrated circuits for advanced military and defense applications; used the illicit profits from sales of stolen copies of PROMIS to fund covert operations Congress had not authorized, and to reward politically-connected intelligence contractors such as Earl W. Brian; and disseminated copies of the same stolen software to virtually every agency and unit of the U.S. intelligence community to track the gathering and dissemination of intelligence information between and among "producer" agencies, such as the CIA, NSA, and DIA, and "consumer" entities of the U.S. intelligence community, including U.S. nuclear submarines and U.S. attack aircraft.

The Reagan Administration established five major distribution channels for stolen copies of PROMIS, beginning in 1981 with NSA's sales of PROMIS to banking entities in the United States and overseas, including wire transfer clearinghouses, international financial institutions, and as many as 400 major commercial banks for surveillance of electronic fund transfers, although INSLAW has no knowledge of the dollar value of PROMIS sales through that distribution channel.

The second major PROMIS distribution channel, involved Israel, as an agent or instrumentality of the United States, in sales of unauthorized, copyright-infringing copies of PROMIS to foreign intelligence and law enforcement agencies. Rafi Eitan, the former Israeli intelligence agency director who was in charge of Israel's PROMIS distribution channel, later claimed to the British author of an authorized history of the Israeli Mossad intelligence agency that his Israeli intelligence PROMIS distribution channel alone sold over half a billion dollars worth of PROMIS licenses.

There have never been any similarly public claims about the dollar value of the three major PROMIS distribution channels that followed the first two channels, including the CIA's

deployment of PROMIS as the standard database software for gathering and disseminating U.S. intelligence information in virtually all U.S. intelligence and law enforcement agencies, the intelligence components of the U.S. armed forces, and all U.S. Embassies; CIA-orchestrated sales of PROMIS to semiconductor manufacturers in 25 countries for surveillance of illicit sales of integrated circuits for advanced military and defense applications; and Justice Department PROMIS sales to the drug control units of Middle East governments so its Drug Enforcement Administration (DEA) could steal their intelligence information on drug trafficking.

In the course of three highly publicized federal trials and two Congressional investigations in the 1980s and 1990s, there was never any visible evidence of oversight of the U.S. intelligence community's malfeasance in the INSLAW affair by the House or Senate Intelligence Committees, or by the Inspector General offices of the Department of Justice or U.S. intelligence agencies. With no effective oversight, the Department of Justice blocked Congress' and INSLAW's access to witnesses and documents, and subjected witnesses against the government to administrative reprisals and/or criminal prosecutions, while actively concealing the scope of the government's malfeasance.

At the conclusion of its three-year investigation in September 1992, the House Judiciary Committee demanded that Attorney General William Barr "immediately" compensate INSLAW for the harm the government had "egregiously" inflicted on the Company, and that Barr petition the U.S. Court of Appeals for the District of Columbia for appointment of an Independent Counsel to investigate the government's theft of PROMIS, together with possible obstruction of justice by the two Attorneys General who immediately preceded Barr, Edwin Meese and Dick Thornburgh.

The Committee also demanded that the Independent Counsel be tasked with an investigation of the August 10, 1991 violent death of investigative reporter, Danny Casolaro, in Martinsburg, West Virginia. Casolaro had spent the year preceding his death investigating the INSLAW affair and several other scandals that he believed involved some of the same former CIA officials, including the Iran/Contra scandal, the October Surprise scandal (in which the Reagan Presidential campaign in 1980 is alleged to have bribed Iranian Government officials to delay the release of American hostages long enough to diminish the re-election prospects of President Carter), and the operations of the corrupt Bank of Credit and Commerce International (BCCI).

In its September 1992 Investigative Report, the Committee also published an investigative lead suggesting that friends of Edwin Meese, including Earl W. Brian, a U.S. intelligence contractor who had served with Meese in both the California cabinet of Governor Reagan and in the Reagan White House, had been allowed to "sell and distribute" stolen copies of PROMIS "domestically and overseas" for their "personal financial gain, and in support of the intelligence and foreign policy objectives of the United States."

Attorney General William Barr took no action on the Committee's September 1992 demand that he immediately compensate INSLAW. Barr also declined to grant the Committee's written request, signed by all 22 Democrats on the Committee in accordance with to then-extant Ethics in Government Act, that he recuse the Department of Justice from any further role in the investigation of the INSLAW affair, and that he petition the U.S. Court of Appeals for the District of Columbia to appoint an Independent Counsel for the INSLAW affair.

The CIA-financed and PROMIS-related Joint Venture between the Wackenhut Corporation and the Cabazon Indian Tribe in Southern California.

During the first several months of the Reagan Administration, the Reagan Administration launched a CIA-financed R&D Joint Venture on an Indian reservation in southern California between the Wackenhut Corporation, a giant security contractor, and the tiny Cabazon Band of Mission Indians of Indio, California. Reagan's first CIA Director, William Casey, had been outside counsel to and a member of the Board of Directors of Wackenhut, until Reagan appointed him CIA Director at the start of the Reagan Administration.

The unusual staffing of the Joint Venture provided a clue to what eventually became clear, i.e., that the U.S. intelligence community had given the Joint Venture a highly questionable mission.

John P. Nichols, the non-Indian business manager for the Cabazon Indians and their Joint Venture, who reportedly had earlier served as the CIA Station Chief in Chile at the time President Allende was overthrown, was later convicted in California, in 1985, of solicitation for the murder of several drug traffickers.

Jimmy Hughes, the non-Indian Security Director for the Cabazon Indians, was a former U.S. Army Ranger and Delta Force soldier who had also been seconded for several years to the CIA for covert missions abroad, according to his interview by the Salvadorian newspaper *El Diario de Hoy* on July 6, 2003. Hughes further claimed in the interview that, upon leaving the Army and locating in California, he had become a Cocaine-addicted, "hit-man" for the Mafia before undergoing a religious reawakening in the course of murdering one of his Mafia targets and the friends of the target who happened to be at his home when the murder took place. Hughes had also reportedly admitted years earlier, in 1984, to local authorities in the vicinity of the Cabazon Reservation that he had first-hand knowledge of the execution-style murder of Fred Alvarez, Vice Chairman of the Cabazon Indian Tribe, and two companions on June 29, 1981 as the three were reportedly meeting with a local newspaper reporter and lawyer to blow the whistle on wrongdoing at the Cabazon Indian Reservation, claiming at the time that the murders had been ordered and financed by John P. Nichols. Significantly, in a separate 1985 interview by the local NBC TV station in Los Angeles, Hughes, a former U.S. Army and CIA covert operative, had also claimed the triple homicides were an "authorized, backed, government covert action.". In September 2009, spurred by the determined investigative work of Rachel Begley, the daughter of Ralph Boger, who was one of the other two persons murdered along with Cabazon Vice Chairman Fred Alvarez on June 29, 1981, the Riverside, California Sherriff's Office arrested Jimmy Hughes for the triple homicide on June 29, 1981. (The arrest took place in Florida as Hughes was boarding a flight back to Honduras). But after keeping Hughes in jail for nine months awaiting trial, the California Attorney General's office, which had approved the Riverside Sherriff's arrest warrant for Hughes in the first place, suddenly announced that it was dismissing the prosecution and releasing Hughes from custody.

Similarly, the Joint Venture's Research Director, Michael Riconosciuto, had an earlier drug trafficking conviction. Riconosciuto had allegedly been a contract asset for the CIA for many years, and had unusual expertise in computer software, chemistry, and physics, and their application in such matters as money laundering, manufacturing of illegal drugs, and development of war materiel such as explosives.

Another senior member of the Joint Venture's staff was Robert Booth Nichols, who had been under investigation by the FBI's Los Angeles office since the 1970s for drug trafficking and money laundering in conjunction with U.S. and Japanese organized crime, according to the testimony of Los Angeles-based FBI Agent Thomas Gates before the House Judiciary Committee's INSLAW affair investigation in 1992. In an unsuccessful civil suit Nichols brought against FBI Agent Thomas Gates in Los Angeles Superior Court, Nichols testified he had

previously served as a clandestine operative for the CIA. (Robert Booth Nichols and John P. Nichols are not related).

In March 1991, Michael Riconosciuto provided an affidavit to INSLAW in which he claimed that the Joint Venture "sought to develop and/or manufacture certain materials that are used in military and national security operations, including night vision goggles, machine guns, fuel-air explosives, and biological and chemical warfare weapons;" and that the Joint Venture "was intended to support the needs of a number of foreign governments and forces, including forces and governments in Central America and the Middle East;" and that "the Contras in Nicaragua represented one of the most important priorities for the Joint Venture."

Riconosciuto also made the following claims in his affidavit regarding INSLAW's PROMIS software: "Among the frequent visitors to the Joint Venture were Peter Videnieks of the U.S. Department of Justice in Washington, D.C., and a close associate of Videnieks by the name of Earl W. Brian. Brian is a private businessman who lives in Maryland and who has maintained close business ties with the U.S. intelligence community for many years;" "In connection with my work for Wackenhut, I engaged in some software development and modification work in 1983 and 1984 on the proprietary PROMIS computer software product. The copy of PROMIS on which I worked came from the Department of Justice. Earl W. Brian made it available to me after acquiring it from Peter Videnieks who was then a Department of Justice contracting official with responsibility for the PROMIS software." "The purpose of the software modifications that I made in 1983 and 1984 was to support a plan for the implementation of PROMIS in law enforcement and intelligence agencies worldwide. Earl W. Brian was spearheading the plan for this worldwide use of the PROMIS computer software." "Some of the modifications that I made were specifically designed to facilitate the implementation of PROMIS within two agencies of the Government of Canada: The Royal Canadian Mounted Police (RCMP) and the Canadian Security and Intelligence Service (CSIS)." "It was my understanding that Earl W. Brian sold this version of PROMIS to the Government of Canada."

Riconosciuto also claimed in his affidavit that Peter Videnieks had telephoned him in February 1991 and "attempted during this telephone conversation to persuade me not to cooperate with an independent investigation of the government's piracy of INSLAW's proprietary PROMIS software being conducted by the Committee on the Judiciary of the U.S. House of Representatives." "Videnieks stated that I would be rewarded for a decision not to cooperate with the House Judiciary Committee investigation …" Videnieks also outlined specific punishments I could expect to receive from the U.S. Department of Justice if I cooperate with the House Judiciary Committee's investigation …Videnieks warned me that credible witnesses would come forward to contradict any damaging claims that I made in testimony before the House Judiciary Committee, and that I would subsequently be prosecuted for perjury by the U.S. Department of Justice for my testimony before the House Judiciary Committee."

One week after providing that March 1991 affidavit to INSLAW, the Justice Department's Drug Enforcement Administration (DEA) arrested Riconosciuto in Washington State and charged him with drug trafficking, a crime for which he had previously been convicted.

Riconosciuto arranged later in 1991 through Cheri Seymour, a California-based investigative reporter, for an FBI agent from the Fresno, California field office to receive a telephone call at Seymour's home from Riconosciuto, who was then in jail awaiting trial, in which Riconosciuto would make a proffer of evidence he was prepared to provide in exchange for a decision to drop the drug trafficking charges against him, and to admit him into the Witness Protection Program. In her September 2010 book entitled *The Last Circle: Danny Casolaro's Investigation into the*

Octopus and the PROMIS Software Scandal, Seymour quoted Riconosciuto as having explained that Fresno, California was then the headquarters of an organized crime entity known as "The Company," comprised of former U.S. military and intelligence personnel and engaged in the nationwide distribution of illegal drugs.

At Riconosciuto's request, Cheri Seymour made an audio recording of Riconosciuto's late 1991 telephonic proffer. Seymour quoted from Riconosciuto's proffer in *The Last Circle*.. Among the highlights of Riconosciuto's claims in his late 1991 proffer to the FBI were the following:

- Riconosciuto witnessed Robert Booth Nichols give a briefcase containing $50,000 in cash to Michael Abbell, at a bar in the Georgetown section of Washington, D.C. in 1983, for the purpose of arranging for Abbell to "crowbar" a pending extradition case against Gilberto Rodriguez Orejuela, his brother, Miguel Rodriguez Orejuela and Jose Santacruz Londono on the grounds that those three Cali Drug Cartel leaders were working for U.S. intelligence; Abbell, at the time, was Director of the Office of International Affairs in the Criminal Division of the Justice Department, which is the unit responsible for extraditions; several years later, a federal district court in Miami convicted Abbell, by then in private legal practice, of laundering drug profits for leaders of the Cali Cartel; Abbell's conviction was later set aside by a federal appellate court after he had served part of his sentence in prison;

- Riconosciuto's responsibilities as Director of Research for the CIA-financed Wackenhut/Cabazon Joint Venture included accessing illicit copies of the PROMIS software at the CHIPS (Clearing House Interbank Payment System) wire transfer clearinghouse in New York City and at the SWIFT (Society for Worldwide Interbank Financial Telecommunication) in Brussels, Belgium, and in commercial banks such as the Workers' Bank in Columbia for the purpose of laundering drug profits for organized crime and the Cali Cartel; (NSA had installed in wire transfer clearing houses and commercial banks and international financial institutions versions of PROMIS equipped with SIGINT (Signal Intelligence) backdoors for real-time electronic surveillance of wire transfers); and

- Riconosciuto claimed the CIA used some of the proceeds from the drug profits he laundered under the auspices of the CIA-financed Joint Venture to buy weapons for groups such as the Contras in Nicaragua and the Mujahedeen in Afghanistan because such forces would otherwise have been unable to pay for the weapons the CIA believed they needed.

The FBI evidently never responded to Riconosciuto's late 1991 proffer. A federal district court in Washington State convicted Riconosciuto in 1992 of drug trafficking, and sentenced him to 30 years in federal prison, where he remains today.

Although not included in his affidavit, Riconosciuto also told INSLAW at the time that one of the modifications he made to PROMIS was the incorporation of a SIGINT (Signal Intelligence) backdoor capability to enable NSA to steal copies of data being tracked in the PROMIS systems

sold to law enforcement and intelligence agencies, and that the Reagan Administration gave Earl Brian the ability to sell stolen copies of PROMIS worldwide for his personal financial gain as a reward for Brian's role in the October Surprise, i.e., in bribing Government of Iran officials to delay the release of American hostages until after President Carter lost his November 1980 bid for reelection.

During the first three years of the Reagan Administration (1981-1983), the Justice Department began covertly misappropriating copies of PROMIS for the following four worldwide intelligence projects, each of which is documented in more detail in the **NOTES** section of this document:

(1) NSA's sale of a SIGINT (Signal Intelligence) backdoor version of PROMIS, beginning in 1981, to wire transfer clearinghouses in the United States and Europe, and to international financial institutions, such as the Bank of International Settlements and the World Bank, for real-time electronic surveillance of bank transfers. In June 1986, the Reagan National Security Council staff met with the Meese Justice Department's Office of Legal Counsel (OLC) to obtain a Top Secret/CODEWORD legal opinion authorizing a major expansion of NSA's "Follow-the=Money" bank surveillance project to encompass approximately 400 additional major commercial banks that comprise the backbone of the interbank payment system. The Reagan White House email memorializing these facts also acknowledged the key Reagan cabinet members supporting the expansion, including CIA Director William Casey and Attorney General Meese. Charles Cooper, then the Assistant Attorney General for the OLC, later served as criminal defense attorney for Earl Brian in the investigation of the INSLAW affair conducted by Justice Department Special Counsel Nicholas J. Bua in the early 1990s. INSLAW does not know the dollar amount of NSA's PROMIS sales to banks.

(2) Sales by both Israel and the CIA of a SIGINT backdoor version of PROMIS, beginning in 1982, to foreign intelligence and law enforcement agencies to steal their intelligence secrets while enabling the personal financial gain of Earl Brian, thereby assuaging Brian's anger from the failure of the Reagan White House to give him his expected share of the PROMIS profits from the NSA bank surveillance project, at least when it began in 1981;

Rafi Eitan, the legendary Israeli intelligence official in charge of Israel's PROMIS sales, claimed he first met Earl Brian in Iran in the 1970s when Brian was seeking contracts from the Shah of Iran;

Eitan also claimed that Brian was even then, during the 1970s in Iran, talking about finding a way to profit personally from INSLAW's PROMIS software;

Eitan invited Earl Brian to visit him at his home in Tel Aviv in 1982, and during Brian's visit, Eitan commiserated with Brian over the fact that Brian had not received his expected share of the illicit PROMIS profits from the first year of the NSA bank surveillance project; Eitan and Brian then devised a new way for Brian to profit from PROMIS: arrange for the Reagan White House to give PROMIS to Israel so Eitan and Israeli intelligence could sell a SIGINT backdoor version to foreign intelligence and law enforcement agencies as part of a two-part scheme to (1) steal their intelligence secrets, and (2) create massive off-the-books profits;

After Brian obtained the Reagan White House's approval for Israel's sales of PROMIS, Brian's Hadron made the first Israeli PROMIS sale, to Jordan's Military Intelligence

agency; one purpose of that initial Israeli PROMIS sale was to prove the concept of the electronic surveillance scheme, although it also enabled Israel to steal all of Jordan's dossiers on Palestinian terrorists;

Thereafter, Eitan recruited the British publisher, and Israeli intelligence asset, Robert Maxwell, to use his network of companies to sell, by the time of Maxwell's death in the fall of 1991, over half a billion dollars worth of PROMIS licenses to foreign intelligence and law enforcement agencies;

The CIA separately accounted for another $30-40 million worth of PROMIS sales to foreign government agencies;

Eitan claimed that U.S. agencies, including the CIA, the FBI, and the DEA, also installed copies of PROMIS to keep track of their own intelligence information;

Eitan also claimed that Israeli intelligence later exploited PROMIS database systems in the U.S. Government to steal U.S. intelligence secrets;

Eitan claimed he took a taxi from the Headquarters of the U.S. Justice Department to INSLAW's corporate headquarters in Washington, D.C. in February 1983 for a demonstration of the VAX 11/780 version of PROMIS under the pretense of being an Israeli prosecutor named Dr. Ben-Or who wished to evaluate that version of PROMIS for possible purchase for Israeli prosecution agencies;

Eitan did not, however, mention the fact that the U.S. Justice Department stole VAX 11/780 PROMIS from INSLAW in April 1983 and gave it to him in early May 1983 and that he then had Robert Maxwell make sales of VAX 11/780 PROMIS back to the U.S. Government for a combat-support intelligence application on board every U.S. nuclear submarine;

Eitan was Director of the LAKAM intelligence agency of the Israeli Ministry of Defense during the years when he worked with Brian and the U.S. Government on sales of illicit copies of PROMIS, and when Israel exploited PROMIS database systems in espionage against the United States;

LAKAM's mission reportedly included stealing technology for Israel's nuclear weapons program;

At the same time of his partnership with Earl Brian and the Reagan White House on sales of PROMIS, Eitan also functioned as the Israeli spymaster for Jonathan Pollard, a civilian employee of U.S. Navy intelligence who reportedly used a computer terminal on his desk at U.S. Navy intelligence in 1984 and 1985 to steal U.S. intelligence secrets on the targeting of U.S. nuclear weapons against the Soviet Union;

The statements in this section on Israel's role in the INSLAW affair are based on Eitan's admissions when interviewed by the British author and journalist, Gordon Thomas, for Thomas' 1999 book entitled *Gideon's Spies: The Secret History of the Israeli Mossad;*

Eitan had served as the Mossad's deputy director for covert operations for almost a quarter of a century prior to Israeli Defense Minister Ariel Sharon's appointment of Eitan as Director of the LAKAM intelligence agency;

Eitan emphasized to Thomas that his PROMIS work as Director of LAKAM was more significant for Israel's security than his more well=known exploits as deputy director of the Mossad, including his lead role in the 1960 kidnapping of Adolf Eichmann from Argentina, and in bringing that former Nazi leader of the Jewish Holocaust to Israel for trial and execution.

(3) The CIA's dissemination of PROMIS throughout the U.S. intelligence community to both "producer" agencies, such as the CIA, NSA, and DIA, and "consumer" entities such as the U.S. nuclear submarines and U.S. attack aircraft, thereby providing compatible database software for gathering and disseminating U.S. intelligence information;

The first CIA-orchestrated PROMIS dissemination was in 1983 for a "combat-support" intelligence application on board U.S. nuclear submarines, i.e., computer-directed firing of submarine-launched missiles at threats and targets and tracking Soviet submarines; an official spokesperson for the U.S. Naval Sea Systems Command told the *Navy Times* that the Navy deployed PROMIS on VAX 11/780 computers in the early 1980s for an intelligence application, and that the *Navy Times* should address any follow-up questions to its subordinate command, the Navy's Underwater Systems Center in Newport, Rhode Island;

The U.S. Air Force also installed PROMIS in the cockpits of the F-117 Stealth Aircraft and then of all U.S. attack aircraft for a similar intelligence application involving the tracking of threats and targets in the vicinity of each aircraft;

The Reagan Administration installed unauthorized copies of PROMIS as the standard database software for Justice Department law enforcement agencies, including the FBI under the name FOIMS, and for the DEA under the name CAST-I, and in all Treasury Department enforcement agencies under the name TECS-II, including the IRS Criminal Investigation Division and U.S. Customs' Office of Enforcement;

Every U.S. Embassy installed PROMIS under the name Foreign Affairs Information System to manage its classified communications with the State Department;

The Federal Emergency Management Agency (FEMA) installed a version of PROMIS, called Main Core, at its computer center in Culpepper, Virginia to track intelligence information on Americans produced by the U.S. intelligence community, ostensibly for hand-off to the U.S. Army and the Defense Intelligence Agency in the event of a national catastrophe and the declaration of martial law; FEMA administered its version of PROMIS under the highly classified Continuity of Government (COG) Program;

The Justice Department under Attorney General William French Smith stole the VAX 11/780 version of PROMIS from INSLAW in April 1983, as noted earlier, and according to the fully litigated findings of two federal courts in the late 1980s; in February 1983, the U.S. Department of Justice sent Rafi Eitan to INSLAW for a demonstration of VAX 11/780 PROMIS, under the guise of Eitan being a visiting Israeli prosecutor named Dr. Ben-Or; the Justice Department gave VAX 11/780 PROMIS to Israel's Rafi Eitan in early May 1983; Eitan then had Robert Maxwell, the British publisher and Israeli intelligence asset, make two sales of the VAX 11/780 PROMIS back to the U.S. Government, according to two different U.S. intelligence sources, each allegedly in the amount of $15 million, for the U.S. submarine-borne intelligence application; the two

sales were to the two national nuclear warfare laboratories in New Mexico, Sandia and Los Alamos, which modified the VAX 11/780 version of PROMIS for the combat-support intelligence application on board the nuclear submarines prior to its deployment to all U.S. nuclear submarines by the Navy's Underwater Systems Center (NUSC) in Newport, Rhode Island;

- Earl Brian's Hadron had approximately 75 computer systems engineers supporting the U.S. Navy's Underwater Systems Center (NUSC) in Newport, Rhode Island in the early and mid-1980s. NUSC provided ongoing software and engineering support for the "combat-support PROMIS" systems on board U.S. nuclear submarines and at NUSC's Land-Based Test Facility (LBTF) in Newport, according to advertisements for vendors placed by NUSC in the government's *Commerce Business Daily* in the late 1980s and early 1990s.

(4) Sales of a SIGINT backdoor version of PROMIS, beginning in late 1983, to semiconductor manufacturers worldwide so the NSA could electronically track illicit sales to the Soviet Union of integrated circuits that were embargoed from sale to the Soviet Union because they had been engineered for advanced defense and military applications; President Reagan gave the CIA under William Casey significant additional resources in 1983 from 22 federal agencies so the CIA could track and interdict sales to Soviet front companies in Europe of embargoed technology, including sales each year of approximately 100 million of such integrated circuits, according to the 1994 book entitled *Victory: The Reagan Administration's Secret Strategy That Hastened the Collapse of the Soviet Union* by Peter Schweizer, the William J. Casey Fellow at Stanford University's Hoover Institution; this CIA project was a major element of the covert economic warfare President Reagan launched against the Soviet Union in response to the December 1981 declaration of martial law in Poland, according to Schweizer's book;

By the late 1990s, the version of PROMIS adapted to track the process of manufacturing integrated circuits had been sold to manufacturing facilities in 25 countries, making the Toronto-based vendor the 11th largest software vendor in Canada; and

Earl Brian, Hadron, and Edwin Meese were associated with this Toronto-based computer software company in its large early 1980s sale of computer software to the Government of Canada, according to tape-recorded claims by two former Hadron officers interviewed via telephone by John Belton, a former Canadian investment banker who interacted dwith Earl Brian on early 1980s sales to Canadian investors of shares in Hadron and other companies that Brian controlled.

(5) In 1985, the Meese Justice Department began the fifth major misappropriation of PROMIS for intelligence: the sale and distribution as gifts of a SIGINT backdoor version of PROMIS to governments in the Middle East; a May 16, 1985 letter from Bradford Reynolds, a Presidential appointee and Counselor to Attorney General Meese, to William Weld, then U.S. Attorney in Boston, discusses arrangements for the covert sale and distribution of a SIGINT backdoor version of PROMIS ("equipped with special data retrieval unit") to governments in the Middle East.

The Justice Department's Drug Enforcement Administration (DEA) had a front company in Nicosia, Cyprus that sold and distributed SIGINT backdoor versions of PROMIS to the drug control units of Middle East governments in at least 1987 and 1988, according to an affidavit given to INSLAW in 1991 by Lester Coleman. Coleman claimed he witnessed the unpacking of PROMIS from the aforementioned Canadian PROMIS vendor, while Coleman was seconded to the DEA in Cyprus in 1987 and 1988 from the Defense Intelligence Agency (DIA); Coleman claimed in his affidavit that the objective of these PROMIS sales was to augment DEA's resources by stealing intelligence information on drug trafficking from Middle Eastern governments.

The government was required by law to produce a copy of this May 1985 letter to INSLAW in INSLAW's 1987 litigation discovery in federal bankruptcy court, and also in INSLAW's later, 1996 litigation discovery in the U.S. Court of Federal Claims, but failed to do so in either federal court proceeding.

INSLAW obtained a copy of the May 1985 letter nine years after the fact, in November 2004, from an anonymous U.S. intelligence official, who claimed that all copies of the letter were supposed to have been destroyed, but that at least one copy had obviously survived. Bradford Reynolds, the Reagan Presidential appointee who signed the letter, authenticated it in 2005. The letter reads as follows:

> "As agreed Messrs. Manichur Ghorbanifar, Adnan Khashoggi, and Richard Armitage will broker the transaction of Promise [sic] software to Sheik Klahid bin Mahfouz for resale and general distribution as gifts in his region contingent upon the three conditions we spoke of. Promise must have a soft arrival. No paperwork, customs or delay. It must be equipped with the special data retrieval unit. As before, you must walk the financial aspects through Credit Suisse into National Commercial Bank. If you encounter any problems contact me directly."

Manichur Ghorbanifar, an Iranian, and Adnan Khashoggi, a Saudi Arabian, emerged in later years as key facilitators of the illegal weapons sales to Iran under the Iran/Contra scandal. Richard Armitage, then serving as Assistant Secretary of Defense for International Security Affairs, was then overseeing the Foreign Military Sales Program, whose funds Egypt's Military Intelligence Agency used to pay for the unauthorized, copyright-infringing copy of PROMIS it allegedly purchased from a Hadron subsidiary. Sheik Klahid bin Mahfouz owned the National Commercial Bank in Saudi Arabia, and was a major investor in the infamous BCCI (Bank of Commerce and Credit International) Bank.

The May 1985 letter supports two key aspects of INSLAW's case: (1) the Company's claim that the U.S. Department of Justice deliberately set out to steal PROMIS; and (2) the Company's claim that the federal bankruptcy court had jurisdiction to adjudicate INSLAW's software piracy claims against the Department of Justice.

First, the letter discusses plans for additional covert sales of the PROMIS software several years *after* the Reagan Justice Department sent INSLAW a letter, dated August 11, 1982, confirming that the government understood INSLAW's ownership of PROMIS. Associate Deputy Attorney General Stanley Morris had sent the August 1982 letter to INSLAW at the conclusion of a formal review process INSLAW had requested, which took five months. The review was conducted

under the auspices of the Reagan Administration's Deputy Attorney General, Edward Schmults, and involved written and verbal exchanges between the Office of the Deputy Attorney General and every Justice Department component that had used PROMIS, or helped to finance its development since its creation in the early 1970s. During that review process, INSLAW shared with the Civil Division's most senior copyright lawyer, Vito DiPietro of the Civil Division, a copy of a legal opinion, rendered by the Company's outside counsel, to the effect that INSLAW, as the author of PROMIS, was automatically vested under U.S. Copyright Law with certain exclusive PROMIS copyright rights. One such exclusive right was the exclusive right to modify PROMIS to create derivative software applications, an action that must take place each time PROMIS is adapted for another user organization.

INSLAW later obtained additional documentary evidence that the Justice Department fully understood INSLAW's ownership of the PROMIS copyright rights. During litigation discovery in federal bankruptcy court in 1987, following a Motion to Compel Production, the bankruptcy court ordered the Department of Justice to produce to INSLAW a copy of a June 1, 1983 internal Justice Department legal memorandum from Vito DiPietro to the Justice Department's internal procurement counsel, William Snyder, in which DiPietro explained that INSLAW, as the author of the PROMIS software, was automatically vested with exclusive PROMIS copyright rights at the time of its creation of each version of PROMIS, and that the government's rights were limited to whatever licenses the government had negotiated with INSLAW in the Data Rights Clauses of the government's PROMIS contracts. The government had never sought or obtained a license from INSLAW to modify PROMIS to create derivative software works.

Every unauthorized intelligence application of PROMIS infringed that exclusive INSLAW PROMIS copyright right. Software copyright infringement is a strict liability civil tort; *willful* infringement is, additionally, a federal crime, Consequently, every unauthorized, copyright-infringing dissemination of PROMIS by the Justice Department, following the August 1982 letter to INSLAW from Associate Deputy Attorney General Stanley Morris, was a federal crime. That includes the Meese Justice Department's May 1985 actions related to the covert sale and distribution of a SIGINT backdoor version of PROMIS to Middle East governments.

Secondly, the letter contains evidence to support the federal bankruptcy court's decision, and the subsequent confirming opinions of two separate federal district judges, that the bankruptcy court indeed had jurisdiction over INSLAW's software piracy litigation against the government, i.e., the May 1985 letter's arrangements for covert ("no paperwork, customs …") sales and distributions of PROMIS to governments in the Middle East were made on behalf of a self-described unsecured federal government creditor of INSLAW, and were made *after* INSLAW's February 7, 1985 filing in federal bankruptcy court for Chapter 11 bankruptcy protection.

At the time of the May 1985 letter, the Department of Justice, in written pleadings in the federal bankruptcy court and in oral presentations at meetings of INSLAW's Unsecured Creditors Committee, was pro-actively describing itself as one of INSLAW's largest unsecured creditors while ostentatiously raising questions about INSLAW's ownership of PROMIS. Every INSLAW creditor, including any federal government agency, was automatically enjoined, through the bankruptcy court's Automatic Stay on February 7, 1985, the day INSLAW filed for Chapter 11 bankruptcy protection, from taking *any* action with regard to assets of the estate without prior written authorization from the bankruptcy court. A federal agency that violates the Automatic Stay immediately forfeits its sovereign immunity, and subjects itself to the federal bankruptcy court's jurisdiction and possible monetary damages.

Reynolds confirmed the authenticity of the letter in 2005 to Donald Carr, a Republican political colleague of Reynolds from the Meese and Thornburgh Justice Departments. Carr was then researching a biography of the late INSLAW Counsel Elliot Richardson, and agreed to help INSLAW determine the letter's authenticity. After Carr showed him a copy of the letter, Reynolds explained that he had indeed signed the letter, but had not been its author. Reynolds told Carr Deputy Attorney General D. Lowell Jensen's secretary brought the letter to Reynolds for signature because Jensen was away from the Justice Department Headquarters the day the letter needed to be sent, and, in Jensen's absence, the letter had to be signed by someone, like Reynolds, understood to be part of Attorney General Meese's inner circle.

Reynolds' recollection that Meese had recused himself on PROMIS when he became Attorney General in February 1985.

Based on what he told Carr was his best recollection, Reynolds volunteered the following explanation for why Jensen had taken the lead on PROMIS within the Meese Justice Department: Meese had recused himself on PROMIS when Meese was sworn in as Attorney General in February 1985.

Reynolds' recollection could explain a major discrepancy the House Judiciary Committee identified in its September 1992 Investigative Report, entitled *The INSLAW Affair*, between the sworn deposition testimony of former Attorney General Meese and of former Deputy Attorney General Jensen: Jensen testified he regularly briefed Meese, in detail, on developments relating to PROMIS and INSLAW, in contrast, Meese insisted he was never kept abreast of developments.

Their contradictory deposition testimony suggests that Meese's recusal on PROMIS was a recusal *in name only*, and that Meese was unwilling to admit under oath that he had reneged on a commitment to recuse himself on PROMIS upon becoming Attorney General.

The U.S. Court of Appeals appointment of a former Reagan White House Official as Independent Counsel to investigate Attorney General-Designate Meese's Undisclosed Business and Financial Ties with Earl W. Brian.

Meese's decision to recuse himself on PROMIS upon becoming Attorney General in February 1985 could have been a decision imposed on Meese as a condition imposed by the Independent Counsel who cleared the way for Meese to be confirmed despite Meese's failure to disclose his business and financial ties with Earl Brian as he was legally required to have done.

Meese's failure to disclose his business and financial ties with Earl Brian emerged as a major impediment to Meese's confirmation as Attorney General, delaying Meese's confirmation for over a year to provide time for an investigation into his failure to disclose, on his mandatory White House Financial Disclosure Reports for 1981 and 1982, business and financial ties to Earl Brian.

At Meese's request, Attorney General William French Smith petitioned the U.S. Court of Appeals for the District of Columbia to appoint an Independent Counsel to investigate several alleged ethical improprieties by Meese as Counselor to the President, the most serious reportedly being Meese's failure to disclose his business and financial ties with Earl Brian. The Senate Judiciary Committee suspended Meese's confirmation hearings pending the outcome of that investigation.

During the years Meese failed to disclose his business and financial ties with Earl Brian, Brian was serving in the Reagan White House under Meese as the unpaid Chairman of the White House Task Force on Health Care Cost Reduction, and as a member of a cabinet-level committee, known, ironically in the case of Earl Brian, as "Pro-Comp" for "Pro-Competition."

Moreover, Earl Brian had the initial public offering of Biotech Capital Corporation, the holding company through which he controlled Hadron and several other companies, in January 1981, the month of Reagan's first inauguration. Edwin Thomas, a White House subordinate of Meese who was a close friend of Earl Brian, loaned Meese's wife, Ursula, $15,000, which Ms. Meese used to buy shares in the initial public offering. Meese was required, at risk of the criminal penalties of Financial Disclosure Law, to disclose both the loan and its use in purchasing the stock, but failed to do either duty on his mandatory White House reports for 1981 and 1982.

In March 1984, the Senate Judiciary Committee adjourned its confirmation hearings on Meese and the U.S. Court of Appeals appointed Jacob Stein as Independent Counsel to investigate Meese. Stein had himself served in the Reagan White House in 1981 and early 1982 as the Reagan White House's Special Adviser on Jewish Affairs and, concurrently, as a member of the Reagan National Security Council (NSC) *staff*. Meese was then a *member* of the Reagan NSC.

Stein eventually cleared Meese for confirmation by stating in his September 1984 Investigative Report that he had exercised his discretion as a prosecutor to refrain from criminal prosecution of Meese because he had found "no indication of any underlying improper or illegal conduct."

As noted earlier, Earl Brian had arranged in 1982, just two years earlier, for the Reagan White House to give unauthorized, copyright-infringing copies of PROMIS to Israeli intelligence's Rafi Eitan for re-sale to foreign intelligence and law enforcement agencies under a scheme designed, in large part, for the personal financial gain of Earl Brian and that eventually produced over half a billion dollars in illicit off-the-books profits; Earl Brian's Hadron had made the first of Israel's PROMIS sales, to Jordan's Military Intelligence Agency, in 1982; and, in 1983, only one year before the Independent Counsel began his investigation, the Justice Department had stolen VAX 11/780 PROMIS from INSLAW and given it to Brian's Israeli business partner, Rafi Eitan, for sale back to the U.S. Government, at a very substantial profit, for the intelligence application on board U.S. nuclear submarines. Under such circumstances, it is surprising that Jacob Stein, intimately aware of the Reagan Administration's dealings with the Jewish Community and Israel, as the former Reagan White House Special Adviser for Jewish Affairs, and knowledgeable about Reagan NSC operations as a former member of the Reagan NSC staff, would not have been able to discover evidence of Earl Brian's central role in Israel's illicit sales of PROMIS.

Adding to the implausibility of Jacob Stein's claim in his September 1984 Investigative Report were the following three developments during the immediately preceding summer of 1984:

(1) In June 1984, Rafi Eitan, who as Director of Israel's LAKAM intelligence agency was simultaneously the Israeli spymaster for Jonathan Pollard's espionage against the United States, reportedly assigned Israeli Air Force Colonel Aviem Sella, one of Israel's top experts of the targeting and delivery of nuclear weapons, to supervise Pollard's computer-based espionage against the United States; a civilian employee of U.S. Navy Intelligence in Suitland, Maryland, Pollard used a computer terminal on his desk at Navy Intelligence to access U.S. intelligence database systems to steal U.S. intelligence secrets relating to the tracking of Soviet submarines and to computer-directed firing of submarine-launched nuclear missiles against strategic Soviet military and economic targets; Pollard stole the

entire U.S. nuclear attack plan against the Soviet Union, down to the coordinates, as CIA Director William Casey reportedly told a CIA station chief, between June 1984 and the FBI's arrest of Pollard for espionage in November 1985; these facts were reported by the investigative reporter and author, Seymour Hersh;

(2) As revealed in the remaining readable portions of a highly redacted copy of an FBI foreign counterintelligence report in the summer of 1984, which INSLAW obtained under the Freedom of Information Act (FOIA), two "technology transfer" employees of the Sandia National Laboratory in New Mexico visited the FBI Field Office in Albuquerquee, New Mexico on June 1, 1984 to complain about the following risk to the national security of the United States: Robert Maxwell, while selling PROMIS the Sandia and the Los Alamos National Laboratories, through Pergammon International, one of Maxwell's companies, was simultaneously selling unclassified U.S. Government data to the Soviet Union through another one of his companies, Information on Demand;

(3) On August 11, 1984, the FBI Field Office in Albuquerque notified FBI Headquarters that it had decided to terminate its foreign counter-intelligence investigation of the PROMIS sales by Robert Maxwell to the two national nuclear warfare laboratories.

Significantly, when Jacob Stein was the Reagan White House Special Adviser for Jewish Affairs, he had, in fact, reportedly played a key role in preparing Israeli Prime Minister Menachem Begin and Defense Minister Ariel Sharon for their September 1981 White House meeting with President Reagan and his key national security cabinet officers and aides, during which Sharon asked President Reagan for the types of intelligence data fhat Sharon later ordered Rafi Eitan to steal, and that Eitan thereafter recruited Jonathan Pollard to help him steel.

Israeli Prime Minister Menachem Begin and Defense Minister Ariel Sharon came to the Reagan White House in September 1981 to lobby for "a far-reaching agenda for U.S.-Israeli strategic cooperation: Israel would become America's military partner—and military arm—in the Middle East and the Persian Gulf … " "against the threat to peace and security of the region caused by the Soviet Union …," according to the 1991 book on Israel's nuclear weapons program by investigative journalist and author Seymour Hersh, entitled *The Samson Option: Israel's Nuclear Arsenal and American Foreign Policy*.

Sharon asked President Reagan, during a half-hour-long presentation at the White House in September 1981, for ongoing access to extremely sensitive U.S. intelligence information so Israel could target its nuclear-armed F-16 aircraft and Jericho missiles against strategic sites in southern Russia as a deterrent against continued Soviet meddling in the Middle East to the detriment of Israel, according to Hersh's book. To assure the ability of Israel's nuclear-armed F-16 aircraft and Jericho missiles to penetrate Soviet air defenses to reach their targets in the Soviet Union, including military targets and oil fields in southern Russia, according to Hersh's book, Israel "would need the most advanced American intelligence on weather patterns and communication protocols, as well as data on emergency and alert procedures … American knowledge of the electromagnetic fields that lie between Israel and its main targets in the Soviet Union was also essential to the targeting of the Jericho." That type of intelligence information came predominately from from spy satellites, according to Hersh's book, but Israel did not then have its own spy satellites.

Hersh further reports in his book that Israeli Defense Minister Ariel Sharon, having eventually concluded that the Reagan White House did not intend to grant Israel's September 1981 request,

ordered Rafi Eitan to steal the intelligence information, an assignment Eitan reportedly executed by recruiting Jonathan Pollard as an Israeli spy.

Jacob Stein had been personally involved in preparing the Israeli leaders for their September 1981 White House meeting with President Reagan. As Special Adviser on Jewish Affairs, Stein visited Tel Aviv in August 1981 to prepare the two Israeli leaders for their September 1981 White House meeting, warning them which topics to avoid such as Israel's opposition to Reagan's planned sale of AWACS aircraft to Saudi Arabia, according to an August 23, 1981 JTA (Jewish Telegraph Agency) article. The JTA article also reported that Jacob Stein revealed during an Israeli radio interview at the time that "one element that may be on the table for discussion" was "American use of military bases in Israel," implying that the Reagan White House expected the September 1981 White House meeting would include discussion of a more strategic military role for Israel's alliance with the United States.

In the fall of Meese's first year in office, the Justice Department made a written demand that INSLAW acquiesce to the U.S. Government's claimed right to unrestricted use of PROMIS for any federal project, including "projects that may be financed or conducted by instrumentalities or agents of the federal government."

In 1985, the first year of INSLAW's bankruptcy and of Meese's tenure as Attorney General, INSLAW and the Department of Justice had numerous negotiation sessions, sanctioned by the federal bankruptcy court, for the purpose of resolving the so-called contract disputes that had arisen under INSLAW's three-year, $10 million PROMIS Implementation Contract with U.S. Attorneys Offices. The Justice Department had relied on these disputes to justify withholding almost $1.8 million in payments due INSLAW, withholdings that eventually precipitated the INSLAW bankruptcy.

The various contract disputes had all arisen during a three month period immediately following INSLAW's April 1983 delivery to the Justice Department of the VAX 11/780 version of PROMIS, a delivery two separate federal courts later ruled had been fraudulently induced by the government, and through which the Justice Department "took, converted, stole" the VAX 11/780 version of PROMIS "through trickery, fraud, and deceit."

Janis Sposato, General Counsel of the Justice Management Division, the contracting arm of the Justice Department, presided over the negotiations. Sposato established the rules for the negotiations, including the sequence of the disputes to be negotiated.

After spending months discussing the first issue, which Sposato volunteered she viewed as the most difficult one for INSLAW, and after INSLAW had made considerable progress in proving the reasonableness of its PROMIS computer time-sharing charges, Sposato made the following statement at the start of the next negotiation session: "My management upstairs is unwilling for me to make any more concessions."

(The contract dispute was based on the government's unilateral decision, three months after stealing the VAX 11/780 version of PROMIS, that the algorithm, which the government and INSLAW had negotiated at the start of the contract for billing PROMIS computer time-sharing charges to the 10 largest U.S. Attorneys Offices, was "unfair" to the government. INSLAW later obtained a document in litigation discovery that revealed that INSLAW's so-called "unfair" charges were less than the amount the government had privately estimated, prior to negotiating the contract with INSLAW, the PROMIS computer time-sharing services "should cost").

Sposato's statement about her "management upstairs" effectively ended the prospect of a negotiated resolution of the contract disputes, one of which was the Justice Department's failure to implement its contractual obligation, under the April 1983 Modification #12 to the contract, to pay INSLAW for the VAX 11/780 version of PROMIS that INSLAW delivered to the government that month.

Consequently, INSLAW made a written demand that the United States pay INSLAW the full amount owed, including the customary INSLAW license fees for the copies of VAX 11/780 PROMIS the Company had by then discovered, i.e., copies in U.S. Attorneys Offices.

In her November 15, 1985 reply to INSLAW's demand, Sposato wrote that the United States would not make any further payment to INSLAW, and, furthermore, that INSLAW, which, of course, was then in bankruptcy, must instead reimburse the United States $680,000 in claimed overpayments by the government. Significantly, Sposato included in her reply letter the following additional demand, whose meaning INSLAW did not fully appreciate until the early 1990s when the Company first learned that the Justice Department had been illegally copying and disseminating PROMIS beyond the U.S. Attorneys Offices since 1981:

"1. The United States will not pay INSLAW any additional money for software obtained pursuant to this contract.

"2. INSLAW will recognize that the United States has the right to unrestricted use of the software obtained or delivered under this contract for any federal project including projects that may be financed or conducted by instrumentalities or agents of the federal government such as its independent contractors."

A week after Meese and his Deputy Attorney General, in October 1986, each had undisclosed discussions of the INSLAW case with a senior partner in INSLAW's law firm, the firm fired INSLAW's lead litigation counsel, paid his severance with $600,000 from a "joint CIA/Israeli intelligence slush fund," and soon attempted without success to coerce INSLAW into abandoning its claim for PROMIS license fees.

Several months after INSLAW filed its June 1986 software piracy lawsuit against the U.S. Department of Justice in federal bankruptcy court, Attorney General Meese and his Deputy Attorney General, Arnold Burns each discussed the INSLAW case with Leonard Garment, a senior partner in the law firm representing INSLAW, according to Attorney General Meese's sworn answer to an INSLAW interrogatory in late 1987, in which Meese admitted he had a "general recollection of a conversation with Leonard Garment in which Mr. Garment mentioned that he had discussed INSLAW with [Meese's Deputy Attorney General] Arnold Burns."

Garment had represented Attorney General-Designate Meese in the 1984 investigation of Meese by Independent Counsel Jacob Stein.. The law firm never, however, disclosed the existence or content of these communications to INSLAW's lead litigation counsel, Leigh Ratiner, or to INSLAW.

Meese's Deputy Attorney General, Arnold Burns, criticized the litigation strategy then being pursued by Leigh Ratiner, to Garment when Burns and Garment met for lunch in early October 1986, and Burns suggested to Garment the INSLAW case could be quickly and favorably settled if INSLAW's litigation strategy were to change, according to Burn's deposition testimony to the

Senate Permanent Investigations Subcommittee, which published its staff Investigative Report on the INSLAW affair in September 1989.

The change in INSLAW's strategy Burns was seeking was for INSLAW to abandon its demand for PROMIS license fees for the misappropriated copies of PROMIS, as evidenced by a late August 1986 letter from Deputy Attorney General Burns to INSLAW Counsel Ratiner. Burns' letter suggested that other monetary contract disputes between INSLAW and Justice could be settled quickly and favorably for INSLAW if INSLAW were to abandon its demand for PROMIS license fees, a demand Burns characterized in his letter as "unjustified and unjustifiable."

One week after Burns's undisclosed early October 1986 meeting on INSLAW with Senior Partner Leonard Garment, the firm forced Ratiner to leave, and soon thereafter, the lawyers who took over the case informed INSLAW there was insufficient evidence to prove the Company's claim for PROMIS license fees, and gave INSLAW written notice that the Company must give the law firm authority, by the close of business the same day, to negotiate a settlement of those INSLAW claims that would have remained if the Company had abandoned its claim for license fees as the law firm was demanding.. The firm promised to obtain no less than one million dollars from the Justice Department in settlement of the contract disputes that would have remained.

INSLAW declined to accept the law firm's ultimatum, found new litigation counsel, and proved in two successive federal courts that the Justice Department owed INSLAW millions of dollars in PROMIS license fees, just for the relatively small number of copies, ,i.e., in 44 large U.S. Attorneys Offices, that INSLAW had by then discovered.

At the same approximate time when Meese and Burns were intervening behind the scenes with Leonard Garment to deprive INSLAW of its lead litigation counsel, the CIA reportedly asked Israel to wire-transfer approximately $600,000 to Leonard Garment, through Earl Brian's Hadron, Inc., to reimburse INSLAW's law firm for its severance payments to INSLAW's fired lead counsel. Ari Ben Menashe, a former Israeli intelligence operative, published in his 1992 book, entitled *Profits of War: Inside the Secret U.S./Israeli Arms Network,* the following claim on this matter: "A few weeks before Ratiner's dismissal, I had seen a cable that came in from the United States. It requested that a $600,000 transfer from the CIA-Israeli slush fund be made to Earl Brian's firm, Hadron, The money, the cable said, was to be transferred to Garment's law firm, Dicksteen, Shapiro, and Morin, to be used to get one of the INSLAW lawyers, Leigh Ratiner, off the case. Ratiner, it seems, was removed for doing too good a job for INSLAW."

The Federal Public Defender for the District of Columbia later gave INSLAW a letter containing corroboration, from a client then in federal prison, for important aspects of Ben Menashe's claims. The Federal Public Defender's client had been the law firm's controller when the transactions claimed by Ben Menashe allegedly occurred. The former controller was by then in federal prison for having embezzled approximately one million dollars from the firm.

The former controller claimed that a client of the firm had, in fact, provided a payment in the approximate amount claimed and at the approximate time claimed by Ben Menashe, that it was the only payment of that magnitude in late 1986, and, of critical importance, that the firm instructed him to place the funds in question in a separate checking account to be used exclusively for severance payments to Ratiner.

The former controller further claimed that the computer accounting records kept by the law firm's outside service bureau would reflect these facts, and, moreover, that one of his former assistants, whom he explained was still employed at the firm, could corroborate his account.

Additionally, a well-regarded former partner in the law firm provided further corroboration by making the following statement to INSLAW, in words or substance: *It wasn't like we had a partnership meeting on the subject, but it was well understood among the firm's partners that the severance payments to Ratiner were not coming out of our pockets, but instead from Israel, through Earl Brian's Hadron, to Leonard Garment. The firm required every partner, associate, and paralegal to sign a Non-Disclosure Agreement never voluntarily to disclose anything he or she may have learned about the circumstances of Ratiner's departure.*

When informed of these claims by INSLAW, however, the Clinton Justice Department covered them up. John Dwyer, the Deputy Associate Attorney General tasked with assisting Associate Attorney General Webster Hubbell in 1993 and 1994 in conducting the "full and fair review" of the INSLAW affair that Hubbell, in his letter to INSLAW Counsel Elliot Richardson, claimed Attorney General Reno had ordered him to conduct, memorialized what he learned in investigating the former controller's evidence corroborating significant elements of of Ben Menashe's published claim. INSLAW obtained Dwyer's investigative memoranda in its 1996 litigation discovery in the U.S. Court of Federal Claims.

One of Dwyer's memoranda reveals that he investigated the former controller's claim by speaking by telephone with a woman who had worked as the former controller's assistant at the law firm, and that the woman's superior, one of the firm's managing partners, participated in Dwyer's telephone interview of the woman. The former assistant offered no corroboration. There is no evidence in Dwyer's memorandum that Dwyer even asked her about the outside service bureau's accounting records that the former controller claimed would also corroborate what the Federal Public Defender stated in his letter to INSLAW Counsel Elliot Richardson.

Moreover, there is no mention in any of Dwyer's investigative memoranda of his conversations, both by telephone and in person, with the well-regarded former partner. The former partner told INSLAW Dwyer telephoned him to ask that he discontinue his communications with INSLAW concerning Ratiner's firing, and that when he later met with the former partner, Dwyer did not even ask to see the Non-Disclosure Agreement the former partner claimed the firm had required him to sign regarding Ratiner's firing.

The former partner later met, in May 1994, on the same subject with House Judiciary Committee Chairman Jack Brooks. According to the former partner's account to INSLAW, Brooks asked him to refrain temporarily from making his corroborative evidence public to give the House Judiciary Committee Chairman more time to persuade Attorney General Reno to do the right thing by paying compensation to INSLAW.

Brooks evidently abandoned hope that Reno would pay compensation to INSLAW and scheduled a September 27, 1994 subcommittee vote on a seldom-used measure, known as a Congressional Reference resolution, that was designed to give INSLAW another day in court. Later the same day, however, Attorney General Reno had a letter hand-delivered to every member of Brooks' subcommittee, urging them to vote against the Congressional Reference resolution on INSLAW. The resolution would have given INSLAW another day in court by automatically waiving technical defenses that may have been available to the government, such as sovereign immunity and statutes of limitation. Congressman Brooks, unfortunately, lost his

bid for re-election in November 1994, a little more than one month later, after 28 years in Congress.

William Weld, having been promoted by Meese from Boston U.S. Attorney to Assistant Attorney General for the Criminal Division, rebuffed INSLAW's early 1988 request for an Independent Counsel, despite Weld's own role in the PROMIS scandal.

Shortly after the federal bankruptcy court, in January 1988, issued its fully litigated findings that the Justice Department "took, converted, stole" PROMIS "through trickery, fraud, and deceit" and then attempted "unlawfully and without justification" to force INSLAW into liquidation to incapacitate the Company from seeking redress in federal court, Bill and Nancy Hamilton sent a letter to the Public Integrity Section of the Criminal Division requesting appointment of an Independent Counsel to investigate Attorney General Meese's role in the scandal, including the possibility that Meese had launched the largest procurement in the history of the Department of Justice, the Uniform Office Automation and Case Management Project, also known as Project EAGLE, to be able to award a massive sweetheart contract to Earl Brian's Hadron, Inc. for installation of PROMIS in every litigation and investigation unit of the Justice Department.

William Weld, as noted earlier, had been tasked in a May 1985 letter from Bradford Reynolds, Counselor to Attorney General Meese, with arranging through Credit Suisse Bank for the financial aspects of illicit PROMIS sales to Middle East governments. By the time INSLAW's Bill and Nancy Hamilton sent their request to the Public Integrity Section of the Criminal Division, Attorney General Meese had promoted Weld from U.S. Attorney in Boston to Assistant Attorney General for the Criminal Division, with control over the Public Integrity Section.

In an internal February 29, 1988 Justice Department memorandum, which INSLAW obtained under the Freedom of Information Act (FOIA), Weld stated that the Public Integrity Section had concluded the information INSLAW had recently submitted regarding possible procurement fraud and obstruction of justice by Attorney General Meese and two other Justice Department Presidential appointees, was "not sufficiently specific to constitute grounds to initiate a preliminary investigation." Weld also wrote the following comment: "I concur with this recommendation and am so closing this matter."

The Justice Department did not reveal to INSLAW its February 1988 decision to decline appointment of an Independent Counsel until May 1988 when Justice publicly revealed it.

In May 1988, several months before Meese resigned as Attorney General, the chief investigator of the Senate Judiciary Committee relayed to INSLAW's Bill and Nancy Hamilton information from a trusted source he described as a senior career official who had worked in Justice's Criminal Division since the time of the Watergate scandal.

The following is an excerpt from the affidavit of William Hamilton that was filed in conjunction with the December 1989 INSLAW Writ of Mandamus lawsuit against Attorney General Thornburgh for "failing and refusing to enforce the federal criminal laws in the INSLAW case." The excerpt concerns information relayed to INSLAW in May 1988 by Ronald LeGrand, then Chief Investigator for the Senate Judiciary Committee, from a trusted senior career official who had been in the Criminal Division since the time of the Watergate scandal.

"In late April 1988, Ronald LeGrand, then Chief Investigator of the Senate Judiciary Committee, telephoned me to request a full briefing on the disputes between INSLAW and DOJ. My wife

and I subsequently briefed LeGrand at INSLAW on the morning of May 11. LeGrand telephoned me two days later with information that he said a trusted source had asked him to convey. LeGrand described the source as a 'senior career official within DOJ with a title' whom LeGrand had known for 15 years and whose veracity LeGrand could attest to without reservation. Shortly after DOJ's public announcement on May 6, 1988 that DOJ would not seek the appointment of an Independent Counsel in the INSLAW matter, and that it had cleared Meese of any wrongdoing, the source told LeGrand that 'the case is a lot dirtier for the Department of Justice than Watergate was, both in its breadth and its depth.' The source also said that the 'Justice Department has been compromised on the INSLAW case at every level.' On several occasions since then, LeGrand has confirmed what he told me, and on October 11, 1988, Elliot Richardson, counsel to INSLAW, sent Robin Ross, an assistant to Attorney General Dick Thornburgh, a memorandum summarizing the statements attributed by LeGrand to his source. In addition, the source made the following statements:

a. "Jensen engineered INSLAW's problems right from the start and relied for this purpose principally upon three senior DOJ officials: Miles Matthews, Executive Officer of the Criminal Division; James Knapp, a non-career Deputy Assistant Attorney General in the Criminal Division; and James Johnston, Director of Contract Administration in the Justice Management Division. Miles Matthews stated in the presence of LeGrand's source that 'Lowell [Jensen] wants to get INSLAW out of the way and give the business to friends.'

b. "The source told LeGrand that John Keeney and Mark Richards, each a career Deputy Assistant Attorney General in the Criminal Division, and Phillip White, the recently retired Director of International Affairs for the Criminal Division, knew 'all about' the Jensen malfeasance in the INSLAW matter. Although Richards and White were 'pretty upset' about it, the source did not believe that either of them would disclose what they knew except in response to a subpoena and under oath. The source added that he did not think either of them would commit perjury."

Based on the suggestion of LeGrand's source, INSLAW sent subpoenas for depositions in June 1988 to Richards, White, and Keeney. Chief Judge Aubrey Robinson was then serving as the federal bankruptcy judge for the INSLAW litigation because the U.S. Court of Appeals for the District of Columbia had declined to grant U.S. Bankruptcy Judge George F. Bason, Jr. a new 14-year term, shortly after Judge Bason announced his oral findings in September 1987 about the Justice Department's theft of PROMIS, and replaced Judge Bason with one of the Justice Department lawyers in the INSLAW litigation who then recused himself. Chief Judge Robinson, acting *sua sponte,* almost immediately stayed all further INSLAW discovery, pending the outcome of the Justice Department's already pending appeal of Judge Bason's findings. Judge Robinson's decision had the result of quashing INSLAW's subpoenas to the three current and former senior career Criminal Division officials.

Two years later, in 1990, Senior U.S. District Judge William Bryant dismissed INSLAW's Writ of Mandamus lawsuit, stating that a prosecutor's decision not to prosecute, "no matter how indefensible," cannot be corrected by any court.

On his final day as Attorney General in August 1988, Meese ordered Justice employees to defy subpoenas for deposition testimony that day in the Senate Permanent Investigations Subcommittee's investigation of the INSLAW affair.

Attorney General Meese's resignation as Attorney General in August 1988 took place on the day Justice Department officials had been subpoenaed to give deposition testimony in the Senate Permanent Investigation Subcommittee's investigation into what the federal bankruptcy court had earlier ruled was an attempt by the Justice Department, "unlawfully and without justification," to force INSLAW into liquidation, in order to cover up the government's theft of the PROMIS software.

The bankruptcy court ruled in January 1988 that Thomas Stanton, a political appointee then heading the Justice Department's Executive Office for U.S. Bankruptcy Trustees, had improperly pressured the U.S Trustee for the Southern District of New York to detail his First Assistant to the Washington, D.C. area in February 1985 to argue in federal bankruptcy court in Washington, D.C. for the immediate liquidation of INSLAW. The U.S. Trustee in the Southern District of New York claimed he refused Stanton's order because he thought it was "improper." As noted earlier, February 1985 was the month Meese became Attorney General.

Subcommittee Chairman Sam Nunn convened an emergency session on Meese's last day as Attorney General, during which the Subcommittee voted to seek to hold the Department of Justice in contempt of Congress unless Meese's successor as Attorney General promptly rescinded Meese's order. Meese's immediate successor, Attorney General Dick Thornburgh, promptly rescinded Meese's order.

The Subcommittee's Investigative Report stated that its investigation into INSLAW's charges had been "hampered by the department's lack of cooperation" and that it had found employees "who desired to speak to the subcommittee, but who chose not to out of fear for their jobs."

The Meese and Thornburgh Justice Departments shut down an investigation into collusion between a Hollywood studio and organized crime on drug trafficking and money laundering, an investigation that a journalist, shortly before his violent death, told the former federal investigators was linked to the INSLAW affair.

Among the issues the House Judiciary Committee Committee's September 1992 Investigative Report, T*he INSLAW Affair,* said necessitated appointment of an Independent Counsel in the INSLAW affair, was the death on August 10, 1991 of Danny Casolaro, an investigative journalist. Casolaro was found dead in his hotel room in Martinsburg, West Virginia the same week he told several confidantes he had finally broken the INSLAW case after a year-long, full-time investigation.

In the several weeks preceding his death, Casolaro told Los Angeles-based FBI Agent Thomas Gates, according to *The INSLAW Affair*, he had found a "link between the INSLAW matter, the activities taking place at the Cabazon Indian Reservation, and a Federal investigation in which Special Agent Gates had been involved regarding organized crime influence in the entertainment industry." The Committee reported taking the depositions of FBI Agent Gates and two former colleagues, former Los Angeles-based Federal prosecutors Richard Stavin and Marvin Rudnick, but never published anything about the contents of the depositions.

In September 2010, a California-based investigative reporter, Cheri Seymour, published a book entitled *"The Last Circle: Danny Casolaro's Investigation into the Octopus and the PROMIS Software Scandal" in* which Seymour includes verbatim quotes from the Committee's unpublished transcripts of its depositions of the three former federal investigators. Seymour also includes verbatim quotes from their court-ordered wiretaps from their organized crime

investigation of drug trafficking and money laundering collusion between MCA Studios in Hollywood and the Gambino Organized Crime Family.

A court-ordered wiretap of the President of an MCA division revealed the contents of his telephone conversation with a Gambino organized crime leader in which the MCA executive stated that he would telephone Attorney General Meese to order the Justice Department to shut down the MCA investigation.

FBI Agent Thomas Gates testified, according to Seymour's book, that the FBI believed Danny Casolaro's death was an "ITAR murder," i.e., a murder related to the International Trafficking in Arms Regulations that govern the export of arms, as well as of computer software such as PROMIS that can be adapted for intelligence gathering and surveillance purposes. The Justice Department has repeatedly, however, professed its concurrence with the claim by authorities in West Virginia that Casolaro committed suicide.

Justice shut down the MCA case before federal investigators could learn how targets of the investigation were acquiring sensitive printouts from the computerized case management systems of the IRS Criminal Investigation Division and the FBI.

The Committee's depositions in 1992 of the three former federal organized crime investigators also reveal that Robert Booth Nichols acquired copies of sensitive computer printouts from the IRS' and FBI's investigative case management systems, and shared them with MCA executives. The computer printouts revealed the detailed status of both components of the MCA investigation, i.e., the IRS' Criminal Investigation Division component and the FBI component. The Meese and Thornburgh Justice Departments forced an end to both components of the MCA investigation before the federal investigators had an opportunity to learn how Robert Booth Nichols was acquiring the computer printouts.

FBI Agent Thomas Gates testified before the House Judiciary Committee that the Los Angeles office of the FBI had been investigating Robert Booth Nichols since the 1970s for drug trafficking and money laundering in concert with U.S. and Japanese organized crime.

As noted in the earlier discussion of the CIA-financed, and PROMIS-related, Wackenhut/Cabazon Joint Venture, Robert Booth Nichols also had a senior role in the Joint Venture in the early 1980s. Significantly, Michael Riconosciuto, the Joint Venture's Director of Research, claimed to have witnessed Robert Booth Nichols give a briefcase containing $50,000 in cash to Michael Abbell in a Washington, D.C. restaurant in 1983 so Abbell would "crow-bar" the extradition case against leaders of the Cali Cartel, including Gilberto Rodriguez Orejuela, his brother, Miguel, and Jose Santacruz Londono. At the time, Abbell was Director of the Office of International Affairs in the Criminal Division of the Justice Department, the component responsible for extraditions. Riconosciuto further claimed Nichols explained to Abbell that the Cali Cartel leaders were then working for U.S. intelligence.

Several years later, the U.S. Attorney's Office in Miami convicted Abbell, who had by then left the Justice Department for private practice, of laundering drug profits for leaders of the Cali Cartel. However, a federal court of appeals later set aside Abbell's conviction after he had served time in federal prison.

The CIA and the Government of Canada had negotiated a covert intelligence agreement in 1981 for real-time electronic surveillance of the computer systems of the two national police forces.

The Royal Canadian Mounted Police (RCMP) Commissioner in Ottawa intervened in September 1983 in the RCMP's investigation of a $50 million securities fraud by Earl Brian by replacing the two incumbent RCMP Toronto-based fraud investigators, who had been making rapid progress since the start of the investigation in early 1983, with two other and evidently less zealous RCMP investigators.

John Belton, the complaining witness for the 1983 RCMP investigation, had resigned in February 1982 as a senior account executive at the Nesbitt Thomson investment bank after his Canadian clients had lost many millions of dollars from investments in Hadron and other companies controlled by Earl Brian, and after a vice president and board member of the investment bank had admitted, when confronted by Belton in January 1982 with certain evidence, that Earl Brian had been paying him secret commissions to promote the sale of shares in Hadron and other companies.

Canada's counterintelligence agency in the early 1980s was known as the Security Service and was housed for administrative purposes within the RCMP. A recently retired senior official of the Security Service, who had become a close associate of Belton at Nesbitt Thomson, informally advising Belton on the RCMP's investigation of Earl Brian, provided Belton the following explanation for the RCMP Commissioner's surprising September 1983 derailment of the investigation of Earl Brian: the RCMP Commissioner acted to preclude the possible exposure of a covert intelligence agreement Brian had negotiated in 1981 between Canada's Security Service and the CIA for real-time electronic surveillance of the computer systems of the two national police forces, i.e., the RCMP and the FBI.

In 1984, Canada's Security Service morphed into the stand-alone Canadian Security and Intelligence Service (CSIS), and an active-duty CSIS officer later independently confirmed the explanation the retired senior Security Service officer had earlier provided for the RCMP Commissioner's September 1983 derailment of the $50 million securities fraud investigation of Earl Brian.

As noted earlier, the CIA-financed Wackenhut/Cabazon Joint Venture modified PROMIS to include a SIGINT backdoor before Earl Brian sold PROMIS to the Government of Canada for use in the RCMP, according to its Research Director, Michael Riconosciuto. In the year 2000, two officers from the RCMP's National Security Investigation Section (NSIS) conducted a counterintelligence investigation of the INSLAW affair within the United States over an eight-month period. Sean McDade, the senior RCMP officer, told INSLAW and others that year that his investigation had confirmed that the RCMP had acquired a copy of INSLAW's PROMIS from a source other than INSLAW and that the RCMP's use of its version of PROMIS had compromised Canadian national security information to foreign governments.

The fall of 1983 was also the time when the FBI notified INSLAW that senior FBI management had rejected written recommendation in July 1983 from the FBI's case management project staff to contract with INSLAW for a pilot test of PROMIS in several FBI field offices and in the FBI's Intelligence Division, the counterintelligence arm of the FBI which was in charge of the project to develop the first Bureau-wide case management system. The FBI project staff had informed INSLAW in July 1983, following six months of meetings, that they had recommended the FBI contract with INSLAW to use PROMIS as the basis of what became known as FOIMS. The project team later told INSLAW, in the fall of 1983, that senior FBI management rejected the recommendation and ordered the FBI's project team to use FBI employees to develop the first Bureau-wide case management system. In view of the FBI's lack of expertise with such

technology, INSLAW did not view the FBI's explanation for its plans as plausible, but it did not occur to INSLAW that the premier law enforcement agency of the United States would simply steal PROMIS for its project, which is what the FBI did.

II. The Context In Which the U.S. Intelligence Community's Misappropriations of PROMIS Took Place.

(A) Misappropriations of PROMIS coincided with government report on need for pre-packaged software for common government functions, including case control, and for PROMIS, in particular.

All three major U.S. intelligence community thefts of PROMIS began in the early 1980s at a time of a growing recognition within the government about the need and opportunity for pre-packaged software solutions for common government functions, including case management, and awareness among key Reagan Presidential appointees that INSLAW's PROMIS software was uniquely positioned for that new opportunity.

For example, the U.S. General Accounting Office (GAO) urged in an early 1980s report that the Executive Branch save time and money by emulating what the private sector had already begun doing, i.e., buying licenses to pre-packaged software for common types of applications (General Accounting Office, *Federal Agencies Could Save Time and Money with Better Computer Software Alternatives*, May 20, 1983). GAO listed case control, personnel, and payroll as the most common types of government applications, and included in its report an October 14, 1982 letter on the issue from the Deputy Administrator of the General Services Administration (GSA), the agency that had exclusive authority at the time over the government's procurement of computer software.

The Reagan Presidential appointee who was the GSA's Deputy Administrator stated in his letter to the Controller General of the United States that GSA concurred with the GAO recommendation but with an important caveat: pre-packaged software products had to be specially engineered for ease of transfer, just as, he claimed in his letter, INSLAW's PROMIS case management software was engineered: "Although this system was designed for State and local government legal case tracking, it has been modified to track inmates in jail, parcels of land, tort cases in New York State, and is in use in all 94 U.S. Attorneys Offices and several other Federal agencies. This system could be further modified to track welfare recipients or any function requiring tracking."

(B) U.S. Intelligence agencies are explicitly prohibited from actions that violate the U.S. Constitution or federal statutes.

The United States Code, Title 50, Chapter 15, Subchapter 3 explicitly delineates the authority of the President regarding covert projects and the President's duty to prepare a written Finding about each covert project ("The President may not authorize the conduct of a covert action by departments, agencies, or entities of the United States Government unless the President determines such an action is necessary to support identifiable foreign policy objectives of the United States and is important to the national security of the United States „„"), and the fact that "A finding may not authorize any action that would violate the Constitution or any statute of the United States."

The Constitution prohibits the government from taking property without just compensation, a prohibition enshrined in the Takings Clause of the Fifth Amendment ("nor shall private property be taken for public use, without just compensation").

By federal statute, software copyright infringement is a strict liability civil tort, and willful copyright infringement, which describes the Department of Justice's conduct in the INSLAW affair, is, additionally, a federal crime.

(C) The government could easily have purchased PROMIS from INSLAW without risk of exposing intelligence sources and methods.

The government could have negotiated directly with INSLAW for the purchase of PROMIS licenses without disclosing how the licensed software would be used for sensitive applications, or risking exposure of intelligence sources and methods. INSLAW's work with PROMIS had received widespread public recognition. In 1978, for example, Princeton University's Woodrow Wilson School bestowed the John D. Rockefeller Award for Public Service on Bill Hamilton and Charles R. Work, the initial public prosecution partner of INSLAW, for having met "a critical national need" through the development of PROMIS. Moreover, even though INSLAW had been a major software vendor to the U.S. Justice Department for approximately a decade preceding the start of Justice's theft of PROMIS, and Justice's Law Enforcement Assistance Administration (LEAA) had designated PROMIS in the early 1970s as one of its "Exemplary Projects," the Justice Department never approached INSLAW in the early 1980s about software licenses for any of the Reagan Justice Department's sensitive projects, presumably because the Reagan Administration planned from the start to steal PROMIS so the government could use the stolen software to generate many hundreds of millions of dollars in illicit off-the-books intelligence community profits, and for the personal financial gain of politically connected contractors such as Earl Brian. PROMIS.

The U.S. intelligence background of Bill Hamilton, INSLAW's founder and President, makes the Justice Department's failure to have directly approached INSLAW even more dismaying: (1) Bill Hamilton worked at NSA's Ft. Meade, Maryland Headquarters for seven years in the 1960s; (2) Hamilton had a Top Secret/CODEWORD security clearance for his seven years as an NSA employee; (3) Hamilton had risen to deputy chief of an NSA intelligence production branch by the time he resigned from NSA in 1969 to accept a position in the private sector; (4) Hamilton had voluntarily gone to Vietnam in 1965, the year of the U.S. military buildup, as an NSA civilian on temporary duty; and (5) NSA had placed in Hamilton's official personnel file an unclassified letter, dated January 15, 1965, "commending" Hamilton for his " major role" in "the production of a singularly excellent report issued by this organization on 24 December 1964." The letter states that the report became the subject of a briefing for the deputy secretary of defense and the chairman of the Joint Chiefs of Staff on 28 December 1964, and of a separate NSA briefing for the Director of the Defense Intelligence Agency (DIA) on 29 December 1964, and that DIA representatives at the NSA briefing for the DIA Director "commented on the

exceptionally effective expression, clarity, and self-sufficiency" of the report. Hamilton had also been a part-time contractor with the CIA in the 1960s and 1970s, translating Vietnamese-language articles and speeches into English.

Nancy Burke Hamilton, Bill's wife, INSLAW vice president and INSLAW co-owner, and Bill raised six children while the U.S. Government was stealing INSLAW's software and attempting to destroy their family-owned company. The birth of their sixth child in 1983, in fact, coincided with the start of the Justice Department's sham contract disputes that were evidently intended to force INSLAW to accept Hadron's unwanted acquisition.

III. Examples of Harm Caused by Ineffective Congressional Oversight of U.S. Intelligence Agencies in the INSLAW Affair.

(A) Attorney General Meese's failure to recuse the Justice Department, in view of its incapacitating political and institutional conflicts of interest, from prosecution of Jonathan Pollard for computer-based spying for Israel.

Rafi Eitan, the Israeli spymaster for U.S. Navy Intelligence Analyst Jonathan Pollard's theft of U.S. nuclear secrets in 1984 and 1985, was the partner of the U.S. Department of Justice in 1983 in the theft of the VAX 11/780 version of PROMIS from INSLAW, and Israeli intelligence's Rafi Eitan then had Robert Maxwell sell that version of PROMIS back to the U.S. Government, through the Sandia and Los Alamos National Laboratories in New Mexico, so the two national laboratories could modify PROMIS for the intelligence application on board U.S. nuclear submarine. Israel was allegedly allowed to collect approximately $30 million in PROMIS license fees from the two U.S. national laboratories for the version of PROMIS the U.S. Justice Department had just stolen from INSLAW and given to Rafi Eitan.

Both Attorney General Meese and Deputy Attorney General Arnold Burns had separate communications on the INSLAW case with Leonard Garment, a Senior Partner in the Dicksteen, Shapiro and Morin law firm, in October 1986, one week before the firm fired INSLAW's lead litigation counsel. Meese admitted his and Burns' communications with Garment in sworn answers to an INSLAW interrogatory in federal bankruptcy court in 1987. Garment had not disclosed these communications to his partner, Leigh Ratiner, who was INSLAW's lead litigation counsel, or to INSLAW, his firm's client.

Garment had been Attorney General-Designate Meese's defense counsel in 1984 during Independent Counsel Jacob Stein's investigation of Attorney General-Designate Meese for several alleged improprieties, the most serious of which was Meese's failure to disclose his business and financial ties with Earl Brian on his mandatory White House Financial Disclosure Reports for 1981 and 1982.

Garment did not respond to written questions from INSLAW's new litigation counsel about these undisclosed communications with Meese and Burns, but did tell two different reporters that the communications at issue had actually been about Israel, and a trip to Israel on which he was about to embark. The Government of Israel had retained Garment, after the FBI arrested Pollard for espionage in November 1985, to persuade the Meese Justice Department to abstain from prosecuting Israeli Air Force Colonel Aviem Sella, the Israeli nuclear targeting expert whom Rafi Eitan had appointed in June 1984 as Pollard's U.S.-based espionage controller. *Barron's* quoted Garment as claiming that his discussion with Meese in October 1986 had really been about Israel, and a second reporter, Nicholas Kuilibaba, told INSLAW Garment explained his October 1986 discussions with Meese as follows: "a back channel effort to resolve **a foreign**

policy issue within the jurisdiction of DOJ and in connection with a trip abroad—Israel, **Pollard."** [Emphasis added].

According to a published account by a former Israeli intelligence operative, significant elements for which INSLAW obtained at least partial corroboration from two different individuals previously associated with INSLAW's initial litigation counsel, Israel wire-transferred $600,000 in approximately October 1986, from a joint CIA-Israeli intelligence slush fund, to Leonard Garment at Dicksteen, Shapiro and Morin, through Earl Brian's Hadron, to reimburse the firm for its severance payments to Ratiner.

The FBI arrested Pollard in November 1985 as Pollard and his wife drove their car off the Israeli Embassy grounds in Washington, D.C., immediately after the Israeli Embassy refused to grant Pollard's request for political asylum.

The Meese Justice Department negotiated Pollard's guilty plea in 1986, and, in 1987, obtained a life sentence for him, stating in its memorandum to the sentencing court that "the breadth and volume of the U.S. classified information sold by defendant to Israel was enormous, as great as in any reported case involving espionage on behalf of any foreign nation."

Three other Israeli officials who had been directly involved in Pollard's espionage, including Israeli Air Force Colonel Aviem Sella, flew home from Washington, D.C. to Israel, through New York City, within hours of Pollard's arrest. The Meese Justice Department never prosecuted Rafi Eitan, Pollard's spymaster who admitted he was responsible for over $500 million worth of PROMIS sales for the Reagan Administration, or the other three Israeli officials implicated in Pollard's espionage. The Meese Justice Department later indicted Sella for his role in Pollard's espionage but Israel does not have an extradition agreement with Israel on espionage cases, and consequently declined to extradite Sella to the United States for criminal prosecution.

(B) Three successive U.S. Attorneys General concealed leads and evidence from the Department's own investigation of the INSLAW Affair, ignoring an explicit written warning from the House Judiciary Committee.

Attorney General William Barr. Attorney General William Barr declined to honor a written request, signed by every Democrat on the House Judiciary Committee pursuant to provisions of the Ethics in Government Act, sent to him on September 10, 1992. The letter asked Attorney General Barr to recuse the Justice Department from any further role in the INSLAW case, and to petition the U.S. Court of Appeals for the District of Columbia to appoint an Independent Counsel.
The House Judiciary Committee had just completed a three-year investigation of Justice's theft of the PROMIS software. Its September 1992 Investigative Report, *The INSLAW Affair*, confirmed the earlier judicial findings about Justice's theft of PROMIS and supplemented them with leads about a more widely-ramified government conspiracy involving unauthorized intelligence uses of PROMIS. The Committee's Investigative Report also revealed Justice obstructed its investigation by blocking access to witnesses and documents, and by taking punitive reprisals against whistle-blowers. Of special importance, the letter from the Committee's 22 Democrats to Attorney General Barr warned:

> "Should information received by the Department … ever be perceived as benefitting the Department in its own litigation and to its own end – while not being shared with the Committee, the public, or the affected private litigants – even greater damage may be inflicted on the faith of the American public in the

integrity of its chief law enforcement agency."

In an affidavit in September 1992, Attorney General Barr declined to grant the request, claiming he had no personal conflict of interest in the matter and consequently would continue to supervise the investigation of the INSLAW affair then being conducted by Nicholas J. Bua. Barr had announced the appointment of Bua as his Special Counsel on INSLAW a year earlier during his confirmation hearing.

However, not long after President George H.W. Bush lost the November 1992 election, Bua telephoned INSLAW Counsel Elliot Richardson to ask whether Richardson had given any thought to a final settlement figure. Bua told Richardson that he believed Attorney General Barr would like to put the INSLAW case behind him before he left office, and that Barr would immediately approve a $25 million settlement with INSLAW if Richardson were to propose it.

In response, Richardson told Bua he had not, in fact, given thought to a final settlement figure because no one in the government had been willing to talk to him, or any other INSLAW representative, about the scope of the government's copying of PROMIS. Richardson also asked Bua if he was certain Attorney General Barr approved of Bua, his criminal investigator, engaging Richardson in civil settlement discussions. Bua telephoned Richardson later the same day, stating that he had checked with Barr and that Barr preferred that he confine himself to the criminal investigation.

During the several weeks preceding the November 1992 Presidential election, three different reporters, each of whom had been closely following Bua's investigation, told INSLAW Bua was considering including in his Investigative Report a recommendation that Justice pay $25-50 Million in compensation to INSLAW. An implicit assumption of these reports was that Bua had acquired evidence to support such a proposed settlement, evidence that neither he nor the Justice Department ever shared with INSLAW. One of these reporters, Richard Fricker, wrote as follows pn this matter in his article entitled "The INSLAW Octopus," in the early 1993 maiden issue of *Wired Magazine:*

> "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."

Soon after the November 1992 Presidential election, Barr recused himself on INSLAW. Barr declined to accept delivery of Bua's INSLAW Affair Investigative Report on the grounds that Barr was about to leave the Justice Department and return to his former law firm, where one of the partners, Charles Cooper, the former Assistant Attorney General for the Office of Legal Counsel in the Meese Justice Department, was then representing Earl W. Brian in Bua's federal grand jury investigation of the INSLAW affair.

Acting Attorney General Stuart Gerson. Stuart Gerson, President George H.W. Bush's Assistant Attorney General for Civil Division, which represented the government in INSLAW's PROMIS piracy litigation, later served as Acting Attorney General in the Clinton Administration until Janet Reno was sworn in as Clinton's Attorney General in mid-March 1993.

The actions of Acting Attorney General Gerson during the mid-March 1993 confirmation hearings on Clinton Attorney General-Designate Janet Reno provided further evidence that Bua

had acquired evidence in the INSLAW affair which Justice was not sharing with the Committee, the American people, or INSLAW. While questioning Reno during her confirmation hearings, Senator Orin Hatch publicly warned the Attorney General-Designate that the INSLAW affair was a "cloud over the integrity" of the Justice Department, and that there was an urgent need for her to resolve the issue confirmed.

Acting U.S. Attorney General Stuart Gerson visited Hatch later the same day, according to Hatch's subsequent statements to INSLAW, and asked Senator Hatch to "tone down" his "rhetoric" because the "government owes INSLAW money but INSLAW wants too much." There had never been any discussion between the government and INSLAW about the dollar amount of a settlement except for the aforementioned approach Bua made to Richardson right after Bush lost the November 1992 Presidential election.

Attorney General Janet Reno. Bua and his staff of Assistant U.S. Attorneys and FBI agents from Chicago reportedly delivered their INSLAW affair Investigative Report to Attorney General Janet Reno on her second day in office in mid- March 1993, and spent a half day briefing her on their investigation of the INSLAW affair. Several months later, in July 1993, Reno released a redacted version of the Bua Report, exonerating the government of any wrongdoing in the INSLAW affair. The Reno Justice Department simultaneously announced that Associate Attorney General Webster Hubbell would conduct a "full and fair" review of any comments about the redacted version of the Bua Report from INSLAW or others.

INSLAW's distress with the fact that the Reno Justice Department was taking a position in the INSLAW affair that contradicted the findings of fact of two federal courts and the investigative findings of the House Judiciary Committee can be seen in an October 1993 letter to Hubbell from INSLAW Counsel Elliot Richardson, in which Richardson stated in part as follows: "There is one more point I feel I should make. The Department's handling of the INSLAW affair over the past decade has seemed at times almost deliberately calculated to shake public confidence in the Department's integrity. As someone whose first association with the Department of Justice began in 1959 and who has long believed that there is nothing more important to the good order of our society than public confidence in the administration of justice, I found this inexplicable. Why, for example, was the Department so relentless in its harassment of a small company whose innovative software has made significant contributions to the criminal justice system? Why have previous Attorneys General refused to communicate directly and forthrightly with md or any other representative of INSLAW? Why has the Department so persistently stonewalled Congressional efforts to uncover the truth?"

Richardson also stated in his letter that Bua had interrogated before a federal grand jury five of the six witnesses whom INSLAW had identified to Bua as knowledgeable about the Department's misappropriation of PROMIS for intelligence activities, but that the Reno Justice Department had redacted all of their testimony. Moreover, Richardson quoted a May 29, 1993 *Washington Post* editorial on the reason for the several month delay in the Reno Justice Department's release of the Bua Report: "The material is still being studied and edited to remove information relating to national security."

(C) Soon after disclosure in court of affidavits about thefts of PROMIS for intelligence, (1) U.S. Court of Appeals set aside rulings of two lower courts on jurisdictional issue; (2) classified documents disappeared from Justice's files after Congress issued subpoena to Attorney General Thornburgh for them; and (3) investigative journalist Danny Casolaro was found dead the week he confided to friends he had finally broken the INSLAW case.

When the U.S. Bankruptcy Court for the District of Columbia ruled, in January 1988, that the U.S. Department of Justice "took, converted, stole" the PROMIS software from INSLAW in the early 1980s, and later attempted "unlawfully and without justification" to force INSLAW into liquidation to prevent the Company from seeking redress in court, neither the court nor INSLAW knew that Justice, for years, had been covertly disseminating the stolen software for intelligence projects. It had, however, been obvious from the time of the 1987 trial in federal bankruptcy court, that the government was concealing evidence about something: tor example, the bankruptcy court had made credibility assessments of each trial witness for both INSLAW and the government, using phrases such as "utterly unworthy of belief" and "willful blindness to the obvious" for the testimony of many of the Justice Department's witnesses.

INSLAW finally acquired evidence in early 1991 about at least part of what the government was concealing: on April 8, 1991, INSLAW filed in court newly acquired affidavits claiming Justice had been covertly selling and distributing stolen copies of PROMIS since the early 1980s.

(1) U.S. Court of Appeals for the District of Columbia, in May 1991 set aside, on jurisdictional issue, rulings of two lower courts, the day before lower court's deadline for FBI and DEA to produce copies of their case management software to INSLAW for comparison with PROMIS.

In early April 1991, INSLAW filed in U.S. Bankruptcy Court newly acquired affidavits, from individuals claiming prior associations with U.S. and Israeli intelligence, stating that Earl W. Brian and others had been allowed to sell and distribute stolen copies of PROMIS to U.S. and foreign intelligence and law enforcement agencies for their personal financial gain and for U.S. and Israeli espionage purposes. Also included was a letter to INSLAW from the Government of Canada stating that the English-language version of PROMIS was in use in multiple agencies of Canada's Federal Government, and asking whether INSLAW had a French-language version of PROMIS because Canada has two official languages. INSLAW had, however, never licensed PROMIS to the Government of Canada.

One of the affidavits, from Michael Riconosciuto, the former research director of a CIA-financed Joint Venture between the Wackenhut Corporation and the Cabazon Indian Tribe in southern California, claimed the Joint Venture came into being in early 1981 to carry out certain covert intelligence activities including manufacturing weapons for the Nicaraguan Contras, and modifying unauthorized copies of the PROMIS for intelligence projects. Earl Brian and Justice Department PROMIS Contracting Officer Peter Videnieks frequently visited the Cabazon Indian Reservation in Indio, California in connection with modifications of PROMIS for intelligence projects, according to the affidavit from the former Research Director.

William Casey had been outside counsel to Wackenhut and a member of its Board of Directors until appointed CIA his early 1981 appointment by President Reagan as CIA Director. Casey had also been the Manager of Ronald Reagan's successful 1980 Presidential Campaign, and Edwin Meese had been Casey's Chief of Staff during the Presidential Campaign.

Earl Brian, described as a "CIA businessman," and Michael Riconosciuto, the Joint Venture's Research Director, were among those in attendance at the Joint Venture's September 1981 demonstration in southern California of weapons for Eden Pastora and other leaders of the Contras, according to local police surveillance records the House Judiciary Committee acquired as part of its September 1992 investigation of the INSLAW Affair.

Based on the newly acquired affidavits regarding covert sales and dissemination of PROMIS to U.S. and foreign intelligence and law enforcement agencies, including the FBI and DEA, Chief Judge Aubrey Robinson of the U.S. District Court for the District of Columbia, on April 8, 1991, ordered the U.S. Department of Justice to produce to INSLAW, within 30 days, copies of the case management software in Justice agencies, including the FBI and the DEA, for INSLAW's line-by-line comparison with PROMIS.

Chief Judge Robinson was then presiding over INSLAW's bankruptcy court litigation against the government because the U.S. Court of Appeals for the District of Columbia had denied Judge Bason's request for a new 14-year term as the sole federal bankruptcy judge for the District of Columbia almost immediately after Judge Bason had ruled against the government in the INSLAW case in January 1988, and had appointed in Judge Bason's stead as the sole federal bankruptcy judge for the nation's capital one of the Justice Department lawyers who had argued unsuccessfully before Judge Bason in favor of forcing INSLAW into liquidation.

Top three NSA lawyers attend presentation by INSLAW President on newly acquired evidence of U.S. intelligence's unauthorized uses of PROMIS. Approximately two weeks before the May 8, 1991 court-imposed deadline for production of the allegedly PROMIS-derivative software systems at the U.S. Department of Justice, and the decision by the U.S. Court of Appeals for the District of Columbia to set aside the rulings of the two lower federal courts, the three most senior NSA lawyers (NSA General Counsel Richard S. Surrey and NSA Associate General Counsels, Robert N. Fielding and George B. Prettyman)**,** attended the 20th Anniversary Meeting of the Computer Law Association at a downtown Washington, D.C. hotel. The meeting took place over a two-day period on April 22 and 23, 1991, but the NSA lawyers attended only a single event: the luncheon speech by INSLAW President William Hamilton on the newly acquired evidence of unauthorized intelligence uses of PROMIS, according to the Jay Westermeier, the President of the Computer Law Association who was also INSLAW's intellectual property lawyer.

The day before the 30-day software production deadline, i.e., on May 7, 1991, the U.S. Court of Appeals for the District of Columbia, acting largely on a jurisdictional issue, set aside the rulings of the two lower federal courts in the INSLAW litigation, and, in the process, mooted the court order for production of copies of Justice Department case management software, including the FBI's, for comparison by INSLAW with PROMIS.

The Court of Appeals explained in its INSLAW ruling that it was reversing the decisions of the two lower federal courts because it found that "the automatic stay does not reach the Department's use of property in its possession under a claim of right at the time of the bankruptcy filing, even if that use may ultimately prove to violate the bankrupt's rights."

The Court of Appeals' ruling made reference to the bankruptcy judge's quote of a famous dissent by Justice Louis Brandeis on the government as lawbreaker from the 1928 Supreme Court case, Olmsted v. United States. In the Olmsted case, the Majority held that neither the Fourth Amendment nor Fifth Amendment rights of Roy Olmsted, a bootlegger, had been violated by the government's use of wiretapped private telephone conversations federal agents had obtained without judicial approval and then used as evidence against Olmsted. In his dissent, Justice Brandeis wrote in part: "if the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means—to declare that the government may commit crimes in order to secure the conviction of a

private criminal—would bring terrible retribution. Against that pernicious doctrine, this court should resolutely set its face."

The Supreme Court eventually reversed Olmsetead v. United States in its 1967 case, Katz v. United States, thereby, adopting Justice Brandeis' dissent.

The U.S. Court of Appeals' ruling also stated in part as follows: "the bankruptcy and district courts here both concluded that the Department 'fraudulently obtained and then converted enhanced PROMIS to its own use,'" and that "such conduct, if it occurred, is inexcusable." However, citing the bankruptcy judge's reference to Justice Brandeis's dissent in Olmsted, the U.S. Court of Appeals drew a very different lesson from Justice Brandeis' dissent: "Offensive as lawless conduct by one branch of government may be … it does not justify another's lawlessness. As the bankruptcy court had no jurisdiction to hear the claims asserted under § 362(a), we reverse the district court and remand the case with directions to vacate all orders concerning the Department's alleged violations of the automatic stay and to dismiss Inslaw's complaint against the Department."

In the above quote, the U.S. Court of Appeals singles out the federal bankruptcy judge for opprobrium by castigating his ruling that the federal bankruptcy court had jurisdiction over INSLAW's PROMIS software piracy claims against the government, and, moreover, by suggesting that the bankruptcy judge not only broke the law through his jurisdictional ruling, but also that the bankruptcy judge's "law-breaking" was analogous to the Justice Department's law-breaking, as found in the fully litigated findings of fact of two lower federal courts that Justice "took, converted, stole" PROMIS "through trickery, fraud, and deceit."

In its harsh criticism of the jurisdictional decision of the federal bankruptcy judge, the U.S. Court of Appeals omitted mention of the fact that two prominent federal district judges, Aubrey Robinson, then the Chief Judge of the U.S. District Court for the District of Columbia and William B. Bryant, a former chief judge of the same federal district court, had each earlier issued written opinions affirming the bankruptcy judge's jurisdictional decision.

Evidencing the high esteem in which colleagues on the federal district court in Washington, D.C. held Judge Bryant, who had by then been serving on that court since 1965, President George W. Bush, in 2005, acting at the request of his fellow judges, named a new annex to E. Barrett Prettyman United States Courthouse for the District of Columbia in Judge Bryant's honor. That courthouse and its annex are today home to both the federal district court and the Court of Appeals.

The three-judge Court of Appeals panel that set aside the rulings of the two lower federal courts in the INSLAW case was comprised of Judges James Buckley and Stephen Williams, each of whom was appointed by President Reagan, and Judge A. Raymond Randolph, who was appointed by President George H.W. Bush.

In setting aside the bankruptcy court's decision on a jurisdictional issue, the U.S. Court of Appeals also nullified the bankruptcy court's Declaratory Judgment that INSLAW owns the versions of PROMIS that contain the Company's privately financed enhancements which INSLAW was not required to deliver under any government contract. Determining ownership of the assets of a company seeking to reorganize under Chapter 11 is part of the core jurisdiction of a federal bankruptcy court, but the U.S. Court of Appeals, nevertheless,

failed to reinstate the bankruptcy court's Declaratory Judgment following INSLAW's request through a Motion for Reconsideration.

(2) 51 INSLAW documents or files vanished from Justice's files in July 1991 after House Judiciary Committee issued subpoena for them to Attorney General Thornburgh.

On July 25, 1991. The House Judiciary Subcommittee on Economic and Commercial Law issued a subpoena to Attorney General Thornburgh for certain documents related to the INSLAW affair, after Thornburgh, on July 17, 1991, had refused to attend a hearing on PROMIS despite a prior agreement to attend. Thornburgh refusal to attend took place after Chairman Jack Brooks notified Thornburgh the intended to ask the Attorney General to explain why he had repeatedly reneged on personal commitments to the Chairman for access to INSLAW documents in Justice's litigation files.

On July 31, 1991, the Justice Department informed the House Subcommittee that 51 of the subpoenaed INSLAW "documents or files" were missing, and could not be found. The House Judiciary Committee stated in its September 1992 Investigative Report, *The INSLAW Affair*, that its subcommittee never received an adequate explanation on how the documents disappeared.

Later in 1991, Garnett Taylor, whom the Justice Department recently fired as one of its Security Officers, told INSLAW the Department fired him on manufactured charges after Taylor had refused to carry out an order to remove certain INSLAW documents from the Justice's Civil Division INSLAW litigation files. Taylor told INSLAW that he had refused to carry out the order based on his belief that removal of the documents, then under subpoena from Congress, would implicate Taylor in felony obstruction of justice.

Taylor also told INSLAW that his immediate superior in the Justice Department's Office of Security, James Walker, later covertly removed the INSLAW documents himself. Moreover, a second employee of Justice's Office of Security later corroborated Taylor's account, telling INSLAW he had actually witnessed Walker's removal of the documents from the Civil Division.

Lending credence to Garnett Taylor's claim that Justice retaliated by firing him on spurious charges, the U.S. Merit Systems Protection Board eventually ordered Justice to reinstate Taylor with back pay plus interest.

The 51 INSLAW documents or files that disappeared from the Civil Division litigation files in July 1991 were evidently classified documents, presumably relating to the unauthorized uses of PROMIS in intelligence projects. Garnett Taylor's duties included retrieval of classified documents from the files of Justice Department employees who have left the Department, according to the edited and redacted July 1993 version of the INSLAW Investigative Report prepared by Nicholas J. Bua, the Department's Special Counsel on the INSLAW case. The Clinton Justice Department redacted the federal grand jury testimony of six witnesses, including Garnett Taylor and James Walker, each of whom INSLAW believes knew about unauthorized uses of PROMIS for intelligence projects.

(3) Investigative reporter Danny Casolaro died in his Martinsburg, West Virginia hotel room on August 10, 1991 after a U.S. Army intelligence officer arranged a meeting there with a key Justice Department official on PROMIS.

On Saturday, August 10, 1991, maids at the Sheraton Hotel in Martinsburg, West Virginia discovered the dead body of investigative reporter Danny Casolaro in his hotel room. Casolaro

was found dead the week he told several close confidantes he had broken the INSLAW case after investigating it full-time for one year.

West Virginia authorities embalmed Casolaro's body before notifying his next-of-kin. Moreover, the hotel brought a contractor in to do an industrial cleaning of Casolaro's hotel room before police conducted a forensic examination of the room.

Both of Casolaro's wrists had been deeply slashed, causing him to bleed to death. West Virginia authorities declared the death a suicide, and the Clinton Justice Department eventually endorsed that conclusion.

In mid-July 1991, about a month before Casolaro's death, Joseph Cuellar, recently returned from active duty as an Arab-speaking and Spanish-speaking U.S. Army Special Forces Intelligence Major participating the U.S. Desert Storm Campaign in Iraq, appeared at Casolaro's neighborhood pub one evening, and befriended Casolaro who was at the pub with a date, Lynn Knowles. After introducing himself and asking what Casolaro did for a living, and being told Casolaro was researching a book on the INSLAW affair, Cuellar informed Casolaro he knew all about the INSLAW case because Peter Videnieks, by-then the former Justice Department PROMIS Contracting Officer, was one of his closest friends. Casolaro provided the account in this paragraph in a telephone conversation with Bill and Nancy Hamilton the following morning.

During that telephone call, Nancy Hamilton asked Casolaro how Cuellar happened to be in Casolaro's neighborhood pub, and expressed the opinion that it was not in Videnieks' interest to agree to be interviewed by Casolaro because Casolaro was intending to expose Videnieks' misconduct. Nancy Hamilton also told Casolaro that Cuellar's appearance at Casolaro's pub the previous evening sounded to her like a set-up, an observation with which Casolaro did not seem to disagree.

Casolaro told the Hamiltons later in July 1991 that he already had follow-up meetings that month with Cuellar. In late July 1991, Casolaro telephoned the Hamiltons to say that Cuellar had persuaded Videnieks to agree to an interview on the INSLAW affair by Casolaro, and that the interview would take place in a public park outside of Washington, D.C., and last for an entire weekend, which Casolaro told the Hamiltons was the duration of the interview he had requested.

Casolaro told the Hamiltons that Cuellar would accompany Peter Videnieks to the planned weekend meeting. Casolaro further explained that Cuellar was divorced; that his former wife worked for Barbara Videnieks, Peter Videnieks' wife who was then the long-time chief of staff to Senator Robert Byrd of West Virginia; and that Joseph Cuellar was scheduled to have custody of their 12-year-old son the weekend of the planned meeting. Casolaro solicited from the Hamiltons, whose son was the same approximate age, suggestions for keeping Cuellar's son occupied so he would not pressure his father to leave, cutting short Casolaro's time for interviewing Videnieks.

On the afternoon before Casolaro was found dead, William Turner, according to a March 15, 1994 affidavit to INSLAW, claimed he delivered to Casolaro in the parking lot of the Sheraton Hotel in Martinsburg, two packets of highly classified documents on the INSLAW affair that Turner had been storing for Casoalro in a safe in Turner's home in nearby Winchester, Virginia. Turner claims in his affidavit that when he delivered the documents to Casolaoro in Martinsburg on the afternoon before Casolaro's death, Casolaro reconfirmed his plan to trade the documents for other documents at a meeting scheduled that evening with Peter Videnieks, Joseph Cuellar, an unnamed person from Senator Byrd's office, an unnamed person from the IRS National

Computer Center in Martinsburg, and the President of First American Bank in Washington, D.C. which was owned by BCCI (The Bank of Commerce and Credit International).

Turner claims in his affidavit that among the documents he stored for Casolaro were Top Secret/SCI [Sensitive Compartmented Information] computer printouts that Casolaro had obtained from a civilian employee of NSA at its Vint Hill, Virginia electronic listening facility. The NSA computer printouts, according to Turner's affidavit, listed wire transfers of "monies paid to Earl Brian" at "shell companies in the Cayman Islands and Switzerland that came from accounts held by foreign agents and governments at the World Bank and BCCI, with connections made by Ed Meese." Turner also claims in his affidavit that he told Casolaro the planned document trade "was very dangerous" and that the people with whom Casolaro was to meet "could take all and give nothing in return."

Lynn Knowles was with Casolaro at his neighborhood pub the evening in July 1991 when Joseph Cuellar appeared and befriended Casolaro, She was also present during several subsequent meetings between Casolaro and Cuellar, according to Knowles. After attending Casolaro's funeral, Lynn Knowles told INSLAW she telephoned Cuellar and began asking him questions about Casolaro's investigation of the INSLAW affair and his death. She told INSLAW Cuellar gave her the following warning, in words or substance:

> What Danny Casolaro was investigating is a business. If you don't want to end up like Danny or like the journalist who died a horrific death in Guatemala, [Anson Ng, a stringer for the London-based Financial Times who was found murdered in Guatmala the month before Casolaro died] you'll stay out of this. Anyone who asks too many questions will end up dead.'"

In early 1994, FBI Agent Scott Erskine, Los Angeles Assistant U.S. Attorney Steven Zipperstein, and John Dwyer, Assistant Associate Attorney General in the Clinton Justice Department interviewed Lynn Knowles and, separately, Bill and Nancy Hamilton about Danny Casolaro's death as part of Associate Attorney General Webster Hubbell's assignment from Attorney General Janet Reno to conduct a "full and fair review" of any comments Justice received about the edited and redacted version of the March 1993 INSLAW Investigative Report by Justice Special Counsel Nicholas J. Bua the Reno Justice Department released in July 1993.

Lynn Knowles told INSLAW that when she asked FBI Agent whether he had interviewed U.S. Army Special Forces Intelligence Major Joseph Cuellar about Casolaro, FBI Agent Erskine's answer was the government did not know how to find Cuellar. Knowles told INSLAW she then explained to FBI Agent Erskine that she found his answer surprising because Cuellar answers his office telephone as "Major Cuellar" when you call him at the Washington Liaison Office of the U.S. Southern Command.

On March 1, 1994, the same three Justice officials met with Bill and Nancy Hamilton and three of INSLAW's trial lawyers at the law office of Charles R. Work, one of the INSLAW lawyers, two of whom were former Assistant U.S. Attorneys. When Bill Hamilton told FBI Agent Erskine during the meeting that it was his understanding the FBI had taken an eyewitness description, from a small blond maid at the Sheraton Hotel in Martinsburg, of a man she saw exiting Casolaro's hotel room right before the hotel staff discovered Casolaro's body in the room, FBI Agent Erskine immediately interjected to say it was the local Martinsburg Police, not the FBI, that took the maid's statement, and that the maid's description {"A male in his 30s, with an excellent sun tan, wearing a fashionable tee-shirt, dark slacks, and deck shoes."} would fit any number of people.

Hamilton pointed out to FBI Agent Erskine that the existence of the account by the hotel maid eyewitness was inconsistent with the government's claim Casolaro took his own life.

A retired FBI agent, who was then assisting INSLAW's investigation of Justice's theft of PROMIS, told INSLAW the hotel maid had demonstrated very good power of observation in her description of the clothes the man was wearing. Hamilton quoted the retired FBI agent to FBI Agent Erskine to the effect that the standard practice, when he was an FBI agent, would have been to assemble a photographic lineup, including photographs of any possible suspects, and show the photographic lineup to the hotel maid. FBI Agent Erskine's only response was to ask for the name of the retired FBI agent.

In an exchange of letters immediately following the meeting, between INSLAW Counsel Charles R. Work and Assistant Associate Attorney General John Dwyer, dated March 14, 17, and 24, 1994, INSLAW Counsel Work memorialized the importance of FBI Agent Erskine's confirmation of the existence of the eyewitness account by the hotel maid. Dwyer, however, denied that FBI Agent Erskine had "confirmed any such details."

(D) After U.S. Senate, in 1995, ordered U.S. Court of Federal Claims to determine whether the United States owes INSLAW compensation, the Clinton Justice Department and FBI each obstructed the proceedings.

In its September 1992 Investigative Report entitled *The INSLAW Affair,* the House Judiciary Committee listed as its number one recommendation that Attorney General William Barr "immediately" compensate INSLAW for the harm the Department had "egregiously" inflicted on the Company and explicitly raised the possibility that the Congress when seek to pass a Congressional Reference resolution if the Attorney General failed to do so.

A Congressional Reference resolution is a seldom-used device whereby either house of Congress can order the U.S. Court of Federal Claims to hold a hearing to determine whether the United States owes someone compensation, either as a matter of law or of equity. Congress uses Congressional Reference resolutions when it concludes, as the House Judiciary Committee did in September 1994, that the Executive Branch is unable or unwilling to do what is right. A Congressional Reference resolution automatically waives technical defenses that may be available to the United States such as statutes of limitation and sovereign immunity.

Throughout 1993 and the first half of 1994, Chairman Jack Brooks of the House Judiciary Committee repeatedly advised INSLAW to give Attorney General Janet Reno time to do the right things by paying compensation to INSLAW. There were, however, conflicting signals from the Clinton Administration.

In June 1993, for example, during a meeting between Attorney General Reno and INSLAW, Attorney General Reno raised her voice when INSLAW Counsel informed her that what INSLAW was seeking was the same as the three recommendations in the September 1992 House Judiciary Committee's Investigative Report, The INSLAW Affair. (Pay INSLAW for the damages already awarded by two different federal courts, recuse the Department of Justice from any further role in the investigation of the INSLAW case, and recuse any Justice employees previously involved in the INSLAW affair from any future role except as fact witnesses). When Richardson endorsed the Committee's recommendation that the Attorney General recuse the Department of Justice and petition the U.S. Court of Appeals for appointment of an Independent Counsel, Reno replied in a raised voice as follows: "I refuse. Do you, Sir, think that I have a

personal conflict of interest? I wasn't even here when all of this took place." Richardson replied: "No, Attorney General Reno, I don't think you have a personal conflict of interest but I believe the Department has an institutional conflict of interest."

Deputy Counsel to President Asks INSLAW to Meet at Justice Department, Disclosing President Clinton's Belief Compensation for INSLAW is Long Overdue. Five months after Attorney General Reno made it emphatically clear to INSLAW, during her June 1993 meeting with the Company, that she was unwilling to have the Justice Department cede control of the INSLAW case to a court-appointed Independent Counsel, the Deputy Counsel to President Clinton delivered a message from President Clinton embracing the need for an early and generous settlement of INSLAW's claims. Bruce Lindsey, Deputy Counsel to President Clinton from the President's hometown of Little Rock, Arkansas, telephoned Ronald Platt, one of INSLAW's lawyers, in November 1993, and asked him to meet later in the morning at the Justice Department for a meeting on INSLAW with Associate Attorney General Webster Hubbell, whom Reno had placed in charge of reviewing the INSLAW case the week after her June 1993 meeting with INSLAW. Lindsey began the meeting with Hubbell and INSLAW Counsel Platt by stating that President Clinton believed INSLAW had waited far too long for the compensation it was so clearly owed, that President Clinton hoped the Justice Department would be generous in its settlement with INSLAW, and that President Clinton wished to know when Hubbell expected to complete his review of the INSLAW affair.

Although INSLAW had not requested the meeting, and knew nothing more about it than the facts summarized in the preceding paragraph, Hubbell prefaced his response with a warning that it would be very bad for INSLAW if word ever leaked out about the meeting. Hubbell then stated he expected to complete his review by the end of 1993.

Hubbell did not complete his review until April 1994, the month he left the Department of Justice on his way to pleading guilty to felony fraud in his prior private Rose Law Firm legal practice in Little Rock before joining the Clinton Administration.

Reno did not release Hubbell's April 1994 report until September 27, 1994, when Attorney General Reno had a letter hand-delivered to every member of the House Judiciary Committee urging a vote against the Committee's Congressional Reference resolution for INSLAW, Inc. and William and Nancy Hamilton at the vote the Committee had scheduled for later the same day. Without acknowledging that the new Justice Department report she was releasing that day had been prepared five months earlier under the auspices of former Associate Attorney General Hubbell, Reno cited the Department's newly released report as proof the government had done nothing wrong in the INSLAW affair, and that INSLAW, as a consequence, did not deserve another day in court.

The House Judiciary Committee had recently spent three years investigating the INSLAW affair. The Committee's September 1992 Investigative Report left no doubt about Justice's malfeasance against INSLAW. It should not have been a surprise, therefore, that every Democrat on the Committee voted *for* the Congressional Reference resolution, despite the lobbying against it by Democratic Attorney General Reno. Every Republican, in contrast, voted against the INSLAW resolution. With Democrats in charge of the Committee, it easily approved the INSLAW resolution, but the full House was unable to vote on the INSLAW resolution, as required, because opponents prevented the "unanimous consent" required to schedule a vote in the full House at the end of a Congressional session, i.e., at the end of the 1994 session.

Vice President Gore Tells INSLAW in fall of 1994 INSLAW's Case Seemed Very "Strong" when Government Briefed Him. Not long after Attorney General Reno's issuance on September 27, 1994 of Justice's report claiming INSLAW's claims had no merit, Nancy and Bill Hamilton had a chance meeting with Vice President Gore, during which the Vice President revealed the government had, at some point, briefed him on the INSLAW case, and that INSLAW's case appeared to him to be very strong. Nancy Hamilton had introduced her husband and herself to the Vice President at a school football game in Washington, D.C. in which the Vice President's son and the Hamiltons' son were playing on opposing elementary school teams. When Nancy Hamilton told the Vice President she and her husband were the owners of INSLAW, Vice President Gore immediately replied that he knew all about the INSLAW case. Vice President Gore further stated to Nancy and Bill Hamilton that INSLAW's case seemed very strong when he was briefed on it. Nancy Hamilton then explained to the Vice President that Attorney General Janet Reno had just "dry-gulched" INSLAW by releasing a report claiming, in contradiction to earlier decisions by two federal courts and to the investigative findings of two Congressional committees that INSLAW's claims were without merit.

In May 1995, Chairman Orrin Hatch of the Senate Judiciary Committee gained passage of the INSLAW Congressional Reference resolution in both the Senate Judiciary Committee and in the full Senate. As noted earlier, Acting U.S. Attorney General Stuart Gerson had previously admitted to Hatch that the government owes INSLAW compensation, during a meeting in connection with Attorney General-Designate Reno's March 1993 confirmation hearing..

(1) Clinton Justice Department obstructs U.S. Court of Federal Claims.

Following the U.S. Senate's passage in May 1995 of its Congressional Reference resolution, INSLAW, in August 1995, filed a lawsuit against the United States in the U.S. Court of Federal Claims. INSLAW's claims included the claim the government had infringed INSLAW's PROMIS copyright rights by making unauthorized modifications to the software to create PROMIS-derivative software products. The Court of Claims is the federal court with exclusive jurisdiction over copyright infringement claims against the federal government. Soon after filing its complaint, INSLAW filed amended its complaint by filing Certificates of Registration from the U.S. Copyright Office attesting to INSLAW's ownership of copyright rights to each of the various computing platform versions of PROMIS. Unless rebutted, Certificates of Registration are considered *prima facie* evidence of copyright ownership. The government never attempted to rebut these Certificates of Registration attesting to INSLAW's ownership of the PROMIS copyright rights.

Nevertheless, the Clinton Justice Department, soon thereafter in the fall of 1995, asked the Court of Federal Claims' Hearing Officer, Judge Christine Miller, to issue a pre-trial ruling that PROMIS is in the public domain and that the government, as a consequence, had always been free to do whatever it wished with PROMIS. Over INSLAW's objections, Judge Miller promptly issued the erroneous pre-trial ruling the Clinton Justice Department had requested, ignoring, in the process, the U.S. Copyright Office's Certificates of Registration INSLAW had filed in her court.

Interlocutory appeals are not permitted in cases, such as the INSLAW case, that reach the Court of Federal Claims through a Congressional Reference resolution. INSLAW was, therefore, unable to appeal Judge Miller's erroneous pre-trial ruling until after Judge Miller issued her Final Decision on July 31, 1997. In the meantime, in her July 31, 1997 Final Decision, Judge Miller reconfirmed her erroneous pre-trial ruling that PROMIS was in the public domain. She did so after quoting at length in her Final Decision from the transcript of the March 1997 trial, in which

INSLAW President Bill Hamilton, under cross-examination by the Justice Department, explicitly and repeatedly refused to accept the "public domain" predicate of questions Justice's lead counsel asked him about PROMIS. Instead, Hamilton correctly summarized the legal advice he had received from INSLAW's copyright lawyer regarding amendments to the U.S. Copyright Law that Congress passed in January 1976 and that had become effective in January 1978: (1) as the author of every version of PROMIS, INSLAW was automatically vested with certain exclusive PROMIS copyright rights at the time of the Company's creation of each version of PROMIS; and (2) none of INSLAW's exclusive PROMIS copyright rights could be deemed to have been waived unless INSLAW waived it explicitly and in writing, which the Company never did. While quoting Hamilton's court testimony in her Final Decision, Judge Miller noted that INSLAW's lawyers had not commented on the subject, seemingly implying that she, as a judge on the U.S. Court of Federal Claims which has exclusive jurisdiction over copyright infringement claims against the federal government, had no independent responsibility to know that aspect of U.S. Copyright Law.

Although the Court of Federal Claims' three-judge Review Panel, which is the appellate authority for cases that reach the court through a Congressional Reference resolution, ruled found Judge Miller had erred in her pre-trial and trial rulings stating that PROMIS was in the public domain ("Thus the license did not grant the government the right to prepare derivative works beyond translation of the PROMIS software."), the Review Panel decided Judge Miller's error was "of no consequence" ("This holding is of no consequence, however, because plaintiffs [INSLAW] have not proven any unauthorized derivative works by the government of proprietary software. There is no indication that the government prepared any other software based on PROMIS."). In its May 1998 ruling, however, the Review Panel declined to grant INSLAW's request to re-open discovery on the basis of the *correct* legal standard of software copyright infringement.

Contrary to the Review Panel's finding that Judge Miller's error had been of " no consequence," INSLAW should have been able, as the owner of PROMIS copyright rights, to force the government affirmatively to reveal under oath every modification it made or authorized others to make to PROMIS.

When Justice asked Judge Miller in the fall of 1995 for her erroneous pre-trial ruling that PROMIS was in the public domain, Justice knew, or should have known, that INSLAW owns the PROMIS copyright rights. On August 11, 1982, following a five month, Department-wide review INSLAW had requested, and Justice had conducted under the auspices of Reagan Administration Deputy Attorney General Edward Schmults, Associate Deputy Attorney General Stanley Morris sent INSLAW a letter confirming Justice understood INSLAW's claim of PROMIS proprietary rights.

INSLAW sought the letter from the Office of the Deputy Attorney General in early April 1982 because the Company was about to begin marketing licenses to new versions of PROMIS containing privately financed enhancements the Company was not required to deliver to the government under any federal contract. The background for INSLAW's request for the letter was as follows: Congress had decided in 1980 to begin liquidation of the Justice agency that had financed most of INSLAW's PROMIS development work throughout the 1970s, i.e., the Law Enforcement Assistance Administration (LEAA). LEAA's impending liquidation meant INSLAW had to find a way to make PROMIS' upkeep and upgrade work self-supporting, and the way the Company chose to do so was through the standard commercial software company practice of charging licensing fees for new versions of the software.

C. Madison Brewer, whom Justice hired as the government's PROMIS Project Manager in early 1982 to oversee INSLAW's three-year, $10 million contract to implement PROMIS in U.S. Attorneys Offices, had been dismissed for cause several years earlier as an INSLAW employee by the Company's President Bill Hamilton. Throughout the five-month review process in 1982, Brewer raised repeated objections to providing INSLAW the requested letter. INSLAW Counsel Roderick Hills sought to constrain Brewer's ability to continue to hold the commercial futures of PROMIS and INSLAW hostage, by having his law firm prepare, and share with Justice's top copyright attorney, Vito DiPietro of the Civil Division, an INSLAW legal opinion explaining that the Company, as the author of every version of PROMIS, was automatically vested under U.S. Copyright Law with exclusive PROMIS copyright rights. It was DiPietro's concurrence with the INSLAW legal opinion that cleared the way for the August 11, 1982 Justice letter to INSLAW.

A second reason the Clinton Justice Department's Civil Division litigation team knew or should have known that INSLAW owns the PROMIS copyright rights, when they asked Judge Christine Miller of the U.S. Court of Federal Claims in the fall of 1995 to issue an erroneous pre-trial ruling, is that the Civil Division's Vito DiPietro had issued an internal Justice Department legal opinion to Justice's internal procurement counsel, on June 1, 1983, stating that INSLAW owns the PROMIS copyright rights and the government's rights are limited to whatever licenses the government negotiated in the Data Rights Clauses of its PROMIS contracts with INSLAW. INSLAW obtained a copy of that internal DiPietro legal opinion in litigation discovery in the bankruptcy court in 1987 after winning a Motion to Compel Production against the Civil Division's INSLAW litigation team, after that team had withheld production of the internal DiPietro legal opinion on INSLAW's ownership of PROMIS copyright rights, on the basis of what the court determined a spurious claim of legal privilege.

(2) FBI obstructed U.S. Court of Federal Claims Proceeding by tampering with subpoenaed software evidence.

Having eviscerated INSLAW's ability to conduct discovery through her erroneous pre-trial ruling that PROMIS was in the public domain and the government, therefore, had always been free to do whatever it wished with PROMIS, Court of Federal Claims Judge Christine Miller offered INSLAW some severely limited discovery: if INSLAW supplied sworn testimony, from a person or persons claiming first-hand knowledge, that a federal agency was operating the PROMIS software, and if INSLAW would commit that it had no right to conduct depositions or document requests in the matter, Judge Miller would order the named federal agencies to produce copies of their alleged PROMIS-derivative software to the U.S. Court of Federal Claims, from as close as possible to the first year of the software's operation within the agency. for line-by-line comparison with PROMIS by a court-appointed panel of outside software experts.

Most of INSLAW's witnesses were unwilling to provide such an affidavit based on a professed fear of reprisal from U.S. intelligence and law enforcement agencies. An exception was Charles Hayes, who claimed a long-time prior association with the CIA as a contract operative. Hayes furnished an affidavit to INSLAW in which he claimed to have first-hand knowledge about the use of PROMIS within each of the following five federal investigative and intelligence agencies: the FBI, the DEA, U.S. Customs, the NSA, and the DIA. (The FBI subsequently arrested Hayes and the Justice Department convicted Hayes and sentenced him to federal prison for attempting to hire an uncover FBI agent, disguised as a hit-man, to murder one of Hayes' sons). In January 1996, on the basis of Hayes' sworn claims, Judge Miller ordered each of the aforementioned agencies to produce copies of their alleged PROMIS-derivative case management software for

line-by-line comparison with PROMIS by the court-appointed outside software experts, and to produce copies of the case management software from as close as possible to the year of its original use within each agency.

The agencies did not, however, produce copies of their alleged PROMIS-derivative software source codes until the second half of 1996, which represented a delay of more than half a year. When INSLAW earlier complained to Judge Miller about the delay in the government's compliance with her January 1996 order, the government blamed the unusual delay on the time required for the FBI to process security clearances for the court-appointed outside software experts.

The FBI belatedly claimed in court it had never retained copies of its case management software source codes during the first 11 years of the system's use. When the FBI finally produced a copy of its allegedly PROMIS-derivative "FOIMS" software in the second half of 1996, it claimed, for the first time since the court issued its January 1996 order to produce a copy of the FOIMS software source code from as close as possible to the first year of its operation within the FBI, i.e., 1985, that the FBI had never retained copies of its FOIMS software source codes for the first 11 years of its use within the FBI. i.e., from 1985 through 1995. INSLAW viewed as implausible the FBI's late claim that it had never retained copies of its mission-critical, Bureau-wide case management software source codes and, as a consequence, INSLAW's lawyers wrote to the Court's Panel of Outside Software Experts to suggest they use their newly acquired government security clearances to determine whether the intelligence community's disaster recovery computer center at Mt. Weather, Virginia had back-up copies of the missing FOIMS software source codes. INSLAW explained in its letter that the Federal Emergency Management Agency (FEMA) was then alleged to be operating a highly classified disaster recovery computer center for U.S. intelligence agencies at its Mt. Weather, Virginia facility under the Continuity of Government (COG) Program, and maintaining there back-up copies of the case management software source codes, together with copies of the associated databases, from the FBI's FOIMS system, as well as from the main software systems at the CIA, NSA, and DIA.

When the Justice Department filed an objection in court to INSLAW's communication with the Panel of Outside Software Experts, contending it was an impermissible *ex-parte* communication, Judge Miller characterized INSLAW's suggestion as "ridiculous," and further stated that she expected the outside software experts to ignore the suggestion, which, of course, they did.

INSLAW discovered years later that the FBI had used the half-year delay in the production of its software to disguise the PROMIS origins of the FBI's FOIMS case management software, by having an FBI contractor, Software AG of Reston, Virginia convert FOIMS into a different computer programming language so the line-by-line comparison with PROMIS by the court-appointed software experts would be unable to produce any probative evidence.

INSLAW obtained its initial lead about the real reason for the delay in May 1996 from a German investigative reporter. Egmont Koch, a reporter researching an article for *Der Spiegel Magazine* on the use of misappropriated copies of INSLAW's PROMIS in U.S. and foreign intelligence agencies, obtained, and shared with INSLAW in May 1996, a lead that Software AG in Reston, Virginia had just converted PROMIS for an unidentified U.S. intelligence community customer from the COBOL computer programming language, the language in which INSLAW had written PROMIS, into NATURAL, Software AG's own computer programming language. In response to the German reporter's query to the parent company in Germany about the lead involving its U.S. subsidiary, Koch received a copy of a May 21, 1996 reply email Kathleen Shuman of its Reston,

Virginia subsidiary had sent when the German parent company asked her about the German reporter's lead:

" Press Q [Query] on "Promis"
'Fritz:
"In answer to your questions, I would say:

1. Yes, our Federal professional Services group is in the process of conversting [sic] Promis from Cobol to ADABAS/Natural and has just started doing the final testing. So the software is not in use anywhere right now; it's just now getting up and running in the test phase.
2. No. He should not talk to our customer; our customer knows nothing about what this journalist is talking about so why involve them.
3. He should call the Secret Service (Treasury Department) press office if he wants to check out his story at (202) 435-5708.

"Kathy"

Egmont Koch gave a copy of the email to INSLAW, telling INSLAW that Software AG in Reston, Virginia had declined to answer his question about the identity of its federal government customer.

INSLAW's litigation counsel then sent a Certified Letter to the President of Software AG in Reston asking for the same information, and offering to hold Software AG harmless in the matter, but INSLAW's litigation counsel never received a reply.

INSLAW was unable to subpoena the President of Software AG in Reston to force him to answer INSLAW's questions under oath because of Judge Miller's erroneous ruling that PROMIS was in the public domain. That experience clearly demonstrates the Court of Federal Claims Review Panel's own mistake in characterizing the error it found in Judge Miller's pre-trial opinion as being of "no consequence."

It took another decade before INSLAW ultimately discovered that the FBI was the federal agency that hired Software AG to tamper with software evidence with the evident objective of obstructing the 1996 line-by-line comparison with PROMIS. In 2006, a retired Senior Counsel from Software AG in Reston confirmed to INSLAW's intellectual property lawyer that the Reston subsidiary had converted FOIMS from COBOL to NATURAL under an unclassified contract with the FBI, and further stated that INSLAW should be able to obtain a copy of the contract from the FBI under the Freedom of Information Act (FOIA). In response to INSLAW's 2006 FOIA, however, the FBI informed INSLAW, by telephone, that it had so many contracts with Software AG in Reston, Virginia that INSLAW would first need to furnish the internal FBI contract number before the FBI could retrieve the contract INSLAW was seeking.

The May 1996 conversion of the FBI's FOIMS from COBOL to NATURAL automatically reduced the number of lines of software source code by approximately 90%, destroying the probative value of the court-ordered line-by-line comparison with PROMIS. When the FBI finally produced to the court, in the second half of 1996, a copy of its "FOIMS" software source code, the FBI informed the court, for the first time since the court issued its January 1996 order, that it had *never* retained copies of its FOIMS software source code during the first 11 years of FOIMS' operation at the FBI (1985 through 1995). The FBI produced to the court in the second half of 1996 what it claimed was the only extant version of its "FOIMS" software source code, i.e., the 1996 version which was written in Software AG's NATURAL computer programming language.

After conducting the court-ordered line-by-line comparison, the court-appointed outside software experts informed the court that they had found similarities in structures and functions between the 1985 generation of PROMIS and the 1996 NATURAL-language generation of FOIMS, but had not been able to find any concordances between the two software source codes.

From time to time, Judge Miller would make comments from the bench late in the day. On one occasion early in the case, Judge Miller, for example, revealed she had asked the Clerk's Office to assign the INSLAW case to her rather than randomly assigning the INSLAW to a Court of Federal Claims Judge, which she described as the normal practice. Judge Miller further explained that Dr. Norman Bailey, whom she described as a personal friend who had served in the Reagan White House, had told her about the INSLAW case, and she thought it sounded interesting and decided to ask that it be assigned to her for trial. As noted earlier, Dr. Bailey was the Reagan National Security Council (NSC) staff official responsible for NSA's "Follow-the-Money" SIGINT mission, begun in 1981, of real-time, PROMIS-based electronic surveillance of bank transactions.

On another occasion, Judge Miller, in the spring of 1996, revealed to the litigants that her 15-year-term on the court was set to expire in 1997. That was also the year during which Judge Miller had scheduled the trial of the INSLAW case. Judge Miller further explained that she had not yet decided whether to seek a new 15-year term, and, because she had been appointed by President Reagan, she was not certain she would even be able to obtain a new 15-year term if the "current administration", i.e., the Clinton Administration, were re-elected later the same year, i.e., in November 1996.

Unable to conduct meaningful discovery in the Court of Federal Claims in 1996 because of Judge Miller's erroneous pre-trial ruling, INSLAW sought access to certain unpublished INSLAW-related sworn testimony. As noted earlier, the Clinton Justice Department had redacted the federal grand jury testimony of six witnesses from the version of the Justice Department Special Counsel Nicholas J. Bua's March 1993 Investigative Report on the INSLAW Affair that Attorney General Janet Reno released to the public in July 1993. All six witnesses whose grand jury testimony the Clinton Justice Department had deleted were witnesses INSLAW had earlier urged Bua to bring before his federal grand jury in Chicago on the grounds that each of them knew about unauthorized uses of PROMIS in intelligence projects.

Chief Judge Marvin E. Aspen of the U.S. District Court in Chicago agreed in late 1996, based on a hearing on a motion from INSLAW, and over the objections of the Justice Department, to release to Judge Christine Miller of the U.S. Court of Federal Claims, for *in camera* review, the grand jury testimony of these six witnesses the Clinton Justice Department had redacted from the edited version of the Bua Report it released in July 1993. The Chief Judge offered to make the evidence available so that Judge Miller could make a determination about whether INSLAW had "a particularized need" for access to the redacted testimony for the purpose of fair consideration of its claims by the Court of Federal Claims. By an order dated February 20, 1997, however, Judge Miller declined to make a determination about whether there was "a particularized need" or to avail her court of the offer made by the chief judge of the federal district court in Chicago.

During the March 1997 trial, Judge Miller frequently provided comments and analysis about the INSLAW case from the bench at the end of a hearing. On one occasion, for example, she instructed Justice's litigation team to give their superiors the following message: Judge Miller

does not believe the government should be spending any more money defending against INSLAW's claims.

On another occasion, after INSLAW had called, as hostile witnesses, two key Justice officials, PROMIS Contracting Officer Peter Videnieks and Government PROMIS Project Manager C. Madison Brewer, and interrogated them under oath as part of INSLAW's presentation of its own case, Judge Miller stated at the end of the hearing that the government should consider refraining from calling either of those key Justice officials those as witnesses when the government put on its own defense case, because as Judge Miller explained, their testimony only made INSLAW's case stronger.

Acting on her own initiative, Judge Miller also summoned Justice's Assistant Attorney General for the Civil Division, Frank Hunger, to her chambers for a meeting with INSLAW's lead litigation counsel about a possible settlement of the INSLAW case. Mr. Hunger made it clear at the meeting that he did not have authority to seek a settlement.

On July 31, 1997, Judge Christine Miller issued her Final Decision. In addition to reconfirming, as noted earlier, her erroneous pre-trial ruling that PROMIS was in the public domain and the government was, as a consequence, always free to do whatever it pleased with PROMIS, Judge Miller contradicted the fully litigated findings in the late 1980s of each of the first two federal courts, plus the investigative findings of the House Judiciary Committee from its three-year investigation of the INSLAW affair that independently confirmed, in September 1992, the earlier judicial findings, and that supplemented the earlier judicial findings with investigative leads suggesting the existence of a more widely-ramified criminal conspiracy in conjunction with the U.S. intelligence community. Judge Miller ruled, *inter alia*, there was no bad faith in Justice's administration of INSLAW's three-year PROMIS Implementation Contract, and that INSLAW had failed to prove a basis in law or equity for the U.S. Government to pay additional compensation.

On December 10, 1997, President Clinton used his recess appointment authority to appoint Judge Christine Miller a new 15-year term on the U.S. Court of Federal Claims. Judge Miller retried from the Court of Federal Claims in 2013.

(E) Attorney General John Ashcroft's failure to recuse the Justice Department, in view of institutional conflicts of interest, from prosecution of former FBI Agent Robert Hanssen for computer-based espionage for the Soviet Union and Russia.

In February 2001, the FBI arrested Robert Hanssen, a long-time FBI counter-intelligence agent, for spying for the Soviet Union and Russia off and on since 1979. Hanssen had an unusual level of, interest in, and skill with computer software for an FBI agent of his generation. The FBI claimed Hanssen made considerable use in his espionage of the FBI's computerized case management system, which was known as FOIMS during the interval between 1985 and 1996 and re-christened as ACS in 1996.

A March 2002 *Review of FBI Security Programs* prepared in the wake of Hanssen's espionage and under the direction of Judge William Webster, former Director of both the FBI and the CIA, called Hanssen's espionage "the worst intelligence disaster in U.S. history." The federal district court in Alexandria, Virginia sentenced Hanssen in May 2002 to 15 consecutive life sentences. The Justice Department's sentencing memorandum described his crimes as "surpassing evil and almost beyond comprehension."

The FBI claimed the most productive phase of Hanssen's computer-based espionage career began in 1985. The FBI's first Bureau-wide case management software system, the PROMIS-derivative FOIMS, became operational in 1985 and the FBI Intelligence Division, where Hanssen was then employed as an FBI counter-intelligence agent, had the lead role in the project to adapt a misappropriated copy of PROMIS as the FBI's internal case management system.

The FBI offered Hanssen a plea bargain in May 2001, but deferred sentencing until May 2002 to make certain Hanssen fully cooperated with his government de-briefers.

Hanssen not only accessed FOIMS to obtain U.S. intelligence secrets for his espionage but also reportedly gave the Soviet Union copies of the software source codes for FOIMS and two other versions of PROMIS used by U.S. intelligence agencies.

On June 14, 2001, three months before the September 2001 terrorist attacks by Osama bin Laden, the *Washington Times* published a front-page story by Jerry Seper entitled "Software likely in hands of terrorist," based on a leak from "federal law enforcement officials." According to the article, Hanssen "gave secret U.S. software to his Russian handlers that later went to terrorist Osama bin Laden, allowing him to monitor U.S. efforts to track him down;" "the sophisticated software gives bin Laden access to databases on specific targets of his choosing and the ability to monitor electronic banking transactions, easing money-laundering operations for himself or others, according to the sources." "The sources, who spoke on the condition of anonymity, believe Mr. Hanssen, a former FBI agent now awaiting trials on federal espionage charges, delivered upgraded versions of the software to his Russian handlers, who then sold it for $2 million to bin Laden, now being sought in the bombing of two U.S. embassies in Africa."

The government charged in its complaint that Hanssen made extensive use of the Bureau's computerized case management systems --Field Office Information Management Systems (FOIMS) and Community On-Line Intelligence Systems (COINS) -- as part of Hanssen's espionage activities for his Russian handlers. The government also said Hanssen gave his handlers a technical manual on the U.S. intelligence community's secure network for online access to intelligence databases. The sources said FOIMS and COINS are believed to be upgraded versions of the PROMIS software program."

On October 16, 2001, a little over a month after the terrorist attacks, Fox News' "*Special Report with Brit Hume*" reported "government officials suspect Osama bin Laden may have highly sophisticated U.S. Government software, that has been used by several governments, including the United States, for classified intelligence and law enforcement information;" " … the concern is that bin Laden or al Qaeda could get on-line and use it to monitor the worldwide criminal investigation and hide themselves, to monitor the worldwide financial investigation and hide their money, or monitor government operations of the governments that use the software."

In addition to corroborating facts reported in the June 2001 *Washington Times* article, Fox News also revealed that Hanssen, in his capacity as "a senior agent in the FBI's counterterrorism bureau, " had been "tasked with helping allies like Germany and England with the installation and use of their versions of the PROMIS program." Moreover, Fox News also reported on ramifications from Hanssen's arrest in allied governments that had themselves been using unauthorized copies of PROMIS: "Germany stopped using PROMIS software just last week. Great Britain began closing it down just a few months ago. Canada has actually investigated tampering with its PROMIS programs, and Israel has used it on and off for years, too."

The FBI's and the Justice Department's thefts of the PROMIS software that Hanssen used in his espionage for the Soviet Union and Russia, had provided examples of the government as lawbreaker. Nevertheless, the Ashcroft Justice Department never sought to prosecute any of the federal government officials and U.S. intelligence contractors for their roles in trafficking in illicit copies of PROMIS.

(F) Bush Administration stonewalled INSLAW Counsel C. Boyden Gray's offer of immediate upgrades to new generation of PROMIS, despite the September 2001 terrorist attacks' exposure of the urgent need for software upgrades.

Several days after the September 2001 terrorist attacks, INSLAW retained C. Boyden Gray as its legal counsel to seek a two-part settlement of INSLAW's copyright infringement claims against the United States: (1) INSLAW forgives the government's misappropriation of the 1980s generation of PROMIS; and (2) the government simultaneously purchases for the FBI and U.S. intelligence agencies the entirely new, but already fully debugged and tested, "point-and-click" Graphical User Interface generation of PROMIS, and immediately converts its historical PROMIS data to the new generation of PROMIS. The new 21st Century generation of PROMIS took advantage of new computing capabilities, which first became available in the industry in the mid-1990s, to achieve dramatic improvements in ease of use.

Gray had been Counsel to Vice President Bush during the two terms of the Reagan Administration, and then White House Counsel under President George H.W. Bush.

In a December 2001 meeting, Gray proposed to FBI Director Robert Mueller that the FBI upgrade from its unauthorized derivative ACS derivative of the 1980s generation of PROMIS, to the new 21st Century generation of PROMIS, as other large public and private INSLAW customers had already successfully done. Mueller's reply to Gray at their meeting was: the FBI did not have any unmet software needs.

The FBI thereafter spent in excess of $600 million and eleven years before finally obtaining replacement case management software in 2012. The FBI terminated its initial June 2001 case management software contract, which it had awarded to SAIC, and used its own employees to complete the work of the second FBI contractor, Lockheed Martin. In addition to enormous delays and cost overruns, the FBI was unable to convert the historical FBI case data from to the replacement case management system and, as a consequence, the FBI is continuing to operate both the obsolete 1980s generation PROMIS-derivative ACS system and the replacement case management system.

When Gray reminded FBI Director Mueller at their meeting that the FBI had never paid INSLAW for its unauthorized copy of 1980s generation PROMIS, Mueller asserted he was "confident" there was no longer any of the INSLAW software left at the FBI because of the software changes made over the years.

Mueller advised Gray that he would need to direct any proposal on INSLAW's behalf to Ashcroft's Deputy Attorney General, Larry Thompson, because Thompson was directly overseeing the project to modernize of the FBI's computer system.

After speaking with Deputy Attorney General Thompson by telephone, Gray had a letter hand-delivered to the Deputy Attorney General on January 8, 2002 explaining, as Thompson had requested, the purpose of the proposed meeting. Gray's letter stated the purpose was to show how the government could "use the latest generation of the INSLAW software to satisfy the

urgent new post-September 11 database requirements." Gray's letter further stated: "the latest generation of the INSLAW software is much easier to use because of its graphical techniques and much easier to interface with other systems because of its Application Programming Interface (API)," and "I, therefore, look forward to meeting with you to discuss the possibility of the government's licensing the latest generation of the INSLAW database software for these vital national security-related applications."

Gray also disclosed in his letter that the FBI's Public Affairs Office had been the source for the following official government statement quoted by Fox News in its October 16, 2001 "Special Report with Brit Hume:" "federal law enforcement and intelligence agencies used INSLAW's PROMIS software to track their classified intelligence information and to track the financial transactions of terrorists and others through the banking system."

Gray ended his letter by stating that he was also enclosing copies of recent newspaper articles from the *Washington Times* and Canada's *Sun Newspapers* on "U.S. law enforcement and intelligence uses of INSLAW's PROMIS," plus "two sworn statements from Gordon Thomas, a British author and journalist, on admissions a former senior Israeli intelligence official made to him about a partnership between Israeli intelligence and the U.S. Department of Justice relating to past uses of INSLAW's PROMIS software."

Thompson never replied to Gray's letter, never returned Gray's follow-up telephone calls, and never granted Gray's request for a meeting.

When the FBI awarded its contract to SAIC in June 2001 to modernize the FBI's ACS case management system, the objective was to make ACS dramatically easier to use by retrofitting to ACS a non-native, "point-and-click" Graphical User Interface.

Investigations of the FBI intelligence failure on September 11, 2001 demonstrated the urgency of the need for improvements in the ease-of-use or user-friendliness of the 1980s generation FBI case management software, but the FBI, stonewalling INSLAW Counsel Boyden Gray's overture about a settlement and immediate software upgrade, did not satisfy its requirement until 2012.

In July 2001, the month after the FBI awarded its case management software modernization contract to SAIC, the FBI office in Phoenix, Arizona sent FBI headquarters a memorandum about the need for a nationwide FBI investigation of a suspicious pattern of Arab men taking flight-training lessons at schools in the United States. The FBI stored an electronic copy of the memorandum in its ACS case management system, as was standard practice.

In August 2001, the Minneapolis FBI office sent approximately 70 emails to FBI Headquarters urgently, but fruitlessly, asking FBI Headquarters to seek a warrant from the Foreign Intelligence Surveillance Court (FISA) to authorize the Minneapolis FBI office to inspect a laptop computer it seized from an Arab man named Zacarias Moussaoui when it arrested him that month at a local flight training school.

Neither the Minneapolis FBI office nor FBI Headquarters was aware of the Phoenix FBI office's highly relevant memorandum because neither had bothered to use the comparatively cumbersome search capabilities of the 1980s generation ACS system to conduct an online, cross-reference search for related information. FBI Director Mueller, reflecting the widespread misinformation within the FBI about the capabilities of its outdated ACS case management system, testified incorrectly before Congress, shortly after 9/11, that the FBI system

was incapable of retrieving the Phoenix memorandum. Mueller later corrected his testimony after the President of the FBI Agents Association publicly criticized his erroneous statement.

When the FBI obtained a search warrant, *after* the September 2001 terrorist attacks, it found on Zacarias Moussaoui's laptop computer a link to the individual in Hamburg, Germany who provided the funds for the September 2001 hijackers.

Although, as noted earlier, Deputy Attorney General Larry Thompson never granted INSLAW's request for a meeting, Gray and INSLAW did have meetings in the fall of 2001 with two other senior officials of the Bush Administration, Richard Haver, Special Assistant for Intelligence to Defense Secretary Rumsfeld, and Frank Ciuffulo, Special Assistant to the President for Homeland Security. Neither, however, exhibited any interest in trying to resolve the INSLAW affair problem so the government could avail itself of the latest generation of PROMIS.

During the Reagan Administration as Assistant Director of the Office of Naval Intelligence, Haver had participated in the debriefing of confessed Israeli spy, Jonathan Pollard. Haver never acknowledged, however, when INSLAW brought up the subject during their George W. Bush Administration meeting, knowing anything about the partnership of Pollard's Israeli spymaster, Rafi Eitan, with the U.S. Government in the theft and covert sales of PROMIS.

Ciuffulo, for his part, apologized at the start of his meeting with Gray and INSLAW for not having had an opportunity to do any research on the subject of the meeting. He did volunteer, interestingly, that he knew the PROMIS software was associated with NSA.

The U.S. Government was still using stolen copies of PROMIS in U.S. law enforcement and intelligence agencies and in banks at least as late as 2001, as evidenced by leaks to the *Washington Times* in June 2001 and to Fox News in October 2001 from the debriefing that year of Jonathan Pollard. NSA thereafter reportedly wasted at least $1.2 billion on its own failed software modernization contract with SAIC, between 2002 and NSA's termination of the failed SAIC contract in 2006. INSLAW has been unable to determine whether Trailblazer was intended to replace any of the versions of PROMIS in use within NSA or deployed by NSA for its electronic surveillance of bank transfers.

IV. "So Seriously Wrong Money Alone Cannot Cure the Problem."

Following the early 1999 publication of Gordon Thomas' book on Israeli intelligence entitled Gideon's Spies: The Secret History of the Mossad, INSLAW obtained two sworn statements from Thomas on the circumstances and content of Rafi Eitan's admissions to him about PROMIS, and, in December 2000, prepared an almost 50-page written summary of evidence INSLAW had assembled that was corroborative of essential elements of Rafi Eitan's admissions.

(A) CIA Director George Tenet, March 2001.

In March 2001, a mutual friend of Bill and Nancy Hamilton, the principal owners and officers of INSLAW, and CIA Director George Tenet arranged for Tenet to read two sworn statements by the British author and journalist, Gordon Thomas, on the circumstances and content of PROMIS-related admissions Rafi Eitan made while Thomas was researching his book on the Israeli Mossad (*Gideon's Spies: The Secret History of the Mossad*), plus INSLAW's summary of evidence corroborative of significant elements of those admissions. INSLAW had lost its long-time legal counsel, Elliot Richardson, at the end of 1999 when Richardson passed away. Gordon

Thomas published his book with Rafi Eitan's highly provocative PROMIS-related admissions in early 1999.

After reading the materials, Tenet told the mutual friend in words or substance the following: *If accurate, what the government did to the Hamilton family was unconscionable and the INSLAW case needs to be settled. I have ordered the CIA General Counsel to report to me within a week on whether the CIA has legal liability. If it does, and if necessary, I am prepared to settle the CIA part, although I do not understand why Attorney General Ashcroft is not moving on behalf of the government as a whole to settle the case.*

The following week, Tenet informed the mutual friend the CIA General Counsel had advised him not to get involved.

(B) Retired Four-Star Admiral Daniel J. Murphy, Summer and Fall 2001.

INSLAW contacted Admiral Daniel J. Murphy in the summer of 2001 to seek his help in evaluating the written summary of evidence INSLAW had compiled in December 2000 and arranged for CIA Director George Tenet to read in March 2001.

Murphy had been Military Adviser to Elliot Richardson when Richardson was Secretary of Defense under President Nixon. Murphy was Deputy Director of the CIA under President Ford, Under-Secretary of Defense for Intelligence under President Carter, and Chief of Staff to Vice President Bush during the first term of the Reagan Administration when the misappropriations of PROMIS for intelligence projects began. In 1991, Murphy, at the request of INSLAW Counsel Elliot Richardson, read the affidavits the Company acquired and filed in court in April 1991 about unauthorized intelligence uses of PROMIS and gave INSLAW his assessment of the plausibility of the claims in them from the standpoint of U.S. intelligence. Murphy told INSLAW he was sorry to have to say there was nothing implausible about any of the claims, including the claim that the government modified PROMIS for intelligence applications in an Indian reservation in southern California. Murphy also told iNSLAW that Attorney General Thornburgh, who was then stonewalling INSLAW Counsel Richardson, would not have needed a call from the White House to know that his job was "to stonewall until the cows came home,' because Murphy thought it was probably an NSA operation.

After reading INSLAW's evidentiary summary in the summer of 2001, Murphy said it left no doubt about what happened and the INSLAW case needed to be settled, but INSLAW first had to find another outstanding lawyer like the late Elliot Richardson because "government officials would regard it as their patriotic duty to look INSLAW's lawyer in the eyes and lie."

Murphy introduced INSLAW to Judge William Webster in August 2001.

(C) Retired FBI and CIA Director William Webster.

Judge William Webster spent three hours in August 2001 with INSLAW President Bill Hamilton, Retired Admiral Daniel J. Murphy, and former Republican Congressman Jack Buechner from St. Louis, hometown for Judge Webster and the Hamiltons, at the request of Murphy, a long-time friend of Webster who asked Webster to read the same materials CIA Director Tenet had read in March 2001 and then to represent INSLAW in seeking a settlement of the Company's claims for compensation for the government's misappropriation of PROMIS licenses. In May 2001, Attorney General Ashcroft had appointed Judge Webster to chair a

commission to review FBI Security Procedures in the wake of the February 2001 arrest of FBI Agent Robert Hanssen for computer-based espionage for the Soviet Union and Russia.

Elliot Richardson had introduced Admiral Murphy to INSLAW in 1991 when Richardson asked Murphy for his opinion on the plausibility of claims about unauthorized uses of PROMIS in intelligence projects by several affiants who claimed to have knowledge of the matter. Murphy, a retired four-star admiral, had served as deputy director of the CIA in the Ford Administration, Undersecretary of Defense for Intelligence in the Carter Administration, and Chief of Staff and National security Adviser to Vice President Bush during the first term of the Reagan Administration when the misappropriation of PROMIS for intelligence projects began. Murphy had also served as Military Adviser to Richardson when Richardson was Secretary of Defense in the Nixon Administration. Murphy told Richardson and INSLAW in 1991 that there was, unfortunately, nothing implausible about any of the claims in the affidavits.

After reading in the summer of 2001 the same materials that Tenet had read in March 2001, Murphy told INSLAW that there was, in his opinion, no longer any doubt about what happened, that the INSLAW case needed to be settled, and that he was willing to serve as INSLAW's intelligence "guru" to obtain a settlement but that INSLAW first needed to find another "outstanding lawyer like Elliot Richardson" because "government officials will regard it as their patriotic duty to look INSLAW's lawyer in the eyes and lie."

Several days after INSLAW's meeting with Judge Webster, Judge Webster informed Murphy of his decision not to take on INSLAW as a client because he would have to do so on a contingency fee basis but he lacked confidence the government would agree to a settlement of the INSLAW case.

(D) Former White House Counsel C. Boyden Gray, September 2001.

In September 2001, about a week after the terrorist attacks, Murphy introduced Bill and Nancy Hamilton to C. Boyden Gray who had been White House Counsel under President George H.W. Bush, telling Gray that someone needs to become the John Adams of the INSLAW case and represent INSLAW simply because it was the right thing to do. Gary agreed during the meeting to represent INSLAW in seeking a settlement from the George W. Bush Administration. Gray had been White House Counsel under President George H.W. Bush and had also been counsel to Vice President Bush during both terms of the Reagan Administration, including the first term when Murphy was the Vice President's Chief of Staff and National Security Adviser.

In a private conversation with INSLAW at approximately the time of the meeting with Gray, Murphy brought up the serial reactions of CIA Director Tenet in March 2001 that INSLAW had later recounted to Murphy. He characterized Tenet's initial reaction as exhibiting the kind of decency he said he would have expected from a high government official confronted by the kind of "carefully and responsibly" summarized evidence contained in the document INSLAW prepared for CIA Director Tenet.

However, Murphy interpreted Tenet's subsequent reaction, following Tenet's briefing on the issue the following week from the CIA's General Counsel, as follows: "**It is my *hunch* that there is another use of PROMIS that INSLAW still has not discovered, *that it involves something so seriously wrong that money alone cannot cure the problem*, and that the government may never compensate INSLAW unless INSLAW first discovers that additional use of PROMIS."**

Murphy also told INSLAW he planned to accompany Gray to meetings with government officials, including Attorney General Ashcroft, explaining that he intended to say the following to Attorney General Ashcroft: "John, lets cut the crap. This case needs to be settled and here is how to settle it." Unfortunately, Murphy died unexpectedly later in the month of September 2001.

In addition to the aforementioned stonewalling by FBI Director Mueller in December 2001 and by Ashcroft's Deputy Attorney General, Larry Thompson, in January 2002, Gray and INSLAW also had polite but unproductive meetings with other officials of the George W. Bush Administration including a senior White House Homeland Security official and Defense Secretary Rumsfeld's top intelligence aide.

In the spring of 2003, a trusted source of Gray provided the following explanation to Gray for the government's stonewalling: "Paul Wolfowitz [Deputy Secretary of Defense], Scooter Libby [Chief of Staff and National Security Adviser to Vice President Cheney], and Richard Perle [Chairman of the Defense Research Council[are all opposed to a settlement with INSLAW out of **fear that it could embarrass [**then**] Israeli Prime Minister Ariel Sharon and complicate U.S. policy in the Middle East.** Each of them is intimately familiar with the INSLAW case as a result of the government's decision to give PROMIS to Israel." [Emphasis added].

As Defense Minister, Ariel Sharon, accompanying Prime Minister Menachem Begin to the Reagan White House in September 1981, asked President Reagan, during a half-hour-long presentation, for access to extremely sensitive intelligence information from the U.S. KH-11 spy satellite so Israel could target its nuclear-armed F-16 aircraft and Jericho missiles against strategic sites in southern Russia as a deterrent against continued Soviet meddling in the Middle East to the detriment of Israel, although not all of the Reagan Administration officials at Sharon's presentation understood that was the reason Sharon was seeking such coveted U.S. intelligence information. When Sharon later realized the Reagan Administration did not intend to grant his request, he ordered Rafi Eitan, later in 1981, to steal the intelligence information, an assignment Rafi Eitan carried out by recruiting Jonathan Pollard as an Israeli spy. The investigative reporter and author, Seymour Hersh, reported the information in this paragraph in his 1991 book on Israel's nuclear weapons program (*The Samson Option: Israel's Nuclear Arsenal and American Foreign Policy*). Ariel Sharon had become Defense Minister in August 1981 and appointed Rafi Eitan Director of the Defense Ministry's LAKAM Intelligence Agency that year. One of LAKAM's roles was reportedly to steal technology Israel needed for its nuclear weapons program.

Begin and Sharon came to the Reagan White House in September 1981 to lobby for "a far-reaching agenda for U.S.-Israeli strategic cooperation. Israel would become America's military partner – and military arm – in the Middle East and the Persian Gulf …," "against the threat to peace and security of the region caused by the Soviet Union …." according to Seymour Hersh's 1991 book on Israel's nuclear weapons program (*The Samson Option: Israel's Nuclear Arsenal and American Foreign Policy*).

Ariel Sharon gave a half-hour presentation at the September 1981 White House meeting about how the American and Israeli strategic alliance should be established, according to Hersh, who wrote that "one significant aspect was shared intelligence, including formal Israeli access to the KH-11 satellite, desperately sought by Israel – as most of the Americans at the cabinet-room meeting did not understand – for its nuclear targeting of the Soviet Union."

To make certain that Israel's nuclear-armed F-16 aircraft and Jericho missiles could penetrate Soviet aid defenses and reach targets in the Soviet Union, including military targets and oil fields in southern Russia, according to Hersh, Israel "would need the most advanced American intelligence on weather patterns and communication protocols, as well as data on emergency and alert procedures … American knowledge of the electromagnetic fields that lie between Israel and its main targets in the Soviet Union was also essential to the targeting of the Jericho."

(E) Investigative reporter Seymour Hersh, February 1994.

Investigative reporter Seymour Hersh telephoned INSLAW in February 1994 and stated that a source, whom Hersh described as a former senior NSA official, and whom Hersh said was then assisting Hersh on researching an article in the June 1993 issue of the *Atlantic Monthly Magazine* on nuclear proliferation in the former Soviet Union, had brought up on his own the INSLAW case, telling Hersh as follows, in words or substance: *INSLAW was screwed big time but Edwin Meese was not the first Attorney General involved. The first was Attorney General William French Smith based on a decision by Ronald Reagan to give the PROMIS software to Israel. Meese was supposed to have settled with INSLAW when he became Attorney General but every Attorney General since William French Smith has lied about the INSLAW case to the American people through his or her teeth.*

Hersh told INSLAW another source had made substantially the same claim to him in the fall of 1991, which had prompted Hersh's visit to Bill and Nancy Hamilton's home one evening in the fall of 1991, but that Hersh did not plan to write an article because neither source had been willing to speak on the record.

- **(3) Earl Brian and Edwin Meese Were Central Players the INSLAW Affair.**

By the start of the Reagan Presidency, Earl Brian controlled Hadron, Inc., a U.S. intelligence computer systems contractor. Having previously served with Edwin Meese in Governor Reagan's California cabinet, Brian reported to Counselor to the President Meese in the Reagan White House, during the first two years of the Reagan Presidency, as the unpaid Chairman of the White House Task Force on Health Care Cost Reduction.

In the four years preceding the 1980 election of President Reagan, Meese had closely followed INSLAW's work with PROMIS and regarded it as the most important work being done in criminal justice in the United States, as Meese stated in his April 1981 luncheon speech to the national meeting in Washington, D.C. of the PROMIS Users Group.

For his part, Earl Brian privately disclosed to Rafi Eitan, one of the most senior Israeli intelligence officials, during a meeting in Tehran, Iran in the 1970s, his determination to find a way to profit personally from PROMIS, according to Rafi Eitan's claims, summarized later in this document, to the British author of a book on the Israeli Mossad intelligence agency. After resigning as California's Secretary of Health and Welfare under Governor Reagan, Brian sought computer systems contracts from the Shah of Iran relating to health care programs.

Both Meese and Brian had earlier witnessed how one famous entreprene as California's Secretary of Health, Brian awarded Ross Perot's Electronic Data Systems Corporation (EDS) the State of California's contract to process health care claims from indigents, a contract that,

because of the enormous size of the nation state of California, helped build EDS into a very large company.

In January 1981, the month of the first Reagan inauguration, Mrs. Meese purchased shares in the initial public offering of Biotech Capitol Corporation, the holding company through which Earl Brian controlled Hadron and other companies, funding her purchase through a $15,000 loaned to her by a close friend of Earl Brian who was also then working for Meese in the White House. Meese's failure to disclose these financial and business ties to Earl Brian on his mandatory White House Financial Disclosure Reports for 1981 and 1982 delayed his confirmation as Attorney General for almost a year.

At a dinner meeting at the Montreal Airport in February 1981, Brian disclosed to a Canadian investment banker, through whom he was seeking to sell shares in Hadron to Canadian investors, that Hadron's future growth would come from a "new technical frontier" in "packaging computers to retain and retrieve information" about the "justice system." and that the key to Hadron's aforementioned future growth was the acquisition of or financial arrangements with a company with "great PROMISE." The quotations in this paragraph are contained in the handwritten contemporaneous notes of Canadian investment banker John Belton, which Belton incorporated into the affidavit he provided to INSLAW, dated November 29, 1991.

Canadian investment banker Belton also claims in the affidavit that he learned from another source that Earl Brian had arranged, during the same February 1981 visit to Canada, for Peter Breiger, a Vice President of Guardian Capital in Toronto, to meet later with Edwin Meese. Peter Breiger, Edwin Meese and Earl Brian met at the White House on March 10, 1981, according to a White House document obtained from the Reagan Presidential Library.

In late April 1981, Meese gave the April 1981 luncheon address to the national meeting in Washington, D.C. of the PROMIS Users Group in which he revealed that he had been closely following INSLAW's work with PROMIS during the preceding four years when he was Director of a criminal justice research center at the University of San Diego, considered it the most important work being done on criminal justice in the United States, and viewed it as the kind of management improvement initiative the Reagan Administration would wish to support. INSLAW had not known that Meese had been following INSLAW and PROMIS when it invited the new Counselor to the President to give the luncheon speech to the PROMIS Users Group. *The Washington Post* had, however, reported on Meese's lifelong interest in criminal justice issues.

In an early May 1981 White House meeting, Meese told INSLAW Counsel Donald Santarelli that the Reagan Administration, in contrast to the Carter Administration, would be pro-law enforcement, and that in contrast to the Carter Administration plan to install PROMIS in only the 22 largest U.S. Attorneys Offices, the Reagan Administration's plan was to install PROMIS in all 93 U.S. Attorneys Offices, all of the litigating divisions at Justice Department headquarters, and in all of the Justice Department's investigative agencies, including the FBI if a way could be found to circumvent "the FBI's traditional independence from the Justice Department." Meese, however, warned that Santarreli's "friends at INSLAW" should not expect automatically to receive the Reagan Justice Department's extremely large planned PROMIS contract because it would have to be awarded on the basis of a competitive procurement. Furthermore, Meese revealed that D. Lowell Jensen, his long-time close associate from California who began the Reagan Administration as Assistant Attorney General for the Criminal Division before successively becoming Associate Attorney General and then Meese's Deputy Attorney General, would spearhead this large PROMIS procurement. Meese told Santarreli he was summoning

Jensen to the White House the same day to get Jensen started on the major PROMIS procurement.

INSLAW had asked Santarelli to meet with Meese after discovering, through Meese's speech in late April, how knowledgeable and supportive of INSLAW's PROMIS work Meese already was, and because INSLAW wanted Meese to know that the career Justice Department officials had conducted a successful pilot test of PROMIS in two of the largest U.S. Attorneys Offices toward the end of the Carter Administration and had already decided to install PROMIS in 20 more of the largest U.S. Attorneys Offices when Reagan won the November 1980 Presidential election.

Earl Brian As Reagan Administration's Wholesale Distributor of PROMIS for Intelligence Projects. The final sections of this document summarize evidence of three major intelligence projects involving misappropriations of PROMIS, all of which began during the first two years of the Reagan Administration. The evidence suggests that, at the start of the Reagan Administration, Earl Brian at least believed he had received from the Reagan White House wholesale distribution rights for illicit PROMIS sales to foreign and U.S. intelligence and law enforcement agencies. Rafi Eitan, one of the most senior Israeli intelligence officials and Earl Brian's business partner for the second project,

- Angered by failure to receive what he evidently believed was his rightful share of the profits from NSA's illicit "Follow the Money" sales of PROMIS to banks, at the inception of the NSA project in 1981, Brian conferred on the problem with Rafi Eitan, one of Israel's top intelligence officials, at Eitan's home in Tel Aviv in early 1982, before engineering Reagan Administration approval for Israel to sell to foreign intelligence and law enforcement agencies, a "SIGINT backdoor" version of PROMIS so the United States and Israel could steal their intelligence secrets and Earl Brian could obtain the profits he believed he was owed. Curiously, however, the Reagan White House, five years later, in June 1986, planned a major expansion o NSA's Follow the Money Project to encompass approximately 400 major commercial banks. That expansion would have entailed a spectacular increase in the volume of illicit PROMIS license fees. Charles Cooper, the Meese Justice Department's Assistant Attorney General for the Office of Legal Counsel, from whom the Reagan National Security Council staff sought a preemptive legal opinion authorizing the expansion, later served as defense counsel for Earl Brian in the Justice Department's 1992 investigation of its own conduct in the INSLAW affair.
- Following his meeting in Israel in early 1982 with Rafi Eitan, Earl Brian arranged for the Reagan White House to give PROMIS to Rafi Eitan and Israeli intelligence, Eitan had Earl Brian's Hadron make the initial sale of a backdoor version of PROMIS to Jordan's Military Intelligence agency, a sale that enabled Israel to steal all of Jordan's dossiers on Palestinian terrorists. The British publisher, Robert Maxwell, then used his network of companies to sell over half a billion dollars worth of backdoor versions of PROMIS to friendly and adversarial governments alike by the time of Maxwell's death in the fall of 1991.
- The Justice Department launched its misappropriation of PROMIS for the third major PROMIS-based intelligence project in November 1982, i.e., the CIA-orchestrated deployment of PROMIS as the standard database software for gathering and disseminating U.S. intelligence information in virtually every U.S. intelligence and law enforcement agency, in every U.S. Embassy, on U.S. nuclear submarines, and in the cockpits of every U.S. attack aircraft. The initial PROMIS deployment, to U.S. nuclear submarines, required the ability to operate PROMIS on a physically small but powerful

computer, the VAX 11/780, and the Justice Department, according to later court findings, launched its scheme in November 1982 to steal INSLAW's new VAX 11/780 version of PROMIS "through trickery, fraud, and deceit. The U.S. Justice Department directly collaborated with Rafi Eitan in its April 1983 theft of VAX 11/780 PROMIS from INSLAW. Rafi Eitan then had Robert Maxwell sell VAX 11/780 PROMIS back to the U.S. Government, allegedly for $30 million in PROMIS license fees, so it could be adapted for the intelligence application on board U.S. nuclear submarines. Earl Brian's Hadron then had approximately 75 computer systems engineers under contract to the U.S. Navy's Undersea Systems Center in Newport, Rhode Island, the entity responsible for the deployment and support of the PROMIS intelligence database system on board all U.S. nuclear submarines.

Boasting of ties to Edwin Meese in the White House, Hadron tries to buy INSLAW for federal government contracts. In April 1983, approximately 10 days after the Justice Department misappropriated the VAX 11/780 version of PROMIS, the CEO of Hadron, Inc., Dominick Laiti, telephoned INSLAW President Bill Hamilton, whom he had never met or spoken with, asking to meet to discuss Hadron's interest in purchasing INSLAW. Laiti stated that Hadron expected to receive "the federal government's case management software business" as a result of its friendship with "Edwin Meese in the White House," and needed to acquire title to PROMIS to exploit that business opportunity.

When Hamilton replied that INSLAW was not interested in being acquired, and that Meese was also a supporter of INSLAW, having praised INSLAW's development of PROMIS in his April 1981 luncheon speech to the national meeting in Washington, D.C. of the PROMIS Users Group, Laiti's replied as follows: "Mrs. Meese owns stock in our company." (During the same telephone conversation, Laiti explained that Hadron was one of two companies that were run as a single company: Hadron, which Laiti ran, and a second company, which Laiti said was run by a friend. Laiti did not mention the names of the second company or his friend. In retrospect, the second company must have been Biotech Capitol Corporation, the holding company through which Earl Brian controlled Hadron, and Laiti's friend who ran that company must have been Earl Brian. Mrs. Meese had purchased shares in the January 1981 initial public offering of Biotech Capitol Corporation. According to the September 1984 Investigative Report of Independent Counsel Jacob Stein, Mrs. Meese sold her shares in Biotech at a loss on May 6, 1983. That would have been just a couple of weeks after Laiti disclosed to INSLAW that Mrs. Meese owned such shares).

Hadron boasts to INSLAW that it has ways to force INSLAW to sell. When Hamilton declined to meet, Laiti warned Hamilton as follows: "we have ways of making you sell."

Justice Department concocts sham contract disputes to force INSLAW to sell to Hadron. During the following several months of May, June, and July 1983, several sham contract disputes arose under INSLAW's $10 million contract for the installation of PROMIS in U.S. Attorneys Offices. Justice used them to justify withholding increasingly larger sums of money owed INSLAW, until the withholdings totaled almost $1.8 million, which forced INSLAW to file for Chapter 11 bankruptcy protection in February 1985. D. Lowell Jensen, Meese's long-time confidante from their service together in the Alameda County, California District Attorneys Office, was then the Presidential appointee in charge of the Criminal Division of the Justice Department. As summarized earlier, the chief investigator of the Senate Judiciary Committee relayed information to INSLAW in May 1988 from a senior career official in the Criminal Division to the effect that Jensen had engineered the sham contract disputes "to get INSLAW out of the way and give the business to friends."

Virtually on the eve of Meese's nomination as Attorney General, D. Lowell Jensen pre-approved a plan to terminate INSLAW's contract for default, in whole or in part, because of the intractable contract disputes. In late December 1983, INSLAW Counsel Elliot Richardson and INSLAW President Bill Hamilton had a meeting with Kevin Rooney, the Assistant Attorney General for Administration, during which Richardson provided his analysis of each of the contract disputes that had arisen in the spring of 1983, and asked Rooney to intervene to resolve what appeared to be sham contract disputes concocted for some illegitimate reason. Deputy Attorney General Edward Schmults had suggested that Rooney was the appropriate Justice Department official for Richardson to contact on the matter. Rooney led INSLAW to believe that he would promptly seek to resolve the disputes.

In early January 1984, however, INSLAW received an order from Justice Department Contracting Officer Peter Videnieks to "show cause" why its $10 million U.S. Attorneys PROMIS contract should not be terminated for default, in whole or in part, on account of one of the contract disputes. i.e., Videnieks' decision in the spring of 198 3 to suspend payments to INSLAW of the contracted profits under the contact on account of an alleged delay in implementing a primitive case management system on government-furnished word processing machines in the smaller U.S. Attorneys Offices. When Richardson telephoned Kevin Rooney to tell him that the "show cause order" was " a hell of a way to run a railroad," soon after Rooney had led INSLAW to believe he would seek to resolve the disputes, Rooney explained that D. Lowell Jensen had decided, during a meeting of the Justice Department's PROMIS Oversight Committee later in December 1983, to pre-approve a decision for Videnieks to send the show cause order to INSLAW.

In late January 1984, President Reagan nominated Edwin Meese as Attorney General.

GAO Launched an Emergency Investigation of INSLAW's Contract Immediately Following Meese's Nomination as Attorney General. In early February 1984, the General Accounting Office (GAO), at the direction of Senator Max Baucus of the Senate Judiciary Committee, began an emergency investigation of INSLAW's PROMIS contract with U.S. Attorneys Offices. During a GAO meeting with INSLAW in February 1984, it soon became apparent that GAO had no knowledge of the pending early January 1984 "show cause order" for a termination of INSLAW's contract for default. GAO told INSLAW it had obtained from the Justice Department the official INSLAW contract file but the file contained no documentation whatever about the pending termination for default. In its September 1984 Investigative Report (GAO, September 28, 1984, "Report to the Honorable Max Baucus, United States Senate: Justice Can Improve its Contract Review Committee's Contribution to Better Contracting"), GAO reported that the Justice Department's Administrative Counsel had issued an internal legal opinion in early 1984, i.e., soon after the GAO had begun its emergency investigation, stating the Justice Department could not legally sustain a default termination of INSLAW's contract for two reasons: (1) delays in the government's furnishing of word processing machines for the U.S. Attorneys Offices automation project, and (2) the absence of any binding schedule in the contract for the implementation work which was a prerequisite for blaming INSLAW for delay. Following issuance of that Justice Department internal Administrative Counsel legal opinion, Justice converted its threatened termination for default into a termination for the convenience of the government of the word processing portion of INSLAW's contract.

In February 1985, the month Meese was sworn in as Attorney General, one of INSLAW's two commercial banks forced the Company to file for bankruptcy protection, and a political appointee of the Attorney General launched an unlawful effort to force INSLAW

into liquidation so the Company would be incapacitated from litigating Justice's theft of PROMIS. The September 1984 Investigative Report of Independent Counsel Jacob Stein, having concluded that there was no "underlying' illegality in the business and financial ties between Edwin Meese and Earl Brian, cleared the way for Meese's confirmation as Attorney General. Meese was sworn in in early February 1985. Soon thereafter, the National Bank of Washington, one of INSLAW's two commercial banks, froze INSLAW's accounts, forcing INSLAW to file on February 7, 1985 for Chapter 11 protection from the U.S. bankruptcy Court for the District of Columbia. In January 1988, the Bankruptcy Court issued fully litigated findings of fact that within 24 hours of INSLAW's filing for protection, the political appointee of the Attorney General who headed the Justice Department's Executive Office for U.S. Trustees, Thomas Stanton, launched an unlawful effort to convert INSLAW from a Chapter 11 reorganization into a Chapter 7 liquidation for the purpose of incapacitating the Company from seeking redress in court for Justice's theft of PROMIS.

In March 1985, INSLAW Counsels Elliot Richardson and Donald Santarreli met with D. Lowell Jensen, Meese's Deputy Attorney General, to brief him on the INSLAW bankruptcy the preceding month and to ask Jensen to authorize an independent Justice Department lawyer to seek a negotiated resolution of the contract disputes that had propelled INSLAW to file for bankruptcy protection, and also to investigate whether, as seemed likely, the contract disputes had been concocted by government officials in bad faith to harm INSLAW.

In May 1985, Jensen's secretary, as noted earlier, brought a letter to Meese's Counselor, Bradford Reynolds, for his signature regarding arrangements for the covert sale and distribution to governments in the Middle East of a version of PROMIS equipped with a SIGINT backdoor, and for the covert repatriation, through Credit Suisse Bank, of the license fees generated from the sales of stolen copies of PROMIS.

In November 1985, the Justice Department official in charge of court-approved effort to resolve the contract disputes, demanded in writing that INSLAW concede the retroactive right of " instrumentalities or agents" of the federal government to use PROMIS. The General Counsel of the Justice Management Division, Janis Sposato, presided over a series of sessions with INSLAW in 1985, that the bankruptcy court had sanctioned, to seek a negotiated settlement of the contract disputes that had propelled INSLAW o file for bankruptcy protection in February 1985. Sposato had insisted at the outset of the negotiations that they first resolve what she claimed was the most difficult and largest dollar issue for INSLAW, i.e., the computer timesharing algorithm on which INSLAW based its billings under the contract for PROMIS timesharing services to the 10 largest U.S. Attorneys Offices until government-furnished computers were available in the U.S. Attorneys Offices for operation of PROMIS. The algorithm had been negotiated between the government and INSLAW prior to the start of the three-year U.S. Attorneys contract as the formula under which the INSLAW computer would account for computing resources used by the interim PROMIS computer timesharing services. The Justice Department's Audit Staff had subjected the INSLAW billing algorithm to a trail audit before negotiating its inclusion into the contract. Because INSLAW's computer had been programmed to account for the use of its resources as specified in the negotiated billing algorithm, INSLAW was forced, retroactively to devise "rules of thumb" to demonstrate the reasonableness of the computer timesharing charges that INSLAW had billed based on the negotiated formula. INSLAW made major progress through such "rules of thumb" in proving their reasonableness during as many as nine separate negotiation sessions when Sposato announced as follows in September 1985: "My management upstairs is unwilling to allow me to make any more concessions." That was presumably a reference to Deputy Attorney General D. Lowell Jensen who had authorized the negotiations after meeting, in March 1985, with INSLAW Counsels

Elliot Richardson and Donald Santarrelli. In a letter to INSLAW dated November 15, 1985, Sposato sought to use the sham contract disputes to force INSLAW to concede to the government the retroactive right of its "agents and instrumentalities" to use PROMIS for their projects: "…We propose a net payment by INSLAW to the United States of $680,000. … INSLAW will recognize that the United States has the right to unrestricted use of the software obtained or delivered under this contract for any federal project, including projects that may be financed or conducted by instrumentalities or agents of the federal government such as its independent contractors." The U.S. Bankruptcy Court, in assessing the credibility of each witness, used the words "willful blindness to the obvious" in characterizing Sposato's claimed unawareness of Justice Department misconduct against INSLAW.

In August 1988, on his last day as Attorney General, Meese ordered Justice Department officials whom the Senate Permanent Investigations Subcommittee had subpoenaed for depositions that day in its investigation of the INSLAW affair, to refuse to testify. The subcommittee voted later in the day its decision to seek to hold the Department of Justice in Contempt of Congress unless Meese's successor, Dick Thornburgh, immediately rescinded Meese's order, which Thornburgh did soon after becoming Attorney General.

Major Misappropriations of PROMIS for Electronic Surveillance Projects, and in support of the United States' Gathering and Dissemination of its own Intelligence Information.

(1) NSA's "Follow-the-Money" Project for Real-Time Surveillance of Electronic Fund Transfers through the banking system, starting in 1981.
(2) Israel Sales of PROMIS, Starting in 1982, to Foreign Intelligence and Law Enforcement Agencies to Steal Their Intelligence Secrets While Facilitating the Personal Profit of a U.S. Intelligence Contractor with Close Ties to the Reagan White House.
(3) The Decision by William Casey, Reagan's PROMIS as the Standard Database Software for Gathering and Disseminating U.S. Intelligence Information by Virtually Every "Producer" and "Consumer" in the U.S. Intelligence Community
(4) The Sale to Semi-Conductor Manufacturers in 25 Countries of a Signal Intelligence-Enabled "Backdoor" Version of PROMIS to Help the United States Interdict the Manufacturing and Illicit Sale to Soviet Front Companies of 100 million Integrated Circuits Each Year Engineered for Advanced Military and Defense Applications.

This NSA PROMIS-based project to track electronic fund transfers in the banking sector began in 1981 with sales of stolen copies of PROMIS to wire transfer clearinghouses in the United States and Europe, and to international financial institutions, including the Bank of International Settlements in Basel, Switzerland.

Under its new SIGINT mission, NSA installed in 1981 "powerful computing mechanisms" on computers of three major wire transfer clearing houses (CHIPS in New York City for dollar-denominated transactions, CHAPS in London for sterling-denominated transactions, and SIC in Basel, Switzerland for Swiss franc-denominated transactions), according to admissions by the key former Reagan National Security Council (NSC) Follow the Money staff members in a July 12, 1989 PBS television documentary entitled *Follow the Money.* The former NSC staff members explained that NSA's real-time electronic surveillance under the Reagan Administration's new Follow the Money Project, replaced less-encompassing "HUMINT" (Human Intelligence) coverage of bank transactions, i.e., coverage using CIA agents or assets working in the banking entities.

Dr. Norman A. Bailey, a PHD economist on the Reagan NSC staff, is widely credited with instigating NSA's Follow the Money SIGINT mission. Bailey and his former Reagan NSC staff colleagues provided extraordinary details in the PBS documentary about the use of NSA's bank surveillance project in the fight against international terrorism, including the decision by President Reagan to bomb Libya in the mid-1980s based on NSA's Follow the Money SIGINT evidence that Libya had financed a terrorist attack in Germany which killed an American soldier. They further explained in the PBS documentary that the NSA bank surveillance intelligence information had also exposed illegal transfers of technology to the Soviet bloc, and indebtedness to Western banks of governments in danger of defaulting on their obligations.

Many years later, in a July 29, 2008 S*alon Magazine* interview, Dr. Bailey became the first former U.S. intelligence official to admit publicly that PROMIS was "the principal software element, " i.e., the "powerful computing mechanisms," used by NSA for its Follow the Money bank surveillance program.

A June 1986 Top Secret/CODEWORD White House email message to Colonel Oliver North from a colleague on the Reagan National Security Council (NSC) staff was later partially declassified and made public in conjunction with government investigations of the Iran/Contra scandal. It revealed plans in June 1986 for a major expansion of NSA's "Follow the Money" Project to encompass the approximately 400 major commercial banks that comprise the backbone of the inter-bank payment system. Reagan NSC staff used the email to report to Colonel North about their meeting earlier in the day at the Meese Justice Department with Charles Cooper, Assistant Attorney General for the Office of Legal Counsel (OLC) to obtain a highly classified legal opinion, binding on the Executive Branch, purporting to confirm the legal propriety of the planned expansion which the President's National Security Adviser could use, with possible assistance from CIA Director Casey, Attorney General Meese, and Defense Secretary Weinberger, to obtain the President's sign off on the proposed expansion, and then "to roll" several other cabinet members who were not to know about the expansion until it was a *fait accomplis.* The email message also made it clear that other Reagan Administration covert intelligence initiatives, including the mining of the Nicaraguan harbor, had followed a similar formula of obtaining in advance an OLC legal opinion binding on the executive branch..

After returning to private practice, following service as the Meese Justice Department's Assistant Attorney General for OLC, Charles Cooper served as Earl Brian's criminal defense counsel for the investigation of the INSLAW affair conducted in 1992 by Justice Department Special Counsel Nicholas J. Bua. That investigation accepted earl Brian's claims that the evidence of his involvement with PROMIS was not credible.

As is explained in the next section on the Reagan White House's decision in 1982 to give PROMIS to Israel for sale to foreign intelligence and law enforcement agencies worldwide, Earl Brian's anger at the failure of the Reagan White House to share with Earl Brian profits from NSA's illicit sales of PROMIS to banks, when those sales began in 1981, was the issue that precipitated the Reagan White House decision in 1982 to give stolen copies of PROMIS to Israeli intelligence's Rafi Eitan, Earl Brian's PROMIS business partner, for sales to foreign governments.

NSA currently has a "Follow-the-Money" intelligence production branch, and an NSA intelligence database system, known as Tracfin, exclusively for the signal intelligence information derived from the Follow-the-Money Project, according to NSA documents leaked to the media in 2013 by Edward Snowden.

The First Misappropriation of PROMIS was for NSA's "Follow the Money" Bank Surveillance Project, which Began in 1981 but has Continued Ever Since.

In 1981, the newly elected Reagan Administration began the first covert PROMIS-centric intelligence initiative when it gave NSA a new signal intelligence (SIGINT) mission to track the flow of money through the banking system. Under its new SIGINT mission, NSA installed "powerful computing mechanisms" on computers of three major wire transfer clearing houses (CHIPS in New York City for dollar-denominated transactions, CHAPS in London for sterling-denominated transactions, and SIC in Basel, Switzerland for Swiss franc-denominated transactions), according to admissions by the key former Reagan National Security Council (NSC) Follow the Money staff members in a July 12, 1989 PBS television documentary entitled *Follow the Money.*

Those Reagan NSC staff members, especially Dr. Norman A. Bailey, are widely credited with the creation of the Follow the Money SIGINT mission for NSA. They provided considerable information in the PBS documentary, in extraordinary detail for a SIGINT project, about the use of NSA's bank surveillance project in the fight against international terrorism, including the decision by President Reagan to bomb Libya based on NSA's Follow the Money SIGINT evidence that Libya had financed a terrorist attack in Germany that killed an American soldier. They also explained that the NSA bank surveillance intelligence information had been useful in exposing illegal transfers of technology to the Soviet bloc, and in tracking indebtedness to Western banks of governments in danger of defaulting on their obligations.

Many years later, in a July 29, 2008 S*alon Magazine* interview, Dr. Bailey became the first former U.S. intelligence official to admit publicly that PROMIS was "the principal software element, " i.e., the "powerful computing mechanisms," used by NSA for its Follow the Money bank surveillance program. NSA obtained in 1981 for its new Follow the Money SIGINT mission an unauthorized, copyright-infringing copy of the IBM mainframe computer version of PROMIS from the Justice Department. INSLAW had licensed that version of PROMIS earlier in 1981 to Justice's Land and Natural Resources Division.

- **Critical Role of Charles Cooper. Head of Meese Justice's Office of Legal Counsel, in Reagan White House Plan for Major Expansion of NSA's Follow the Money Project, Five Years After its Inception to Sell PROMIS to Approximately 400 Major Commercial Banks.**

In June 1986, five years after NSA began its Follow-the-Money bank surveillance project, Reagan National Security Council (NSC) staff met with Charles Cooper, Meese's Assistant Attorney General for the Office of Legal Counsel (OLC) to procure an OLC legal opinion confirming the legal propriety of a planned major expansion of NSA's Follow the Money project to another approximately 400 major commercial banks, an expansion that would have entailed illicit sales of 400 more stolen copies of PROMIS.

The June 1986 White House email message on the meeting with Charles Cooper to obtain a preemptive OLC legal opinion was originally classified Top Secret/CODEWORD. OLC legal opinions are binding on the Executive Branch.

of the U.S. Code, which enumerates the authorities governing U.S. intelligence agencies, explicitly states that U.S. intelligence agencies may not undertake "any action that would violate the Constitution or any statute of the United States. "

An NSC staff colleague sent the June 5, 1986 White House email message to Colonel Oliver North of the Reagan NSC staff about his meeting that day with Charles Cooper to obtain an OLC legal opinion on the legal propriety of expanding NSA's Follow the Money surveillance project to "approximately 400 principal banks that make up the interbank market" so the United States would be able to squeeze "off the flow of funds" "to terrorist organizations" "from Syria, Libya,, Iran, etc." The planned legal opinion was also intended to address the need for European governments "to fill gaps in our coverage and to cooperate with us in freezing/seizing assets as appropriate." Charles Cooper and his OLC deputy, Alan Gerson, who joined him in the meeting that day, were "in enthusiastic agreement" and planned "to begin preliminary research immediately," according to the email message.

The Reagan NSC staff, according to the email message, had used the "same approach," i.e.., obtaining in advance an authorizing OLC legal opinion, "for Nic. [Nicaraguan] trade embargo

strategy." The NSC staff planned to blindside "Treas, [Treasury]/State/Comm. [Commerce] [and] STR [Special Trade Representative] about the planned expansion of NSA's bank surveillance until it obtained the OLC legal opinion. At that pont, National Security Adviser Poindexter was to take "a complete package" to a breakfast meeting with Secretary of State Schultz, with CIA Director Casey, Attorney General Meese, and Defense Secretary Weinberger "to back him up as appropriate," and then "**roll the others** after going to the Pres. [President]." [Emphasis added].

Government investigators of the Iran/Contra scandal in the late 1980s recovered this and other emails from the Reagan NSC's computer after the Reagan NSC staff had deleted them as part of an attempted cover up. The National Security Archives later published these email messages in a book entitled *White House Emails*.

- **Reagan White House Decision in 1982 to Give PROMIS to Israel for Sale to Foreign Governments Resulted from Earl Brian's Anger Over Reagan White House's Failure to Offer Him Share of Profits from NSA's Follow the Money Project at its Inception in 1981.**

As is documented in the summary of the Second Major Misappropriation of PROMIS for intelligence projects, Earl Brian, for his personal financial gain, engineered to Reagan White House decision in 1982 to give PROMIS to Israel for re-sale to foreign intelligence and law enforcement agencies.

- **Earl Brian's Shadow also Visible in the Third Major Misappropriation of PROMIS for Intelligence Projects, through the Theft of VAX 11/780 PROMIS in 1983 for the CIA-Orchestrated Deployment of PROMIS to U.S. Nuclear Submarines.**

As is documented in the section on the third major misappropriation of PROMIS for intelligence projects, i.e., the CIA-orchestrated deployments of PROMIS as the standard database software for gathering and disseminating U.S. intelligence information, the Justice Department stole VAX 11/780 PROMIS from INSLAW in April 1983 for Rafi Eitan, Earl Brian's Israeli intelligence business partner, who, almost immediately, sold it it back to the U.S. Government for the nuclear submarine intelligence application, allegedly at a profit of $30 million. At the time, Earl Brian's Hadron, Inc. was also a major contractor with the U.S. Navy unit responsible for the deployment of VAX 11/780 PROMIS to the nuclear submarines.

- **Years After Meeting on Expansion of NSA's Follow the Money Project to 400 Major Banks, Cooper Represented Earl Brian in Criminal Investigation of INSLAW Affair.**

Charles Cooper represented Earl Brian in the Justice Department's federal grand jury investigation in 1992 of the INSLAW affair, having earlier left government service. Because of his anger at having been excluded from participation in the illicit profits from NSA's Follow the Money Project when it began in 1981, Brian engineered Reagan White House approval for the second major misappropriation of PROMIS for intelligence, that of enabling Israeli intelligence and Rafi Eitan to sell over $500 million worth of PROMIS licenses to foreign intelligence and law enforcement agencies. These facts are documented in the next section of this memorandum. Earl Brian's shadow also appears in the third major misappropriation of PROMIS for intelligence, i.e., the CIA's deployment of PROMIS as the standard database software for

gathering and disseminating U.S. intelligence information. Brian's Israeli business partner, Rafi Eitan, was allowed to make the CIA misappropriation's first sale for a "combat-support PROMIS" intelligence database system on board U.S. nuclear submarines. Moreover, Brian's Hadron, Inc. had approximately 75 computer systems engineers employed at the time in Newport, Rhode Island under contract to the U.S. Navy's Undersea Systems Center. That entity is responsible for the deployment and on-going support of computer systems on board U.S. nuclear submarines.

William Casey claimed NSA's bank surveillance project as one of his proudest achievements as Director of Central Intelligence, according to Bob Woodward's 1987 book on Casey's CIA (*Veil: The Secret Wars of the CIA, 1981-1987):* "penetration of the international banking system, allowing a steady flow of data from the real, secret set of books kept by many foreign banks."

(B) Israel's sales of stolen copies of PROMIS to foreign intelligence and law enforcement agencies, so Israel and the United States could steal their intelligence secrets while producing hundreds of millions dollars in off-the-books profits.

Earl Brian engineered the Reagan White House's decision to give PROMIS to Israeli intelligence's Rafi Eitan in 1982 for worldwide sales of a version of PROMIS equipped with a backdoor for signal intelligence interception. Earl Brian arranged the Reagan White House's decision at the instigation of Rafi Eitan to whom Earl Brian had revealed his anger when Brian was Eitan's houseguest in Tel Aviv in 1982. Brian told Eitan the source of his anger was the Reagan White House's failure to give him a share of the profits from NSA's sales of PROMIS to banks, when NSA's Follow-the-Money bank surveillance program began in 1981.

Eitan was one of the most senior Israeli intelligence officials. He served as deputy director of the Israeli Mossad for covert operations for almost a quarter of a century. When Earl Brian visited him at his home in Tel Aviv in 1982, Eitan was serving concurrently as Anti-Terrorism Adviser to the Israeli Prime Minister, and as Director of the LAKAM intelligence agency in the Israeli Ministry of Defense. LAKAM was responsible for the acquisition of technology needed by Israel's nuclear weapons program, a role relevant to Rafi Eitan's involvement in the U.S. Justice Department's theft of VAX 11/780 PROMIS from INSLAW in April 1983, and Rafi Eitan's participation in the subsequent CIA-orchestrated sale of VAX 11/780 PROMIS for a "combat-support" intelligence application on board U.S. nuclear submarines.

Rafi Eitan arranged for Earl Brian and Hadron, Inc., the U.S. intelligence computer systems contractor Brian then controlled, to make the first PROMIS sale by Israel. That sale, to Jordan's Military Intelligence agency, enabled Israel to steal Jordan's files on Palestinian terrorists. Eitan later enlisted the British publisher Robert Maxwell, and Maxwell's worldwide network of companies, to sell over half a billion Dollars worth of stolen copies of PROMIS to foreign intelligence and law enforcement agencies prior to Maxwell's death in the fall of 1991. Eitan, who had served as deputy director for covert operations of Israel's Mossad intelligence agency for almost a quarter of a century, admitted these facts to Gordon Thomas, the British author of an authorized history of the Mossad published by Thomas in early 1999 under the title *Gideon's Spies: The Secret History of the Mossad.*.

Eitan also admitted to Gordon Thomas that U.S. intelligence community agencies, including the CIA, the FBI, and the DEA, used PROMIS to keep track of theintelligence information they produce, and that Israeli intelligence stole U.S. secrets by exploiting unnamed U.S. intelligence database systems based on PROMIS, Rafi Eitan did not, however, mention his role in the CIA-orchestrated deployment of PROMIS to U.S. nuclear submarines, summarized in the following

paragraph, or his role as the Israeli spymaster for U.S. Navy Intelligence analyst Jonathan Pollard in stealing U.S. nuclear targeting secrets.

The Second Misappropriation of the PROMIS Was for Israel's Sales of a "Backdoor" Version of PROMIS to Foreign Governments to Steal Their Secrets, an Arrangement Earl Brian Engineered through Reagan White House for His Personal Financial Gain.

In 1982, the second covert PROMIS-centric intelligence initiative began when the Reagan NSC gave the IBM mainframe computer version of PROMIS to Israeli intelligence during a meeting in Washington, D.C.

Reagan's Deputy National Security Adviser, Robert McFarlane, and Earl W. Brian gave the IBM mainframe version of PROMIS to Rafi Eitan of Israel during a 1982 meeting in Washington, D.C., according to a book published in 1991 by a former Israeli intelligence operative, Ari Ben Menashe, under the title *Profits of War: Inside the Secret U.S.-Israeli Arms Network'*

Brian worked in the Reagan White House during the first two years of the Reagan Administration as the unpaid Chairman of the White House Task Force on Health Care Cost Reduction, reporting to Edwin Meese, then both Counselor to the President and a member of the Reagan NSC. Meese and Brian had served together in the California cabinet of Governor Reagan. Meese's failure to disclose his business and financial ties to Brian on mandatory White House financial disclosure reports for 1981 and 1982 was the most serious of the several alleged ethical improprieties that delayed Meese's confirmation as Reagan's second Attorney General from President Reagan's nomination of Meese in January 1984 until February 1985. The delay provided time for the U.S. Court of Appeals for the District of Columbia to appoint an Independent Counsel to investigate the allegations.

Earl W. Brian, a U.S. intelligence contractor who served in Governor Reagan's California cabinet with Edwin Meese, also reported to Meese in the Reagan White House during the first two years of the Reagan Presidency. The failure of Counselor to the President Meese to disclose his financial and business ties with Brian on his mandatory White House Financial Disclosure Reports for 1981 and 1982 was the most serious of several allegations of ethical improprieties that seriously delayed Meese's confirmation as President Reagan's second Attorney General. Brian controlled Hadron, Inc., a computer systems contractor with U.S. intelligence agencies and the U.S. Department of Justice. Brian served almost five years in federal prison in the late 1990s for unrelated bank and securities fraud.

Brian spoke about his desire to profit personally from PROMIS as early as the 1970s when he disclosed that ambition to one of the most senior Israeli intelligence officials during a meeting in Iran when Brian was seeking contracts from the Shah of Iran's government. After the Reagan Administration failed to offer Brian a share of profits from NSA's illicit sales of PROMIS, as NSA's Follow-the-Money bank surveillance began in 1981, Brian had become visibly angry, and, consequently, engineered the Reagan Administration's decision in 1982 to steal PROMIS for re-sale by Israel to foreign intelligence and law enforcement agencies.. Brian did so for his own personal financial gain. The facts in this paragraph were among PROMIS-related admissions made by Rafi Eitan, whom Israeli Defense Minister Ariel Sharon had appointed in late 1981 as Director of the LAKAM intelligence agency, to Gordon Thomas, the British author of a 1999 history of the Israeli Mossad intelligence agency (*Gideon's Spies: The Secret History*

of the Mossad). Rafi Eitan had earlier served, for almost a quarter of a century, as the Mossad's deputy director for covert operations. Earl Brian was a guest in Rafi Eitan's home in Tel Aviv when Brian revealed the facts in this paragraph.

Rafi Eitan became Director of the Israeli Defense Ministry's LAKAM intelligence agency in late 1981, upon appointment by Ariel Sharon, then the Defense Minister. LAKAM's mission included the theft of technology needed for Israel's nuclear weapons program. Eitan also continued to serve concurrently as Anti-Terrorism Adviser to the Israeli Prime Minister.

Eitan instigated the idea for the Reagan Administration to give PROMIS to Israel during a visit to his home in Tel Aviv in 1982 by Earl Brian, according to Eitan's PROMIS-related admissions to Gordon Thomas, the British author of a book published in 1999, on the history of Israel's Mossad intelligence agency entitled *Gideon's Spies: The Secret History of the Mosaad.* Thomas *in*terviewed Eitan for the book because Eitan had earlier served, for almost a quarter of a century, as the MOSSAD's deputy director for covert operations.

After recounting some of his legendary exploits with the Mossad, including his kidnapping of Adolf Eichmann, the mastermind of the Nazi Holocaust, and the rendition of Eichmann to Israel from Argentina in 1960 for trial, Eitan informed Gordon Thomas that he wished to talk about his subsequent accomplishments as Director of the LAKAM intelligence agency, which he claimed were more significant than everything he did for Israel during his long career at the Mossad.

Rafi Eitan made it clear that he was referring to his PROMIS-related accomplishments. He told Gordon Thomas that he and Earl Brian had first met in Iran in the 1970s when Earl Brian was seeking contracts from the Shah of Iran and that, even at that early date, Earl Brian was looking for a way to profit personally from PROMIS.

By the time Earl Brian visited Eitan in his Tel Aviv home in 1982, Earl Brian was visibly angry, according to Eitan's statements to Gordon Thomas, because the Reagan White House had failed to give Earl Brian a share of profits from PROMIS sales to banks under NSA's highly classified Follow the Money bank surveillance project begun in the preceding year.

At Eitan's suggestion, Earl Brian arranged for the Reagan White House to give PROMIS to Israel under a scheme to sell a SIGINT backdoor version of PROMIS to foreign intelligence and law enforcement agencies and, thereby, steal the intelligence secrets of foreign governments, while simultaneously producing off-the-books profits, according to Eitan's admissions to Gordon Thomas.

After Earl Brian and Robert McFarlane gave the IBM mainframe version of PROMIS to Rafi Eitan at their meeting in Washington, D.C. in 1982, Eitan had Hadron, Inc. make Israel's initial sale of the SIGINT backdoor version of PROMIS. That sale, to Jordan's Military Intelligence agency, validated Rafi Eitan's concept by enabling Israel to steal all of Jordan's dossiers on Palestinian terrorists, according to Eitan's admissions to Gordon Thomas.

As soon as the concept had been validated, Eitan arranged for the British publisher, Robert Maxwell, to use his worldwide network of companies to sell over half a billion dollars worth of PROMIS licenses to both friendly and adversarial governments worldwide, according to Rafi Eitan's admissions to Gordon Thomas. Maxwell died in the fall of 1991 so the over half a billion dollars worth of PROMIS licenses Maxwell sold were sold between late 1982 and late 1991.

Eitan also told Gordon Thomas that the CIA was directly responsible for another $30-40 million worth of PROMIS sales. Eitan's knowledge of these CIA PROMIS sales suggests the close working relationship between the CIA and Israel on PROMIS sales.

Rafi Eitan also provided hints to Gordon Thomas about the third major U.S. Government misappropriation of PROMIS, the use of unauthorized, copyright-infringing copies of PROMIS for gathering and disseminating U.S. intelligence information between "producer" agencies such as the CIA, the NSA, the DIA, the FBI, and the DEA, and "consumer" agencies such as intelligence units of the U.S. Armed Forces, and U.S. Embassies.

One such hint was Rafi Eitan's statement to Gordon Thomas that the U.S. intelligence community had also used PROMIS internally in the CIA, the FBI, and the DEA.

Another hint was Rafi Eitan's boast that Israeli intelligence, operating out of the Israeli Embassy in Washington, D.C., had penetrated PROMIS-based systems in the U.S. Government, systems he did not further identify, and stolen U.S. intelligence secrets.
Rafi Eitan omitted any mention to Gordon Thomas of his own significant role in the U.S. Justice Department's theft from INSLAW of the VAX 11/780 version of PROMIS.

(C) CIA Sales and Distributions of PROMIS.

(1) Reagan CIA finances Joint Venture at start of Administration between Wackenhut Corporation and the Cabazon Indian Tribe in southern California to modify PROMIS for Covert Intelligence Uses, and to Make Weapons Available to Groups Like the Nicaraguan Contras.

In early 1981, Reagan CIA Director William Casey, who previously served as outside counsel and a member of the Board of Directors of the Wackenhut Corporation, financed a Joint Venture between Wackenhut and the very small sovereign nation of the Cabazon Indians in southern California.

The Joint Venture's senior staff included Michael Riconosciuto, Director of Research, reportedly someone with unusual expertise in computer software and the physical science but also a prior criminal conviction for drug trafficking, and Robert Booth Nichola,, a self-described former long-time CIA operative whom the FBI had reportedly been investigating since the 1970s for money laundering and drug trafficking in connection with organized crime groups.

The Joint Venture's mission included assisting U.S. intelligence contractor. Earl Brian, and Justice's PROMIS Contracting Officer, Peter Videnieks, on the insertion of a SIGINT backdoor into the version of PROMIS sold by Earl Brian to Canada's Royal Canadian Mounted Police (RCMP) for U.S. electronic surveillance of the RCMP, plus the covert provision of weapons to the Nicaraguan Contras and similar groups, according to Riconosciuto's March 1991 affidavit to INSLAW.

Riconosciuto and Earl Brian, together with CIA officials, were present at a September 1981 weapons demonstration for Contra leaders such as Eden Pastora, according to local Indio, California police surveillance records uncovered by the House Judiciary Committee as part of its September 1992 Investigative Report, *The INSLAW Affair*.

One week after providing his affidavit to INSLAW in March 1991, the Justice Department's Drug Enforcement Administration (DEA) arrested Riconosciuto on drug trafficking charges.

In early 1992, Riconosciuto made a proffer to the FBI of evidence he was prepared to provide in exchange for a government decision to drop the drug trafficking charges and place him into the Witness Protection Program. Riconosciuto claimed that his position as Research Director of the Wackenhut/Cabazon Joint Venture included using PROMIS to launder profits from government-sanctioned drug trafficking through two wire transfer clearing-houses, CHIPS in New York and SWIFT in Europe, so the funds could be used to buy weapons for U.S. client forces like the Contras in Nicaragua and the Mujahideen in Afghanistan, according to the September 2010 book by investigative reporter and author Cheri Seymour entitled *The Last Circle: Danny Casolaro's Investigation into the Octopus and the PROMIS Software Scandal.* The Justice Department, evidently ignoring Riconosciuto's proffer of evidence of serious government malfeasance, instead convicted Riconosciuto of drug trafficking and obtained his sentence to approximately 30 years in federal prison.

(2) PROMIS as standard database software within U.S. intelligence community for gathering and disseminating U.S. intelligence information:

U.S. Nuclear Submarines. CIA arranged for installation of PROMIS on VAX 11/780 computers on board all U.S. nuclear submarines. This PROMIS application was the first of the CIA-orchestrated PROMIS applications to support gathering and disseminating U.S. intelligence information within the U.S. intelligence community. The CIA arranged for the installation of a "combat-support" intelligence database system on submarines in 1983/1984. to track "threats," such as Soviet submarines, and "targets," such as strategic Soviet military and economic sites, and to support computer-directed firing of missiles against threats and targets. Israel's Rafi Eitan, Earl Brian's business partner for sales of PROMIS to *foreign* governments, was allowed to sell back to *the U.S. Government* for the submarine PROMIS application, and allegedly for $30 million in profits. Two federal courts ruled in the late 1980s that the Justice Department "took, converted, stole" VAX 11/780 PROMIS from INSLAW in April 1983 "through trickery, fraud, and deceit."

Cockpits of F-117 Stealth Fighter and later all U.S. Attack Aircraft. CIA arranged for the installation of PROMIS in the cockpits of all U.S. attack aircraft, starting with the F-117 Stealth Fighter in late 1984 and early 1985, to track threats and targets, and to support computer-directed firing of missiles against threats and targets;

Three Main U.S. Intelligence Agencies. Three main U.S. intelligence agencies, CIA, NSA, and DIA, under the computer system name of "COINS-II," (Community Online Intelligence System, Second Generation) installed PROMIS to track its production of intelligence information);

U.S. Law Enforcement Agenices. Virtually every U.S. law enforcement agency (FBI, under the successive computer system names of "FOIMS and "ACS"; DEA and its El Paso Intelligence Center on drug trafficking, each under the computer system name "CAST-I," i.e., second generation of DEA's CAST case management software; U.S. Customs' Office of Enforcement, IRS Criminal Investigation Division, the Secret Service, the Bureau of Alcohol, Tobacco and Firearms, and Treasury's Financial Crimes Enforcement Network, each under the computer systems name "TECS-II" (Treasury Enforcement Communications System, Second Generation0 installed PROMIS to track its production of intelligence information); and

U.S. Embassies. All U.S. Embassies worldwide installed PROMIS under the computer systems name "Foreign Affairs Information System" or "FAIS," on Wang VS computers to track classified communications with U.S. Department of State).

PROMIS-Based Main Core Domestic Spying Database System. The Federal Emergency Management Agency (FEMA) administered the PROMIS-based Main Core database system under the Continuity of Government (COG) Program, allegedly for hand-off to the U.S. Army and the Defense Intelligence Agency (DIA) in the event of a national catastrophe, and the consequent imposition of martial law.

Danny Casolaro, a free-lance investigative reporter with considerable experience investigating federal computer procurement frauds, told Terry Miller, a long-time close associate, in the spring of 1991 that he had discovered the PROMIS-based domestic spying system, known as Main Core, which FEMA was then administering at its Culpepper, Virginia computer center under the highly classified COG Program. Miller, a friend who had worked with Casolaro on other federal computer procurement scandals, was the person who suggested, in August 1990, that Casolaro investigate the INSLAW affair. Casolaro worked full time on his investigation of the INSLAW affair for 12 months before he was found dead in his Martinsburg, West Virginia hotel room. That was the same week Casolaro confided to a handful of close associates that he had finally broken the INSLAW case.

On the afternoon before Casolaro's violent August 10, 1991 death in Martinsburg, William Turner, who claims that he had been storing in his home for Casolaro highly classified documents Casolaro had obtained from various sources, including an NSA employee, brought the documents at Casolaro's request to Martinsburg. Casolaro told Turner he planned to use the documents for his final, follow-up meeting that evening with sources on INSLAW. Casolaro further told Turner he intended to trade them for other documents during his planned meeting that evening with Peter Videnieks, the former Justice Department PROMIS Contracting Officer, and Joseph Cuellar, whom Casolaro told Turner had arranged his meeting with Videniels and others. Turner claims he warned Casolaro that what he was planning was dangerous because the people he was scheduled to meet with could simply take his documents but provide no additional documents in return. Among Casolaro's documents were NSA computer printouts, classified Top Secret/SCI [Sensitive Compartmented Information] on wire transfers to off-shore bank accounts in Switzerland and the Cayman Islands belonging to Peter Videnieks, Earl Brian, and others. Turner made the claims in this paragraph in his March 15, 1994 affidavit to INSLAW.

Peter Videnieks had been a U.S. Customs Service Contracting Officer, including for its contracts with Hadron, Inc., until the Justice Department hired him in September 1981 to administer both the competitive procurement and the resulting contract award (which turned out to be to INSLAW) for installation of PROMIS in U.S. Attorneys Offices. The federal bankruptcy court severely criticized Videnieks in its January 1988 ruling for malicious administration of INSLAW's contract between 1982 and 1985.

The copies of the aforementioned NSA computer printouts were presumably produced by NSA's PROMIS-based Follow the Money bank surveillance project. FEMA stored these NSA intercepts in the PROMIS-based Main Core domestic spying database system.

On July 13, 1987, during the Joint House/Senate hearings on the Iran/Contra scandal, Rep. Jack Brooks asked Colonel Oliver North about his role, while serving on the Reagan NSC staff, in monitoring U.S. citizens under the umbrella of a COG project, but Senator Inouye, co-chairman

of the hearings, ruled the matter was too sensitive for public discussion, stating: “I believe that question touches upon a highly sensitive and classified area, so may I request that you not touch upon that, sir?” Two years later, Rep. Jack Brooks, as Chairman of the House Judiciary Committee, began the Committee’s INSLAW investigation.

"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.” These quotes are from an article in the maiden March 1993 issue of *Wired Magazine*, entitled “The INSLAW Octopus.”

One month before Casolaro’s death, he told INSLAW that Joseph Cuellar had appeared the previous evening, supposedly by chance, at a pub in Casolaro’s neighborhood and, after asking Casolaro what he did for a living and hearing that Casolaro was researching a book on the INSLAW affair, described himself as one of Peter Videnieks’ closest friends, and offered to arrange a meeting between Videnieks and Casolaro. Casolaro told INSLAW that Cuellar was a covert intelligence operative, recently returned from a covert operation in Iraq preceding the Desert Storm campaign. Cuellar was also a U.S. Army Special Forces, Intelligence Major.

(3) Use of PROMIS, As Part of Reagan Administration’s Covert Economic Warfare Against the Soviet Union, as Tool for Tracking Illicit Sales to Soviet Union of Embargoed Technology.

CIA under William Casey launched covert program in 1983 to interdict illicit sales of embargoed technology, including integrated circuits, to Soviet Union. In a book entitled *Victory: The Reagan Administration’s Secret Strategy that Hastened the Collapse of the Soviet Union*, Peter Schweizer, wrote that, in response to the declaration of martial law in Poland in December 1981, “President Reagan and a few key advisors began mapping out a strategy to attack the fundamental economic and political weaknesses of the Soviet system, “Reagan decided where the tracks should lead, the National Security Council staff built the railroad, and William Casey and Caspar Weinberger made sure the train arrived at its destination.” President Reagan signed the highly classified National Security Decision Directive (NSDD) #66 in November 1982, according to the book, on measures to disrupt the Soviet economy by attacking critical resources essential to Soviet economic survival, and “the following year, 1983, Reagan approved a decision on intelligence support for the initiative that revealed the massive scope of the resources the President was prepared to devote to this covert operation against the Soviet Union.” Casey obtained approval from Reagan in 1983 to establish at CIA Headquarters in Langley, Virginia an entity known as the Technology Transfer Intelligence Committee whose sole purpose, according to Victory, was to track Soviet bloc technology acquisitions. As many as 22 federal agencies contributed manpower and other resources to this CIA-backed interagency Committee, according to *Victory*. The prime example of illicit Soviet acquisitions of high technology cited in *Victory* was the Soviet Union’s annual purchase, through front companies in Europe, of approximately 100 million integrated circuits, the essential building blocks for all advanced military and aerospace technology, but which the Soviet Union was then unable to manufacture on its own.

Toronto-based PROMIS intelligence contractor begins selling PROMIS to semiconductor manufacturers worldwide for real-time tracking of their manufacturing of integrated circuits engineered for military and defense applications. In late 1983, I.P. Sharp and

Associates in Toronto, Canada brought to market the first application software product in its then 18-year history as a computer services company. The product, called PROMIS, was designed to provide real-time tracking of semiconductor companies' manufacturing of integrated circuits. I.P. Sharp offered its PROMIS software to semiconductor manufacturers on VAX 11/780 computers. As noted earlier, two federal courts ruled in the late 1980s that the U.S. Department of Justice "took, converted. stole" VAX 11/780 PROMIS from INSLAW in April 1983 "through trickery, fraud, and deceit."

By the end of 1984, its first full year selling PROMIS to semiconductor manufacturers, I.P. Sharp had sold PROMIS to 15 of the leading semiconductor manufacturers in the United States, including IBM, AT&T, Texas Instruments, and National Semi-Conductor, according to an April 12, 1985 article in the *Toronto Globe and Mail.*

By May 1986, less than three years after bringing its PROMIS tracking product to the market, I.P. Sharp and Associates had created a separate subsidiary, known as **PROMIS Systems Corporation**, **Ltd.**, to market and support its new software product worldwide, and had made "a large sale" of its PROMIS integrated circuit tracking software to NSA Headquarters at Ft. Meade, Maryland, according to a May 28, 1986 article in the *Toronto Globe and Mail*.

Its PROMIS tracking software could "automatically generate trace documents to U.S. Military Spec. 1772 requirements for military electronics, weapons systems, and aviation products," according a product brochure from the PROMIS Systems Corporation, Ltd.

During the 1980s, the Canadian Government's National Research Council awarded I.P. Sharp a $2 million multi-year grant to develop a new subsystem for its integrated circuit PROMIS tracking software to enable automated numerical control of equipment on the factory floors of the semiconductor manufacturers.

By late 1998, when PRI Automation, Inc. of Billerica, Massachusetts announced its pending acquisition of PROMIS Systems Corporation, Ltd., the PROMIS software product had already been "installed in over 270 of the world's leading manufacturing sites in 25 countries." PROMIS Systems Corporation, Ltd. Had also become Canada's 11th largest software company.

I.P. Sharp and Associates receives sole-source contract from the Royal Canadian Mounted Police (RCMP) to work on unauthorized, PROMIS-derivative PIRS case management system. In July 1983, the RCMP Commissioner announced that, following a successful pilot test of new case management software, the RCMP would begin its installation countrywide. The CIA-financed Wackenhut/Cabazon Cabazon Joint Venture, as noted earlier, had covertly installed a SIGINT backdoor into PROMIS for the RCMP's pilot test prior to its sale by Earl Brian for the British Columbia pilot test. On August 30, 1983, the RCMP awarded a sole-source contract to I.P. Sharp and Associates, Contract #OEU85-07040, to develop a new geo-based subsystem for the [PROMIS-derivative] PIRS system, according to an RCMP document INSLAW later obtained under Canada's Access to Information Act.

Hadron and I.P. Sharp collaborated in 1983 on a large software sale to the Government of Canada. I.P. Sharp collaborated with Hadron, Inc. in 1983 on a large sale of computer software to the Government of Canada, according to tape-recorded interviews that retired Canadian investment banker, John Belton, conducted with several individuals, including D. George Davis, who was Hadron's Vice President for Sales in 1983, and Paul Wormeli, who was another Hadron vice president in 1983. Belton memorialized verbatim excerpts of the telephone interviews in a memorandum to INSLAW dated June 10, 1993 in which he quotes Davis as denying any

personal involvement in the software sale to the Government of Canada but as volunteering that both Earl Brian and Edwin Meese had been involved in the sale. Belton quotes Wormeli as claiming that Hadron liaised with I.P. Sharp of Toronto and System House of Ottawa on the sale of software to the Government of Canada in 1983 and that Davis had resigned as Hadron's Vice President for Sales in 1983 after Hadron improperly denied Davis payment of a large commission he had earned on this sale.

(4) RCMP's Toronto-based PROMIS contractor begins, in late 1980s, supplying SIGINT backdoor PROMIS to DEA front company in Cyprus for sale to drug control units of Middle East Governments.

As noted earlier, Bradford Reynolds, Counselor to Attorney General Meese, sent a letter to William Weld, then U.S. Attorney in Boston, in May 1985 on arrangements for the covert sale and distribution of a SIGINT backdoor version of PROMIS to governments in the Middle East.

In an affidavit to INSLAW dated August 10, 1991, Lester Coleman claims that investigative reporter, Danny Casolaro, telephoned Coleman in Europe on August 3, 1991, one week before Casolaro was found dead in Martinsburg, West Virginia, with "leads and hard information about things I know about, including Department of Justice groups operating overseas, the sale of PROMIS[E] software by the U.S. Government to foreign governments …"

Coleman claims in his affidavit he was raised in the Middle East, spoke three dialects of Arabic and some Farsi. He claims he accepted a position in November 1984 with the Defense Intelligence Agency (DIA) in human intelligence operations in the Middle East, where he was seconded by the DIA successively in 1987 and 1988 to the Justice Department's Drug Enforcement Administration (DEA) in Nicosia, Cyprus, reporting to DEA Country Attache, Michael T. Hurley.

Coleman claims in his affidavit he became aware that DEA "was using its proprietary company, Eurame Trading Company, Ltd., to sell computer software called PROMISE or PROMIS to the drug abuse control agencies of various countries in the Middle East, including Cyprus, Pakistan, Syria, Kuwait, and Turkey."

Coleman claims in his affidavit the "DEA objective in inducing the implementation of the computerized PROMIS[E[system in the drug abuse control agencies of the Middle East countries was to augment the drug control resources of the united States Government by making it possible for the United States Government to access sensitive drug control law enforcement and intelligence files of these Middle East governments."

Coleman, finally, claims in his affidavit to have "witnessed the unpacking at the Nicosia, Cyprus, Police Force Narcotics Squad of boxes containing reels of computer tapes and computer hardware" shipped from a Canadian supplier with the words "PROMIS" or "PROMISE" and "Ltd." In a telephone conversation with INSLAW later in 1991, Coleman confirmed that the logo of the Canadian supplier of the SIGINT backdoor PROMIS software and computer hardware was in red and had the abbreviation "Ltd" at the end of the company name, making it clear that the Canadian supplier was PROMIS Systems Corporation, Ltd. Of Toronto, Canada.

Coleman claims in his affidavit that he "became aware in 1991 that Michael Riconosciuto, known to me as a longtime CIA asset, was arrested in Washington State by DEA for the manufacturing of illegal chemical drugs. I had also become aware that Riconosciuto had made a sworn statement, prior to his arrest, about his participation in a covert U.S. intelligence initiative

to sell INSLAW's PROMISE [sic] software to foreign governments." Coleman claims in his affidavit as follows: "In light of Hurley's personal involvement in the U.S. Government's covert intelligence initiative ro sell PROMIS[E] software to foreign governments and his reassignment to a DEA intelligence position in Washington State in advance of Riconosciuto's arrest of Riconosciuto on drug charges, the arrest of Riconosciuto should be regarded as suspect . … the probability is that Hurley was reassigned to Washington State to manufacture a case against Riconosciuto in order to

There was a longstanding need in the U.S. intelligence community for compatible database software to facilitate the gathering and dissemination of intelligence information between the "producer" and the "consumer" agencies. The CIA under William Casey allegedly obtained a copy of PROMIS from the Justice Department in 1982, just as the NSA had done the year before for its new Follow the Money bank surveillance mission, and the CIA decided that PROMIS could be modified to satisfy that longstanding need.

The CIA then commissioned the integration of PROMIS with artificial intelligence software to automate some of the tasks that U.S. Armed Forces "consumers" perform, after receiving intelligence data from "producer" agencies. One example was automated reasoning to convert intelligence data on "threats and targets" into computer-directed firing of missiles against them.

(1) "Combat-Support PROMIS" Systems on Board All U.S. Nuclear Submarines.

As noted earlier in this document, the CIA deployed the U.S. Intelligence Community's new standard PROMIS database software to virtually every component of the U.S. intelligence community, beginning with a "threats and targets" intelligence application "in the early 1980s" on board the nuclear submarines of the United States and Great Britain. Both Rafi Eitan and Earl Brian were apparently involved in this initial CIA-orchestrated deployment of PROMIS. That deployment of PROMIS also appears to have enabled Jonathan Pollard's computer-based theft of U.S. nuclear targeting secrets for Israel.

Without knowledge of the CIA's planned intelligence application for VAX 11/780 PROMIS on nuclear submarines, two federal courts made findings of fact in the late 1980s which, in retrospect, related to the covert operation to obtain VAX 11/780 PROMIS from INSLAW: each of the two courts ruled that the U.S. Justice Department "took, converted, stole" VAX 11/780 PROMIS from INSLAW "through trickery, fraud, and deceit," during the interval between November 1982 and April 1983, and then "attempted unlawfully and without justification," to force INSLAW into liquidation to incapacitate the Company from seeking redress in court for the theft.

INSLAW had developed a new version of PROMIS for VAX 11/780 computers in 1981, but had not yet licensed it to any government agency when Justice launched its late 1982 effort to strong-arm INSLAW into delivering VAX PROMIS. Justice used INSLAW's contract for installation in the 22 largest U.S. Attorneys Offices of an older version of PROMIS, for its scheme to obtain delivery of VAX 11/780 PROMIS from INSLAW under false pretenses.

INSLAW repeatedly refused to deliver VAX PROMIS without a contract modification that would protect its proprietary rights to VAX 11/780 PROMIS. In April 1983, Justice modified INSLAW's U.S. Attorneys Offices contract to obtain delivery of VAX PROMIS, based on its written promise (1) not to disseminate VAX PROMIS while Justice promptly evaluated whether to license VAX PROMIS from INSLAW for U.S. Attorneys Offices, and based (2) on its written promise promptly to return VAX PROMIS to INSLAW if Justice decided not to install it in U.S.

Attorneys Offices. Justice, however, instructed INSLAW to port VAX PROMIS to the government-furnished computers in U.S. Attorneys Offices but stonewalled INSLAW on payment of license fees. Almost immediately after it obtained delivery of VAX PROMIS in late April 1983, Justice covertly gave an unauthorized, copyright-infringing copy to Israeli intelligence.

During the interval between the November 1982 start of Justice's scheme, and the fraudulent April 1983 modification to INSLAW's U.S. Attorneys Contract, Justice sent Rafi Eitan, Director of Israel's LAKAM intelligence agency, to INSLAW's offices in downtown Washington, D.C. for a demonstration of VAX 11/780 PROMIS. At the time, Justice told INSLAW that the Israeli visitor was a prosecutor from the Israeli Ministry of Justice named Dr. Ben-Or, who was heading a project in Israel to computerize its prosecution offices. In February 1983, INSLAW accordingly provided a several-hour-long online demonstration of VAX 11/780 PROMIS to "Dr. Ben-Or" of the Israeli Ministry of Justice.

A decade later, in early 1993, INSLAW discovered the real identity of the February 1983 Israeli visitor to INSLAW: Rafi Eitan, Director of the LAKAM intelligence agency of the Israeli Ministry of Defense.

Based on leads from the House Judiciary Committee's chief INSLAW investigator, and from two investigative reporters in Tel Aviv, INSLAW used a photographic lineup to identify the 1983 visitor: Rafi Eitan. Eitan later confirmed to Gordon Thomas, the British author of a 1999 book on Israel's MOSSAD intelligence agency, that he had taken a taxi from the U.S. Justice Department to INSLAW in February 1983 under the guise of being an Israeli prosecutor named Dr. Ben Or. Gordon Thomas interviewed Eitan for his history of the MOSSAD because Eitan had earlier served, for almost a quarter of a century, as the MOSSAD's deputy director for covert operations.

In early May 1983, Justice covertly gave at least one more version of PROMIS to an Israeli official identified in Justice Department records simply as "Dr. Ben Or," according to the House Judiciary Committee's September 1992 Investigative Report, *The INSLAW Affair*. As noted earlier, President Reagan's Deputy National Security Adviser Robert McFarlane and Earl Brian had reportedly given Rafi Eitan a copy of the IBM mainframe version of PROMIS in 1982 during a meeting in Washington, D.C.

- **FBI Aborted Summer 1984 Investigation of Robert Maxwell's PROMIS Sales for Intelligence Application on Board U.S. Nuclear Submarines.**

The official spokesperson for the Naval Sea Systems Command "confirmed that the Navy, since the early 1980s, had used a software program called PROMIS for database management aboard submarines in intelligence gathering and dissemination. … The Navy installed PROMIS aboard attack (SSN) [Sub-Surface Nuclear] and ballistic missile (SSBN) [Sub-Surface Ballistic Nuclear] subs using a VAX 11/780 model 5 computer". … The spokesperson said to "contact the Navy's Undersea Systems Center in Newport, Rhode Island," for more information, according to the December 8, 1995 affidavit to INSLAW by Don Ward, the former *Navy Times* reporter who, at INSLAW's suggestion, asked the spokesperson about PROMIS.

The Navy's Undersea Systems Center in Newport, Rhode Island, the component of the Naval Sea Systems Command responsible for the deployment and support of computer systems on board U.S. nuclear submarines, placed advertisements in the government's *Commerce Business Daily* several times during the 1980s and 1990s (November 5, 1987, June 4, 1990, and June 8,

1990) for a contractor to support the "combat-support PROMIS" system on board the SSN and SSBN nuclear submarines, as well as at its Land-Based Test Facility in Newport. The advertisements stated that the winning contractor would, among other tasks, work on the "combat-support PROMIS" system's "computer-directed firing" of submarine-launched ballistic missiles. As noted earlier, Earl Brian's Hadron, Inc. employed approximately 75 computer systems engineers in Newport, Rhode Island during the first half of the 1980s in support of computer systems on board nuclear submarines.

Before the Navy's Undersea Systems Center could deploy PROMIS "in the early 1980s" on VAX 11/780 computers to all of the Navy's nuclear submarines, the U.S. Government first had to modify PROMIS to track Sonar intelligence information on "threats" from Soviet submarines, and to perform the "computer-directed firing" of submarine-launched ballistic missiles against "threats and targets."

Robert Maxwell, the main distributor of stolen copies of PROMIS for Rafi Eitan and Israel sold VAX 11/780 PROMIS to the two national laboratories in New Mexico to be modified for the submarine intelligence application. Sandia and Los Alamos, the two national laboratories in New Mexico, are both units of the U.S. Department of Energy.

INSLAW received information from an unidentified source in the U.S. Department of Justice, following Robert Maxwell's death in November 1991, that the Justice Department had documentation on two $15 million PROMIS sales in New Mexico by Robert Maxwell; that INSLAW should be able to obtain the documentation under the Freedom of Information Act (FOIA) because Maxwell's death ended the ability of the Justice Department to interpose the Privacy Act as justification for declining to produce the documentation; and that the documentation would put an end to the government's cover up of the INSLAW affair.

In January 1994, INSLAW obtained, in response to its FOIA request for documents about Robert Maxwell's sales of PROMIS in New Mexico, approximately 20 pages relating to an FBI "foreign counter-intelligence investigation," during the summer of 1984, of a "technology transfer" matter involving Robert Maxwell, doing business as Pergamon International. The FBI first heavily redacted the copies of the documentation it produced to INSLAW, citing national security requirements.

According to the un-redacted portions of a June 13, 1984 "AIRTEL" from the FBI's Albuquerque Field Office to FBI Headquarters, two "technology transfer" employees at the Sandia National Laboratory visited the FBI's Albuquerque field office on June 1, 1984 and made a complaint about a possible risk to U.S. national security related to Maxwell's New Mexico PROMIS sales. The two Sandia employees told the FBI they had learned from colleagues at NSA that Maxwell had recently acquired another company, Information-on-Demand, which was selling U.S. Government data to the Soviet Government.

On August 14, 1984, however, the FBI's Albuquerque field office informed FBI Headquarters that on August 13, 1984 "one of the individuals who originally brought this information to the attention of the FBI, and the fact that the NSA might wish to establish liaison with the Bureau in this matter, indicated that he had no further word from NSA." The Albuquerque field office further informed FBI Headquarters that, absent further word from NSA, it was aborting the foreign counter-intelligence investigation it had begun on June 1, 1984: "Until such time as NSA re-establishes contact and expresses further interest in this matter, Albuquerque is taking no further action and this matter is being placed in a closed status."

The FBI field office also told FBI Headquarters that it had advised the Sandia employees as follows: "if NSA has a desire to establish contact with the FBI in this matter, a logical step would be to contact FBIHQ and pursue it through that channel."

- **Rafi Eitan Appointed Top Israeli Nuclear Targeting Expert to Supervise Pollard's Espionage in Summer 1984 as FBI Aborted Investigation of Robert Maxwell's Sales of VAX 11/780 PROMIS for U.S. Submarines.**

Rafi Eitan reportedly appointed Israeli Air Force Colonel Aviem Sella, one of Israel's top experts on the targeting and delivery of nuclear weapons, as the U.S.-based espionage controller for Jonathan Pollard, a civilian intelligence analyst at U.S. Navy Intelligence in Suitland, Maryland nd the successor INSLAW, Inc., had discontinued Brewer's employment for cause in the late 1970s when the Institute had employed Brewer.
who used the computer terminal on his desk to access U.S. intelligence database systems and steal U.S. intelligence secrets for Israel.

During the same summer of 1984 when the FBI aborted its foreign counter-intelligence investigation of Robert Maxwell's PROMIS VAX 11/780 sales in New Mexico, Rafi Eitan assigned Colonel Sella to serve as Pollard's U.S.-based espionage controller, according to an article by Seymour Hersh, entitled "The Traitor," in the January 18, 1999 issue of the *New Yorker Magazine.*

- **By the Time FBI Arrested Pollard in November 1985, Pollard had Stolen Entire U.S. Nuclear Attack Plan against Soviet Union**.

Hersh reported in the aforementioned *New Yorker* article: "a significant percentage of Pollard's documents, including some that described the techniques the American Navy used to track Soviet submarines around the world, was of practical importance only to the Soviet Union."

Hersh further reported that CIA Director William Casey had revealed to a CIA station chief Hersh later interviewed that Casey felt Israel had betrayed the United States by using Pollard to steal the entire U.S. nuclear attack plan against the Soviet Union: "High-level suspicions about Israeli-Soviet collusion were expressed as early as December 1985, a month after Pollard's arrest, when William J. Casey, the late CIA director, who was known for his close ties to the Israeli leadership, stunned one of his station chiefs by suddenly complaining about the Israelis breaking the 'ground rules.' The issue arose when Casey urged increased monitoring of the Israelis during an otherwise routine visit. I was told by the station chief, who is now retired; 'He asked if I knew anything about the Pollard case,' the station chief recalled, and he said that Casey had added: 'For your information, the Israelis used Pollard to obtain our attack plan against the U.S.S.R., all of it. The coordinates, the firing locations, the sequences. And for guess who? The Soviets.' Casey had then explained that the Israelis had traded the Pollard data for Soviet emigres. 'How's that for cheating?' he had asked."

Intelligence information about (1) tracking Soviet submarines, and (2) containing the detailed U.S. nuclear attack plan against the Soviet Union, are probable examples of the kinds of data Pollard could have stolen by accessing the "combat-support PROMIS" system on board U.S. nuclear submarines, or the copy at the Navy's Undersea Systems Center's Land-Based Test facility in Newport, Rhode Island.

- **Justice Department under Attorney General William French Smith Launched Scheme to Steal VAX 11/780 PROMIS for U.S. Submarines Three Months After Confirming INSLAW's Proprietary Rights.**

The two court rulings in the late 1980s that the Justice Department, under Attorney General William French Smith, launched a scheme, in November 1982, under which it "took, converted, stole" VAX 11/780 PROMIS "through trickery, fraud, and deceit," were even more shocking for an additional reason: on August 11, 1982, just three months earlier, William French Smith's Deputy Attorney General's office had provided INSLAW a letter the Company had requested confirming the government understood INSLAW's ownership of PROMIS.

The background for that letter is as follows. The principal officers of the Institute for Law and Social Research (INSLAW), the not-for-profit predecessor company to the for-profit INSLAW, Inc., purchased the assets of the Institute, including its PROMIS copyright rights, effective January 1, 1981, after the officers, together with the Institute's independent directors, had concluded the Institute no longer had a viable future. This development was the consequence of Congress' decision in 1980 to liquidate the Justice Department's Law Enforcement Assistance Administration (LEAA), which had financed the Institute's PROMIS development, upkeep, and upgrade work through most of the 1970s.

Before Bill and Nancy Hamilton, the principal owners and officers of INSLAW, Inc., took steps to finance the PROMIS upkeep and upgrade work of the planned successor company, INSLAW's outside counsel, Roderick Hills, contacted the Carter Administration's Deputy Attorney General, Charles Renfrew, in the fall of 1980, to ask whether the government had plans of its own to continue the PROMIS upkeep and upgrade work and, if not, whether it had any objections to the Hamiltons' plan to commercialize PROMIS by investing private funds in the creation of enhancements and marketing the enhanced versions as fee-generating software products.

Hills explained to Deputy Attorney General Renfrew in 1980, ironically in light of what later transpired, that he did not wish to advise Mr. and Mrs. Hamilton to mortgage their home to finance the successor INSLAW, Inc. without first asking whether they might end up competing with some component of the very large U.S. Government with plans of its own for PROMIS. PROMIS' success was well known by then. LEAA had earlier, for example, designated PROMIS as one of its "Exemplary Projects," and Princeton University had earlier awarded a John D. Rockefeller Distinguished Public Service Award to Bill Hamilton and Charles Work, the former prosecutor/customer for PROMIS, for their development of PROMIS. Deputy Attorney General Renfrew told INSLAW Counsel Hills in the fall of 1980 that the government had no such plans of its own.

During 1981, during its first year of operation, the new for-profit, INSLAW, Inc. invested approximately one million dollars in the creation of enhanced versions of PROMIS, including a new version of PROMIS for VAX 11/780 computers.

In mid-March 1982, INSLAW won a three-year, $10 million competitive Justice Department contract to install, in the 22 largest U.S. Attorneys Offices, a version of PROMIS the predecessor Institute had developed and pilot-tested for the Carter Justice Department in two of the largest U.S. Attorneys Offices on government-furnished PRIME computers. INSLAW disclosed in its March 1982 proposal to the Reagan Justice Department both that it had begun development of privately financed enhancements, and that the government had no license to use them.

INSLAW Counsel Hills and INSLAW President Hamilton each discussed with Reagan Deputy Attorney General Schmults,, approximately two weeks after INSLAW won the contract, INSLAW's request for a letter from the government confirming it understood INSLAW's proprietary rights in PROMIS and that the government had no objection to the Company's plan to begin marketing enhanced versions of PROMIS as fee-generating software products.. Hills provided the government a detailed written history of past federal financial contracts and grants on the development of earlier versions of PROMIS, and offered to have lawyers from his firm conduct answer questions from Justice Department officials on the Hamiltons' plan to develop a new method of financing PROMIS upkeep and upgrade work.

Justice's review process took approximately five months as the result of determined opposition from only one person, C. Madison Brewer, the Government's PROMIS Project Manager, who was Assistant Director of the Executive Office for U.S. Attorneys, the customer entity. Each time INSLAW's lawyers answered one objection, during the spring and summer of 1982, Brewer would voice a new, unrelated objection. Bill Hamilton, successively founder and president of both the Institute a

Justice's later hiring of Brewer as the Government's PROMIS Project Manager was itself puzzling. In the summer of 1981, the Reagan Justice Department internally announced its decision to proceed with a plan career Justice officials had formulated during toward the end of the Carter Administration, for installation of an earlier version of PROMIS in the 22 largest U.S. Attorneys Offices. Justice had earlier pilot tested PROMIS in two of the largest U.S. Attorneys Offices and hired an independent contractor to evaluate its success. The Reagan Justice Department took two unusual personnel actions in mid-1981 when Reagan Deputy Attorney General Schmults announced plans for a new PROMIS project: (1) it forcibly removed the two key PROMIS-related incumbents; and (2) it replaced each of them with persons recruited from the outside. Justice recruited Brewer in August 1981 from the U.S. Attorney's Office in Washington, D.C. to serve as the Government's new PROMIS Project Manager, replacing the incumbent Patricia Goodrich, whom it forced to leave for a position in another part of Justice. Similarly, Justice recruited Peter Videnieks in September 1981 from the U.S. Customs Service to serve as its new PROMIS Contracting Officer, replacing the incumbent Betty Thomas, whom it, likewise, forced to accept another government position. At the time of his recruitment, Videnieks was administering U.S. Customs contracts, including Customs' contracts with Earl Brian's Hadron, Inc.

INSLAW Counsel Hills took steps in the summer of 1982 to end Brewer's ability to continue to hold INSLAW's commercial future hostage. First, he asked the Deputy Attorney General's office to order Brewer's recusal from the review process based on his prior employment at the predecessor Institute, an action the Deputy Attorney General's office took. Secondly, Hills had his firm prepare, and share with Justice's top copyright lawyer, Vito DiPietro of the Civil Division, a legal opinion explaining that INSLAW, as the author of PROMIS, was automatically vested under U.S. Copyright Law with exclusive ownership of key PROMIS copyright rights.

When Justice launched its scheme in November 1982 to attempt to strong-arm INSLAW into delivering VAX 11/780 PROMIS under the U.S. Attorneys contract, INSLAW refused to deliver it without a contract modification to protect the Company's proprietary rights, in keeping with the aforementioned August 11, 1982 "sign-off" letter from the Associate Deputy Attorney General. Brewer and Videnieks both surprisingly insisted, however, that the "sign-off" letter from the office of Justice's Chief Operating Officer did not apply to INSLAW's PROMIS contract with U.S. Attorneys Offices.

Justice's internal procurement counsel eventually intervened and ordered Videnieks to modify the contract, as INSLAW was demanding, before obtaining delivery of VAX 11/780 PROMIS. Justice modified INSLAW's U.S. Attorneys contract in April 1983 to obtain delivery of VAX 11/780 PROMIS based on its written promise to review INSLAW's evidence of the privately financed enhancements and either promptly to return VAX PROMIS to INSLAW or to negotiate payment of license fees.

Justice never intended to abide by that April 1983 contract modification, according to the fully litigated findings of two federal courts in the late 1980s. These courts also severely criticized Brewer and Videnieks for malicious administration of the INSLAW contract. When, for example, INSLAW proposed a written methodology for proving the privately financed enhancements contained within the approximately 500,00 lines of PROMIS software source code, Brewer and Videnieks rejected the proposed methodology while refusing to say what changes would be necessary. The federal bankruptcy court later ruled that Brewer and Videnieks "engaged in an outrageous, deceitful, fraudulent game of cat and mouse, demonstrating contempt for both the rule of law and any principle of fair dealing.' Justice neither returned VAX 11/780 PROMIS to INSLAW nor paid license fees to INSLAW.

A June 1983 Justice document that INSLAW obtained in litigation discovery in 1987 documented the fact that Justice's copyright expert, DiPietro, had agreed with the summer of 1982 legal opinion from INSLAW's outside legal counsel: the June 1, 1983 legal memorandum from DiPietro to Justice's internal procurement counsel stated that INSLAW, under federal copyright law, owns the PROMIS copyright rights, and the government's rights are limited to whatever licenses the government had negotiated in the Data Rights clauses of its PROMIS contracts with INSLAW.

The genesis of the June 1, 1983 internal Justice legal memorandum from DiPietro is as follows. In the spring of 1983, after Justice modified INSLAW's contract to obtain delivery of VAX 11/780 PROMIS, Justice's internal procurement counsel sought DiPietro's copyright law advice in response to pressure from Videnieks and Brewer for authority to force INSLAW to stop placing its PROMIS copyright legends on deliverables under the contract. The federal bankruptcy court forced the government to produce a copy of DiPietro's internal legal memorandum to INSLAW, in response to an INSLAW Motion to Compel Production.

One of the most important exclusive copyright rights owned by INSLAW is the right to modify the copyright-protected PROMIS software to create PROMIS-derivative works. The government never sought or obtained a license from INSLAW to modify PROMIS to create derivative works, as the appellate Review Panel for the U.S. Court of Federal Claims ruled On May 11, 1998: "Thus the license did not grant the government the right to prepare derivative works beyond translation of the PROMIS software." That court has exclusive authority over copyright infringement claims against the federal government.

Each intelligence version of PROMIS, inescapably based on unauthorized modifications to PROMIS, is a copyright-infringing derivative of PROMIS. As a consequence the United States is liable to INSLAW for copyright infringement damages.

Moreover, *willful* copyright infringement is a federal crime, in addition to being a civil tort and, as a consequence, subject to criminal sanctions.

- **Justice Department, CIA and Israeli Intelligence Colluded in October 1986 to Derail INSLAW's Lawsuit over Theft of VAX 11/780 PROMIS for U.S.**

Nuclear Submarines.

In October 1986, four months after INSLAW, Inc. filed its lawsuit against the U.S. Department of Justice over the government's April 1983 theft of VAX 11/780 PROMIS, the law firm of Dicksteen, Shapiro and Morin, INSLAW's initial litigation counsel, asked Leigh Ratiner, the partner in charge of INSLAW's case, to leave the firm.

Ratiner immediately informed INSLAW he had been fired, and, moreover, that the firm's Managing Partner told him that Leonard Garment, a Senior Partner, had instigated the firing through the firm's Senior Policy Committee, to which Garment belonged.

Ratiner further told INSLAW he believed, but could not prove, Dicksteen fired him to curry favor with the Meese Justice Department. Garment had represented Meese in 1984 when Independent Counsel Jacob Stein investigated Attorney General-Designate Meese for failure to disclose his financial and business ties to Earl W. Brian on his mandatory White House Financial Disclosure Reports for 1981 and 1982, among other allegations of ethical improprieties by Meese in his capacity as Counselor to President Reagan..

Ratiner also warned INSLAW it needed to find new litigation counsel because Dicksteen could no longer be counted on to help INSLAW win its lawsuit.

Evidence soon emerged that Ratiner's fear was well founded. The Dicksteen lawyers who replaced Ratiner on the INSLAW case sent INSLAW a letter, on January 15, 1987, asserting there was not enough evidence to prove INSLAW's entitlement to PROMIS license fees, and requesting INSLAW's written authorization, by the close of business the same day, to negotiate a settlement with the government whereby INSLAW would drop its demand for PROMIS license fees, and the government would pay INSLAW at least $1 million of the almost $1.8 million owed the Company because of payments withheld on account of so-called contract disputes that arose immediately following INSLAW's delivery of VAX 11/780 PROMIS in April 1983.

Rather than accept Dicksteen's ultimatum, INSLAW retained new litigation counsel in early 1987. McDermott, Will, and Emery, INSLAW's new law firm, proved in two federal courts, the U.S. Bankruptcy Court for the District of Columbia in January 1988 and the federal district court in November 1989, that the government owed INSLAW PROMIS license fees. Each court ruled that the U.S. Department of Justice "took, converted, stole" VAX 11/780 PROMIS from INSLAW in April 1983 through "trickery, fraud, and deceit;" that the government thereafter attempted "unlawfully and without justification" to force INSLAW out of business so it would be unable to seek redress in court; and that the United States owed INSLAW millions of dollars in license fees for the government's use of a derivative of the VAX 11/780 version of PROMIS in the 44 largest U.S. Attorneys Offices.

Of significant importance, Attorney General Meese replied under oath in the same litigation that he had a "general recollection of a conversation with Leonard Garment in which Mr. Garment mentioned that he had discussed INSLAW with [Meese's Deputy Attorney General] Arnold Burns." Meese did so in late 1987 in response to an interrogatory from INSLAW in federal bankruptcy court that INSLAW had pursued based on Ratiner's leads.

Leonard Garment ignored a letter from INSLAW's new litigation counsel seeking an explanation for his October 1986 INSLAW discussions about the INSLAW case with Attorney General Meese and Deputy Attorney General Arnold Burns, discussions Garment had never disclosed to either Ratiner or INSLAW.

Garment did, however, answer questions in early 1988 from at least two reporters. Garment confirmed to Maggie Mahar, a reporter for *Barron's,* that he and Attorney General Meese had met at the approximate time of Ratiner's October 1986 firing, but Garment insisted the meeting had been about a foreign policy matter about which Garment was about to travel to Israel, rather than about INSLAW as Meese had testified. (Maggie Mahar, *Barron's*, "Rogue Justice: Who and What Were Behind the Vendetta Against INSLAW?" April 4,1988). Barron's quoted Garment as follows: "look – I met with Meese around the date he mentioned, and I discussed with him a matter of foreign policy. I was on my way to Israel …"

Garment separately characterized his October 1986 meeting with Meese to a second reporter, later in the early 1988. The second reporter told INSLAW Garment said the following about his and Meese's October 1986 discussion: "a back channel effort to resolve a foreign policy issue within the jurisdiction of DOJ and in connection with a trip abroad—Israel, Pollard."

Garment's plan to travel to Israel on the Pollard case in October 1986, the month Dicksteen fired INSLAW's lead litigation counsel, would not have been the first time a trip by Garment to Israel on the Pollard case coincided with a development in the INSLAW affair.

In June 1986, the month when INSLAW filed its lawsuit against the U.S. Department of Justice over the theft of PROMIS, Garment reportedly traveled to Israel for consultations on Israeli Air Force Colonel Aviem Sella's role in Pollard's espionage.

Following the FBI's arrest of Pollard in November 1985 for stealing U.S. nuclear targeting secrets for Israel, the Government of Israel reportedly retained Garment to represent Israeli Air Force Colonel Aviem Sella in the Pollard case, with the objective of persuading the Meese Justice Department to abstain from prosecuting Sella, whom Rafi Eitan had appointed in the summer of 1984 to supervise Pollard's computer-based theft of U.S. nuclear targeting secrets. Colonel Sella was reportedly one of Israel's top experts on the targeting and delivery of nuclear weapons.

Nicholas Kulibaba, a free-lance reporter, gave INSLAW the second account of Garment's October 1986 discussions with Meese, immediately after leaving what he said had been a several hour meeting with Garment and another partner at Dicksteen. Kulibaba was interviewing Garment for an article in *Regardies Magazine* in Washington, D.C. but evidently never completed the article.

For his part, former Deputy Attorney General Arnold Burns later confirmed under oath that his October 1986 discussions with Garment had, in fact, been about INSLAW, as Meese had earlier claimed under oath. Burns told the Senate Permanent Subcommittee on Investigations (Senate Permanent Subcommittee on Investigations, *Staff Study Pertaining to the Department of Justice's Handling of a Contract with INSLAW, Inc.,* September 1988) that he had a "social luncheon" with Garment on October 6, 1986, the week before the law firm's Senior Policy Committee voted to fire Ratiner, and that, during that luncheon, he criticized Ratiner's litigation strategy against the Department of Justice, and "signaled" Garment that a change in that strategy could result in an early, and by implication, favorable settlement of INSLAW's suit.

Burns claimed to Senate investigators that his criticism of Ratiner's litigation strategy had been about Ratiner's alleged practice of trying the INSLAW case in the press. Burns had been much more candid, however, when, on August 29, 1986, Burns had written directly to Ratiner about the need for him to change INSLAW's litigation strategy. Burns wrote that a decision to drop

INSLAW's demand for PROMIS license fees could lead to a quick and favorable settlement of the so-called contract disputes, and that INSLAW's PROMIS license fee claims were in his opinion "unjustified and unjustifiable."

The CIA and Israeli intelligence, in October 1986, simultaneously arranged to transfer $600,000 in funds from a CIA-Israeli slush fund, through Earl Brian's Hadron, Inc., to reimburse Dicksteen for its planned severance payments to Ratiner, according to a book published in 1991 by a former Israeli intelligence operative, Ari Ben Menashe (*Profits of War: Inside the Secret U.S.-Israeli Arms Network*): "A few weeks before Ratiner's dismissal, I had seen a cable that came in from the United States. It requested that a $600,000 transfer from the CIA-Israeli slush fund be made to Earl Brian's firm, Hadron, The money, the cable said, was to be transferred to Garment's law firm, Dicksteen, Shapiro, and Morin, to be used to get one of the INSLAW lawyers, Leigh Ratiner, off the case. Ratiner, it seems, was removed for doing too good a job for INSLAW."

These covert actions by the top two officials of the U.S. Department of Justice, in concert with both the CIA and Israeli intelligence, took place less than a year after the FBI's November 1985 arrest of Pollard for what the government has always claimed was one of the most serious cases in the history of espionage against the United States.

The following six additional CIA-orchestrated deployments of PROMIS as the standard database software for gathering and disseminating U.S. intelligence information began during the Reagan Administration but the actual sequence is not known.

(2) PROMIS-Based Intelligence Database Systems in Cockpits of F-117 Stealth Fighter and, Later on, All U.S. Attack Aircraft.

The first example, similar to the deployment of PROMIS to nuclear submarines, was Lockheed Aircraft's installation of PROMIS in the cockpit of the F-117 Stealth Fighter, during a four month period in late 1985 and early 1986, for a combat-support 'threats and targets" intelligence application.

In a "black" project conducted for the CIA and the U.S. Air Force, Lockheed completed development of the new F-117 Stealth Fighter in October 1984 at its Skunk Works facility in Burbank, California. One year later, within the span of only four months time, Lockheed installed a database system in the F-117's cockpit to convert intelligence data about threats and targets, downloaded from U.S. spy satellites to the F-117, into automated flight corrections and automated computer-directed firings of the F-117's missiles.

Ben Rich, the Lockheed Aircraft vice president in charge of its Skunk Works' development of the F-117, wrote a book (*Skunk Works: A Personal Memoir of My Years at Lockheed*) in which he described development of this intelligence database system:
"To my amazement they [Lockheed Aircraft engineers] actually developed this automated program in only 120 days and at a cost of only $2.5 million. It was so advanced over any other program that the Air Force bought it for use in all their attack airplanes."[1]

[1]"A year after the stealth fighter became operational, two computer wizards who worked in our threat analysis section came to me with a fascinating proposition: 'Ben, why don't we make the stealth fighter automated from takeoff to attack and return? We can plan the entire mission on computers, transfer it onto a cassette that the pilot loads into his onboard computers that will route him to the target and back and leave all the driving to us.'

One INSLAW source, knowledgeable about unauthorized uses of PROMIS by U.S. intelligence agencies, told INSLAW that "Lockheed Aircraft owes INSLAW a lot of money" and that "the Air Force Systems Command at Wright-Patterson Airbase in Dayton, Ohio employed more PROMIS computer programmers than INSLAW did."

INSLAW discovered the explanation for that source's claims in 1994, when a close friend of INSLAW President Bill Hamilton was doing consulting work on the fiber optics network of the F-117 when he noticed a PROMIS software manual in the F-117 Project Office at McClelland Air Force Base in California. That friend, who had been closely following the INSLAW case in the media for years, is a retired U.S. Air Force Colonel and test pilot with a PHD in Aeronautical Engineering.

INSLAW received indirect confirmation two years later. In September 1996, the publisher of the planned Commemorative Book for the 50th Anniversary of the U.S. Air Force in 1997, wrote and made follow-up telephone calls to INSLAW inviting the Company to take out a full-page advertisement in the forthcoming commemorative book, stating that INSLAW, like ORACLE and MICROSOFT, was one of the computer software vendors with the largest installed bases of software products in the U.S. Air Force. INSLAW, however, had never licensed PROMIS to the U.S. Air Force or authorized anyone else to do so.

(3) PROMIS-Based Database System Shared by All 16 Agencies of U.S. Intelligence Community.

The CIA used the IBM mainframe computer version of PROMIS to create a new generation of the U.S. Intelligence Community's COINS (Community Online Intelligence System), known as COINS-II, which was used by all 16 agencies of the U.S. intelligence community, operating over the U.S. Intelligence Community's Intranet. The United States interrogation in 2001 of former FBI Agent Robert Hanssen for espionage on behalf of the Soviet KGB reportedly established that Hanssen had sold the KGB copies of both the software source code for the PROMIS-derivative version of COINS and a COINS-II manual.

(4) PROMIS-Based Foreign Affairs Information System (FAIS) System in Every U.S. Embassy for Classified Communications with the State Department in Washington, D.C.

The State Department's use of PROMIS, beginning in the second half of the 1980s, to create a new generation, known as FAIS (Foreign Affairs Information System) of software used in U.S. Embassies to keep track of their classified communications with the U.S. Department of State. The State Department, during the second half of the 1980s, installed PROMIS on WANG VS computers in U.S. Embassies. INSLAW obtained confirmation of this use of PROMIS through a Freedom of Information Act (FOIA) request to the State Department, and also when one of the adult children of the Hamilton family happened to meet a computer programmer at the State Department who claimed he was then supporting the INSLAW software on WANG VS computers in every U.S. Embassy. INSLAW had developed a version of PROMIS for WANG VS computers and licensed it, years earlier, to a unit of the Justice Department for use in state and local public prosecution offices. In its Annual Report for 1982, Hadron reported its contract work with the State Department, supplying NSA-certified TEMPEST shields to protect State Department computers operating the Department of State File Management and Retrieval System against the threat of intercepts by foreign governments. The PROMIS-derivative FAIS system was presumably a new generation of the State Department's File Management and Retrieval System.

(5) PROMIS-Based Case Management Systems for Enforcement Agencies of Treasury and Justice Departments.

In an affidavit to INSLAW in March 1996, Carl Jackson, a retired deputy assistant administrator of the DEA stated that he had witnessed Reagan Justice Department Presidential appointee, D. Lowell Jensen, announce during a meeting at DEA that the Reagan Administration had decided to install PROMIS as the standard database software for all of the enforcement agencies of the Treasury and Justice Departments.; and that he had later confirmed with his deputy assistant administrator counterpart who was then responsible for DEA's computer systems that both the FBI and the DEA had installed PROMIS.

In 1985, the Treasury Department used PROMIS to create a new generation of its TECS (Treasury Enforcement Communications System) Case Management System, known as TECS-II. The PROMIS-derivative TECS-II became the standard case management software for every Treasury enforcement agency, including U.S. Customs' Office of Enforcement, the IRS Criminal Investigation Division, the Secret Service, and FINCEN (Financial Crimes Enforcement Network).

"Everybody knows that the TECS-II is the PROMIS software. " A unnamed former Customs Internal Affairs officer, who had read the Customs Internal Affairs Office's report on the INSLAW affair, made that statement to Thomas M. Strezemienski, according to the February 28, 1996 affidavit to INSLAW from Strezemienski, then a Congressional investigator. Strezemienski knew this former Customs Internal Affairs agent, having both previously worked as U.S. Customs agents.

The Northrop Corporation allegedly supplied INSLAW's PROMIS software to Customs in 1985 for use in creating TECS-II for use by every Treasury Department enforcement agency. *The Wall Street Journal,* in an article dated September 19, 1989, reported that Northrop received Customs' lucrative nationwide contract to dispose of seized property through auctions, as a reward for having made available to Customs that year, i.e.,, in 1985, a "sophisticated computer system" for tracking seized property. That is one of the functions performed by TECS-II.

The retired Chief Contracting Officer at a Justice Department agency, Joe N. Pate, provided INSLAW an affidavit on November 19, 1991 recounting a recent admission to him by a computer programmer in the IRS Criminal Investigation Division who claimed he was then providing support for the IRS Criminal Investigation Division's use of the same PROMIS software that was then at the center of INSLAW's litigation against the Justice Department.

The DEA, on April 15, 1985, did an inter-agency transfer of $650,000 in funds to the Defense Intelligence Agency (DIA) so a DIA contractor, the Eaton Corporation could create a new generation of DEA's CAST case management software for both DEA's El Paso Intelligence Center and DEA Headquarters, according to documents INSLAW obtained from DEA under the Freedom of Information Act (FOIA).

The FBI began operation in 1985 of the first Bureau-wide case management system, known as FOIMS. Leaks to the media in 2001 from federal law enforcement officials familiar with the de-briefing that year of former FBI Agent, and Soviet and Russian spy, Robert Hanssen stated that Hansen had sold the KGB a copy of the software source code for the FBI's PROMIS-derivative FOIMS case management system.

(6) PROMIS-Based Main Core Domestic Spying Database System Administered by the Federal Emergency Management Agency (FEMA) under Continuity of Government (COG) Program.

The Federal Emergency Management Agency (FEM)A administered the PROMIS-based Main Core database system under the Continuity of Government (COG) Program, ostensibly at least, for hand-off to the U.S. Army and the Defense Intelligence Agency (DIA) in the event of a national catastrophe and imposition of martial law as a consequence.

The investigative reporter, Danny Casolaro, told Terry Miller in the spring of 1991 that he had discovered the PROMIS-based domestic spying system, known as Main Core. that the FEMA was then administering at its Culpepper, Virginia computer center under the highly classified COG Program. Miller, a friend who had worked with Casolaro on other federal computer procurement scandals, was the person who suggested, in August 1990, that Casolaro investigate the INSLAW affair. Casolaro worked full time on his investigation of the INSLAW affair for 12 months before he was found dead in his Martinsburg, West Virginia hotel room. That was the same week Casolaro confided to a handful of close associates that he had finally broken the INSLAW case.

On the afternoon before Casolaro's violent August 10, 1991 death in Martinsburg, William Turner, who claims that he had been storing in his home for Casolaro highly classified documents Casolaro had obtained from various sources, including an NSA employee, brought the documents at Casolaro's request to Martinsburg. Casolaro told Turner he planned to use the documents for his final, follow-up meeting that evening with sources on INSLAW. Casolaro further told Turner he intended to trade them for other documents during his planned meeting that evening with Peter Videnieks, the former Justice Department PROMIS Contracting Officer, and Joseph Cuellar, whom Casolaro told Turner had arranged his meeting with Videniels and others. Turner claims he warned Casolaro that what he was planning was dangerous because the people he was scheduled to meet with could simply take his documents but provide no additional documents in return. Among Casolaro's documents were NSA computer printouts, classified Top Secret/SCI [Sensitive Compartmented Information] on wire transfers to off-shore bank accounts in Switzerland and the Cayman Islands belonging to Peter Videnieks, Earl Brian, and others. Turner made the claims in this paragraph in his March 15, 1994 affidavit to INSLAW.

Peter Videnieks had been a U.S. Customs Service Contracting Officer, including for its contracts with Hadron, Inc., until the Justice Department hired him in September 1981 to administer both the competitive procurement and the resulting contract award (which turned out to be to INSLAW) for installation of PROMIS in U.S. Attorneys Offices. The federal bankruptcy court severely criticized Videnieks in its January 1988 ruling for malicious administration of INSLAW's contract between 1982 and 1985.

The copies of the aforementioned NSA computer printouts were presumably produced by NSA's PROMIS-based Follow the Money bank surveillance project. FEMA stored these NSA intercepts in the PROMIS-based Main Core domestic spying database system, evidently without first "minimizing" them, as would normally have been required, to remove personal identifying information of the U.S. citizens, including Peter Videnieks and Earl Brian, whose bank transfers NSA was intercepting and copying..

On July 13, 1987, during the Joint House/Senate hearings on the Iran/Contra scandal, Rep. Jack Brooks asked Colonel Oliver North about his role, while serving on the Reagan NSC staff, in monitoring U.S. citizens under the umbrella of a COG project, but Senator Inouye, co-chairman

of the hearings, ruled the matter was too sensitive for public discussion, stating: "I believe that question touches upon a highly sensitive and classified area, so may I request that you not touch upon that, sir?" Two years later, Rep. Jack Brooks, as Chairman of the House Judiciary Committee, began the Committee's INSLAW investigation.

"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." These quotes are from an article in the maiden March 1993 issue of *Wired Magazine*, entitled "The INSLAW Octopus."

One month before Casolaro's death, he told INSLAW that Joseph Cuellar had appeared the previous evening, supposedly by chance, at a pub in Casolaro's neighborhood and, after asking Casolaro what he did for a living and hearing that Casolaro was researching a book on the INSLAW affair, described himself as one of Peter Videnieks' closest friends, and offered to arrange a meeting between Videnieks and Casolaro. Casolaro told INSLAW that Cuellar was a covert intelligence operative, recently returned from a covert operation in Iraq preceding the Desert Storm campaign. Cuellar was also a U.S. Army Special Forces, Intelligence Major.

The Reagan Administration's Three Major Misappropriations of PROMIS in the Earl 1980s Coincided with a Growing Government Recognition of the Need for Pre-Packaged Software Like PROMIS for Common Government Applications Like Case Management.

All three major U.S. intelligence community thefts of PROMIS began in the early 1980s at a time of a growing recognition within the government about the need and opportunity for pre-packaged software solutions for common government functions, including case management, and awareness among key Reagan Presidential appointees that INSLAW's PROMIS software was uniquely positioned for that new opportunity.

For example, the U.S. General Accounting Office (GAO) urged in an early 1980s report that the Executive Branch save time and money by emulating what the private sector had already begun doing, i.e., buying licenses to pre-packaged software for common types of applications (General Accounting Office, *Federal Agencies Could Save Time and Money with Better Computer Software Alternatives*, May 20, 1983). GAO listed case control, personnel, and payroll as the most common types of government applications, and included in its report an October 14, 1982 letter on the issue from the Deputy Administrator of the General Services Administration (GSA), the agency that had exclusive authority at the time over the government's procurement of computer software.

The Reagan Presidential appointee who was the GSA's Deputy Administrator stated in his letter to the Controller General of the United States that GSA concurred with the GAO recommendation but with an important caveat: pre-packaged software products had to be specially engineered for ease of transfer, just as, he claimed in his letter, INSLAW's PROMIS case management software was engineered: "Although this system was designed for State and local government legal case tracking, it has been modified to track inmates in jail, parcels of land, tort cases in New York State, and is in use in all 94 U.S. Attorneys Offices and several other Federal agencies. This system could be further modified to track welfare recipients or any function requiring tracking."

Additionally, Edwin Meese, Counselor to President Reagan, disclosed, in an April 1981 speech to a nationwide meeting in Washington, D.C. of the PROMIS Users Group, that he had been closely following INSLAW's work with PROMIS for the four years preceding President Reagan's election, and that he considered it to be the most important work being done in criminal justice in the United States.

The U.S. Intelligence Community Could Have Purchased PROMIS Licenses from INSLAW Without Risking Intelligence Sources and Methods.

Before summarizing the three major thefts of PROMIS for U.S. and Israeli intelligence projects, it is important to take note of the fact that the government could easily purchased lawful licenses to PROMIS from INSLAW, which, as the author of every version of PROMIS, was automatically vested under U.S. Copyright Law with exclusive PROMIS copyright rights, including the right to modify PROMIS to create derivative software applications, and the right to sell and distribute PROMIS. The government could have negotiated with INSLAW for the purchase of PROMIS licenses without disclosing how the licensed software would be used in sensitive intelligence applications, or risking exposure of intelligence sources and methods. Although INSLAW had been a major software vendor to the U.S. Justice Department for approximately a decade preceding the start of Justice's thefts of PROMIS, the Justice Department never approached INSLAW about lawfully purchasing PROMIS licenses for the aforementioned massive intelligence projects, presumably because the plan, from the outset, was to use stolen copies of PROMIS to generate hundreds of millions of dollars in illicit profits for intelligence slush funds and also for the personal financial gain of politically connected intelligence contractors like Earl Brian.

The U.S. intelligence background of Bill Hamilton, INSLAW's founder and President, makes the Justice Department's failure to have approached INSLAW directly even more stunning: (1) Bill Hamilton worked at NSA's Ft. Meade, Maryland Headquarters for seven years in the 1960s; (2) he had a Top Secret/CODEWORD security clearance at NSA; (3) he had risen to deputy chief of an NSA intelligence production branch by the time he resigned from NSA in 1969 to accept a position in the private sector; and (4) he had voluntarily gone to Vietnam in 1965, the year of the U.S. military buildup, as an NSA civilian on temporary duty. Hamilton had also been a contractor with the CIA in the 1960s and 1970s, translating Vietnamese-language political, economic, and military articles and speeches from the North Vietnamese Communist press, into English. Nancy Burke Hamilton, Bill's wife, business partner, and co-owner of INSLAW, and Bill raised six children while the U.S. Government was stealing their software and trying to destroy their family-owned software company.

The Justice Department's April 1983 Theft of VAX 11/780 PROMIS from INSLAW, Inc. was Part of a U.S./Israeli Covert Operation Involving the Justice Department, the CIA, and Israeli Intelligence.

Without knowledge of the CIA's planned intelligence application for VAX 11/780 PROMIS on nuclear submarines, two federal courts made findings of fact in the late 1980s which, in retrospect, related to the covert operation to obtain VAX 11/780 PROMIS from INSLAW: each of the two courts ruled that the U.S. Justice Department "took, converted, stole" VAX 11/780 PROMIS from INSLAW "through trickery, fraud, and deceit," during the interval between

November 1982 and April 1983, and then "attempted unlawfully and without justification," to force INSLAW into liquidation to incapacitate the Company from seeking redress in court for the theft.

In 1981, INSLAW had developed a new version of PROMIS in 1981 for VAX 11/780 computers, but had not yet licensed it to any government agency when Justice launched its late 1982 effort to strong-arm INSLAW into delivering VAX PROMIS. Justice used INSLAW's contract for installation in the 22 largest U.S. Attorneys Offices of an older version of PROMIS, for its scheme to obtain delivery of VAX 11/780 PROMIS from INSLAW under false pretenses.

INSLAW repeatedly refused to deliver VAX PROMIS without a contract modification that would protect its proprietary rights to VAX 11/780 PROMIS. In April 1983, Justice modified INSLAW's U.S. Attorneys Offices contract to obtain delivery of VAX PROMIS, based on its written promise (1) not to disseminate VAX PROMIS while Justice promptly evaluated whether to license VAX PROMIS from INSLAW for U.S. Attorneys Offices, and based (2) on its written promise promptly to return VAX PROMIS to INSLAW if Justice decided not to install it in U.S. Attorneys Offices. Justice, however, instructed INSLAW to port VAX PROMIS to the government-furnished computers in U.S. Attorneys Offices but stonewalled INSLAW on payment of license fees. Almost immediately after it obtained delivery of VAX PROMIS in late April 1983, Justice covertly gave an unauthorized, copyright-infringing copy to Israeli intelligence.

During the interval between the November 1982 start of Justice's scheme, and the fraudulent April 1983 modification to INSLAW's U.S. Attorneys Contract, Justice sent Rafi Eitan, Director of Israel's LAKAM intelligence agency, to INSLAW's offices in downtown Washington, D.C. for a demonstration of VAX 11/780 PROMIS. At the time, Justice told INSLAW that the Israeli visitor was a prosecutor from the Israeli Ministry of Justice named Dr. Ben-Or, who was heading a project in Israel to computerize its prosecution offices. In February 1983, INSLAW accordingly provided a several-hour-long online demonstration of VAX 11/780 PROMIS to "Dr. Ben-Or" of the Israeli Ministry of Justice.

A decade later, in early 1993, INSLAW discovered the real identity of the February 1983 Israeli visitor to INSLAW: Rafi Eitan, Director of the LAKAM intelligence agency of the Israeli Ministry of Defense.

Based on leads from the House Judiciary Committee's chief INSLAW investigator, and from two investigative reporters in Tel Aviv, INSLAW used a photographic lineup to identify the 1983 visitor: Rafi Eitan. Eitan later confirmed to Gordon Thomas, the British author of a 1999 book on Israel's MOSSAD intelligence agency, that he had taken a taxi from the U.S. Justice Department to INSLAW in February 1983 under the guise of being an Israeli prosecutor named Dr. Ben Or. Gordon Thomas interviewed Eitan for his history of the MOSSAD because Eitan had earlier served, for almost a quarter of a century, as the MOSSAD's deputy director for covert operations.

In early May 1983, Justice covertly gave at least one more version of PROMIS to an Israeli official identified in Justice Department records simply as "Dr. Ben Or," according to the House Judiciary Committee's September 1992 Investigative Report, *The INSLAW Affair*. As noted earlier, President Reagan's Deputy National Security Adviser Robert McFarlane and Earl Brian had reportedly given Rafi Eitan a copy of the IBM mainframe version of PROMIS in 1982 during a meeting in Washington, D.C.

Robert Maxwell, on Behalf of Rafi Eitan, Sold VAX 11/780 PROMIS Back to the United States for the CIA's Nuclear Submarine Intelligence Application, Prompting an Abortive FBI Foreign Counter-Intelligence Investigation During the Summer of 1984.

The official spokesperson for the Naval Sea Systems Command "confirmed that the Navy, since the early 1980s, had used a software program called PROMIS for database management aboard submarines in intelligence gathering and dissemination. … The Navy installed PROMIS aboard attack (SSN) [Sub-Surface Nuclear] and ballistic missile (SSBN) [Sub-Surface Ballistic Nuclear] subs using a VAX 11/780 model 5 computer". … The spokesperson said to "contact the Navy's Undersea Systems Center in Newport, Rhode Island," for more information, according to the December 8, 1995 affidavit to INSLAW by Don Ward, the former *Navy Times* reporter who, at INSLAW's suggestion, asked the spokesperson about PROMIS.

The Navy's Undersea Systems Center in Newport, Rhode Island, the component of the Naval Sea Systems Command responsible for the deployment and support of computer systems on board U.S. nuclear submarines, placed advertisements in the government's *Commerce Business Daily* several times during the 1980s and 1990s (November 5, 1987, June 4, 1990, and June 8, 1990) for a contractor to support the "combat-support PROMIS" system on board the SSN and SSBN nuclear submarines, as well as at its Land-Based Test Facility in Newport. The advertisements stated that the winning contractor would, among other tasks, work on the "combat-support PROMIS" system's "computer-directed firing" of submarine-launched ballistic missiles. As noted earlier, Earl Brian's Hadron, Inc. employed approximately 75 computer systems engineers in Newport, Rhode Island during the first half of the 1980s in support of computer systems on board nuclear submarines.

Before the Navy's Undersea Systems Center could deploy PROMIS "in the early 1980s" on VAX 11/780 computers to all of the Navy's nuclear submarines, the U.S. Government first had to modify PROMIS to track Sonar intelligence information on "threats" from Soviet submarines, and to perform the "computer-directed firing" of submarine-launched ballistic missiles against "threats and targets."

Robert Maxwell, the main distributor of stolen copies of PROMIS for Rafi Eitan and Israel sold VAX 11/780 PROMIS to the two national laboratories in New Mexico to be modified for the submarine intelligence application. Sandia and Los Alamos, the two national laboratories in New Mexico, are both units of the U.S. Department of Energy.

INSLAW received information from an unidentified source in the U.S. Department of Justice, following Robert Maxwell's death in November 1991, that the Justice Department had documentation on two $15 million PROMIS sales in New Mexico by Robert Maxwell; that INSLAW should be able to obtain the documentation under the Freedom of Information Act (FOIA) because Maxwell's death ended the ability of the Justice Department to interpose the Privacy Act as justification for declining to produce the documentation; and that the documentation would put an end to the government's cover up of the INSLAW affair.

In January 1994, INSLAW obtained, in response to its FOIA request for documents about Robert Maxwell's sales of PROMIS in New Mexico, approximately 20 pages relating to an FBI "foreign counter-intelligence investigation," during the summer of 1984, of a "technology transfer" matter involving Robert Maxwell, doing business as Pergamon International. The FBI first heavily redacted the copies of the documentation it produced to INSLAW, citing national security requirements.

According to the un-redacted portions of a June 13, 1984 "AIRTEL" from the FBI's Albuquerque Field Office to FBI Headquarters, two "technology transfer" employees at the Sandia National Laboratory visited the FBI's Albuquerque field office on June 1, 1984 and made a complaint about a possible risk to U.S. national security related to Maxwell's New Mexico PROMIS sales. The two Sandia employees told the FBI they had learned from colleagues at NSA that Maxwell had recently acquired another company, Information-on-Demand, which was selling U.S. Government data to the Soviet Government.

On August 14, 1984, however, the FBI's Albuquerque field office informed FBI Headquarters that on August 13, 1984 "one of the individuals who originally brought this information to the attention of the FBI, and the fact that the NSA might wish to establish liaison with the Bureau in this matter, indicated that he had no further word from NSA." The Albuquerque field office further informed FBI Headquarters that, absent further word from NSA, it was aborting the foreign counter-intelligence investigation it had begun on June 1, 1984: "Until such time as NSA re-establishes contact and expresses further interest in this matter, Albuquerque is taking no further action and this matter is being placed in a closed status."

The FBI field office also told FBI Headquarters that it had advised the Sandia employees as follows: "if NSA has a desire to establish contact with the FBI in this matter, a logical step would be to contact FBIHQ and pursue it through that channel."

The Abortive FBI Counter-Intelligence Investigation in the Summer of 1984 Coincided with Appointment of Top Israeli Nuclear Targeting Expert to Supervise Jonathan Pollard's Acquisition of U.S. Nuclear Targeting Secrets.

Rafi Eitan reportedly appointed Israeli Air Force Colonel Aviem Sella, one of Israel's top experts on the targeting and delivery of nuclear weapons, as the U.S.-based espionage controller for Jonathan Pollard, a civilian intelligence analyst at U.S. Navy Intelligence in Suitland, Maryland who used the computer terminal on his desk to access U.S. intelligence database systems and steal U.S. intelligence secrets for Israel.

During the same summer of 1984 when the FBI aborted its foreign counter-intelligence investigation of Robert Maxwell's PROMIS VAX 11/780 sales in New Mexico, Rafi Eitan assigned Colonel Sella to serve as Pollard's U.S.-based espionage controller, according to an article by Seymour Hersh, entitled "The Traitor," in the January 18, 1999 issue of the *New Yorker Magazine.*

By the Time the FBI Arrested Jonathan Pollard for Espionage in November 1985, Pollard Had Reportedly Acquired the U.S. Navy's Techniques for Tracking Soviet Submarines Together with the U.S. Nuclear Attack Plan Against the Soviet Union.

Hersh reported in the aforementioned *New Yorker* article: "a significant percentage of Pollard's documents, including some that described the techniques the American Navy used to track Soviet submarines around the world, was of practical importance only to the Soviet Union."

Hersh further reported that CIA Director William Casey had revealed to a CIA station chief Hersh later interviewed that Casey felt Israel had betrayed the United States by using Pollard to steal the entire U.S. nuclear attack plan against the Soviet Union: "High-level suspicions about Israeli-Soviet collusion were expressed as early as December 1985, a month after Pollard's arrest, when William J. Casey, the late CIA director, who was known for his close ties to the Israeli leadership, stunned one of his station chiefs by suddenly complaining about the Israelis

breaking the 'ground rules.' The issue arose when Casey urged increased monitoring of the Israelis during an otherwise routine visit. I was told by the station chief, who is now retired; 'He asked if I knew anything about the Pollard case,' the station chief recalled, and he said that Casey had added: 'For your information, the Israelis used Pollard to obtain our attack plan against the U.S.S.R., all of it. The coordinates, the firing locations, the sequences. And for guess who? The Soviets.' Casey had then explained that the Israelis had traded the Pollard data for Soviet emigres. 'How's that for cheating?' he had asked."

Intelligence information about (1) tracking Soviet submarines, and (2) containing the detailed U.S. nuclear attack plan against the Soviet Union, are probable examples of the kinds of data Pollard could have stolen by accessing the "combat-support PROMIS" system on board U.S. nuclear submarines, or the cop2014 y at the Navy's Undersea Systems Center's Land-Based Test facility in Newport, Rhode Island.

The Justice Department Under Attorney General William French Smith Launched its November 1982 Scheme to Steal VAX 11/780 PROMIS, Just Three Months After Completing a Formal Process Confirming INSLAW's Proprietary Rights to PROMIS.

The two court rulings in the late 1980s that the Justice Department, under Attorney General William French Smith, launched a scheme, in November 1982, under which it "took, converted, stole" VAX 11/780 PROMIS "through trickery, fraud, and deceit," were even more shocking for an additional reason: on August 11, 1982, just three months earlier, William French Smith's Deputy Attorney General's office had provided INSLAW a letter the Company had requested confirming the government understood INSLAW's ownership of PROMIS.

The background for that letter is as follows. The principal officers of the Institute for Law and Social Research (INSLAW), the not-for-profit predecessor company to the for-profit INSLAW, Inc., purchased the assets of the Institute, including its PROMIS copyright rights, effective January 1, 1981, after the officers, together with the Institute's independent directors, had concluded the Institute no longer had a viable future. This development was the consequence of Congress' decision in 1980 to liquidate the Justice Department's Law Enforcement Assistance Administration (LEAA), which had financed the Institute's PROMIS development, upkeep, and upgrade work through most of the 1970s.

Before Bill and Nancy Hamilton, the principal owners and officers of INSLAW, Inc., took steps to finance the PROMIS upkeep and upgrade work of the planned successor company, INSLAW's outside counsel, Roderick Hills, contacted the Carter Administration's Deputy Attorney General, Charles Renfrew, in the fall of 1980, to ask whether the government had plans of its own to continue the PROMIS upkeep and upgrade work and, if not, whether it had any objections to the Hamiltons' plan to commercialize PROMIS by investing private funds in the creation of enhancements and marketing the enhanced versions as fee-generating software products.

Hills explained to Deputy Attorney General Renfrew in 1980, ironically in light of what later transpired, that he did not wish to advise Mr. and Mrs. Hamilton to mortgage their home to finance the successor INSLAW, Inc. without first asking whether they might end up competing with some component of the very large U.S. Government with plans of its own for PROMIS. PROMIS' success was well known by then. LEAA had earlier, for example, designated PROMIS as one of its "Exemplary Projects," and Princeton University had earlier awarded a John D. Rockefeller Distinguished Public Service Award to Bill Hamilton and Charles Work, the former prosecutor/customer for PROMIS, for their development of PROMIS. Deputy Attorney

General Renfrew told INSLAW Counsel Hills in the fall of 1980 that the government had no such plans of its own.

During 1981, during its first year of operation, the new for-profit, INSLAW, Inc. invested approximately one million dollars in the creation of enhanced versions of PROMIS, including a new version of PROMIS for VAX 11/780 computers.

In mid-March 1982, INSLAW won a three-year, $10 million competitive Justice Department contract to install, in the 22 largest U.S. Attorneys Offices, a version of PROMIS the predecessor Institute had developed and pilot-tested for the Carter Justice Department in two of the largest U.S. Attorneys Offices on government-furnished PRIME computers. INSLAW disclosed in its March 1982 proposal to the Reagan Justice Department both that it had begun development of privately financed enhancements, and that the government had no license to use them.

INSLAW Counsel Hills and INSLAW President Hamilton each discussed with Reagan Deputy Attorney General Schmults,, approximately two weeks after INSLAW won the contract, INSLAW's request for a letter from the government confirming it understood INSLAW's proprietary rights in PROMIS and that the government had no objection to the Company's plan to begin marketing enhanced versions of PROMIS as fee-generating software products.. Hills provided the government a detailed written history of past federal financial contracts and grants on the development of earlier versions of PROMIS, and offered to have lawyers from his firm conduct answer questions from Justice Department officials on the Hamiltons' plan to develop a new method of financing PROMIS upkeep and upgrade work.

Justice's review process took approximately five months as the result of determined opposition from only one person, C. Madison Brewer, the Government's PROMIS Project Manager, who was Assistant Director of the Executive Office for U.S. Attorneys, the customer entity. Each time INSLAW's lawyers answered one objection, during the spring and summer of 1982, Brewer would voice a new, unrelated objection. Bill Hamilton, successively founder and president of both the Institute and the successor INSLAW, Inc., had discontinued Brewer's employment for cause in the late 1970s when the Institute had employed Brewer.

Justice's later hiring of Brewer as the Government's PROMIS Project Manager was itself puzzling. In the summer of 1981, the Reagan Justice Department internally announced its decision to proceed with a plan career Justice officials had formulated during toward the end of the Carter Administration, for installation of an earlier version of PROMIS in the 22 largest U.S. Attorneys Offices. Justice had earlier pilot tested PROMIS in two of the largest U.S. Attorneys Offices and hired an independent contractor to evaluate its success. The Reagan Justice Department took two unusual personnel actions in mid-1981 when Reagan Deputy Attorney General Schmults announced plans for a new PROMIS project: (1) it forcibly removed the two key PROMIS-related incumbents; and (2) it replaced each of them with persons recruited from the outside. Justice recruited Brewer in August 1981 from the U.S. Attorney's Office in Washington, D.C. to serve as the Government's new PROMIS Project Manager, replacing the incumbent Patricia Goodrich, whom it forced to leave for a position in another part of Justice. Similarly, Justice recruited Peter Videnieks in September 1981 from the U.S. Customs Service to serve as its new PROMIS Contracting Officer, replacing the incumbent Betty Thomas, whom it, likewise, forced to accept another government position. At the time of his recruitment, Videnieks was administering U.S. Customs contracts, including Customs' contracts with Earl Brian's Hadron, Inc.

INSLAW Counsel Hills took steps in the summer of 1982 to end Brewer's ability to continue to hold INSLAW's commercial future hostage. First, he asked the Deputy Attorney General's office to order Brewer's recusal from the review process based on his prior employment at the predecessor Institute, an action the Deputy Attorney General's office took. Secondly, Hills had his firm prepare, and share with Justice's top copyright lawyer, Vito DiPietro of the Civil Division, a legal opinion explaining that INSLAW, as the author of PROMIS, was automatically vested under U.S. Copyright Law with exclusive ownership of key PROMIS copyright rights.

When Justice launched its scheme in November 1982 to attempt to strong-arm INSLAW into delivering VAX 11/780 PROMIS under the U.S. Attorneys contract, INSLAW refused to deliver it without a contract modification to protect the Company's proprietary rights, in keeping with the aforementioned August 11, 1982 "sign-off" letter from the Associate Deputy Attorney General. Brewer and Videnieks both surprisingly insisted, however, that the "sign-off" letter from the office of Justice's Chief Operating Officer did not apply to INSLAW's PROMIS contract with U.S. Attorneys Offices.

Justice's internal procurement counsel eventually intervened and ordered Videnieks to modify the contract, as INSLAW was demanding, before obtaining delivery of VAX 11/780 PROMIS. Justice modified INSLAW's U.S. Attorneys contract in April 1983 to obtain delivery of VAX 11/780 PROMIS based on its written promise to review INSLAW's evidence of the privately financed enhancements and either promptly to return VAX PROMIS to INSLAW or to negotiate payment of license fees.

Justice never intended to abide by that April 1983 contract modification, according to the fully litigated findings of two federal courts in the late 1980s. These courts also severely criticized Brewer and Videnieks for malicious administration of the INSLAW contract. When, for example, INSLAW proposed a written methodology for proving the privately financed enhancements contained within the approximately 500,00 lines of PROMIS software source code, Brewer and Videnieks rejected the proposed methodology while refusing to say what changes would be necessary. The federal bankruptcy court later ruled that Brewer and Videnieks "engaged in an outrageous, deceitful, fraudulent game of cat and mouse, demonstrating contempt for both the rule of law and any principle of fair dealing.' Justice neither returned VAX 11/780 PROMIS to INSLAW nor paid license fees to INSLAW.

A June 1983 Justice document that INSLAW obtained in litigation discovery in 1987 documented the fact that Justice's copyright expert, DiPietro, had agreed with the summer of 1982 legal opinion from INSLAW's outside legal counsel: the June 1, 1983 legal memorandum from DiPietro to Justice's internal procurement counsel stated that INSLAW, under federal copyright law, owns the PROMIS copyright rights, and the government's rights are limited to whatever licenses the government had negotiated in the Data Rights clauses of its PROMIS contracts with INSLAW.

The genesis of the June 1, 1983 internal Justice legal memorandum from DiPietro is as follows. In the spring of 1983, after Justice modified INSLAW's contract to obtain delivery of VAX 11/780 PROMIS, Justice's internal procurement counsel sought DiPietro's copyright law advice in response to pressure from Videnieks and Brewer for authority to force INSLAW to stop placing its PROMIS copyright legends on deliverables under the contract. The federal bankruptcy court forced the government to produce a copy of DiPietro's internal legal memorandum to INSLAW, in response to an INSLAW Motion to Compel Production.

One of the most important exclusive copyright rights owned by INSLAW is the right to modify the copyright-protected PROMIS software to create PROMIS-derivative works. The government never sought or obtained a license from INSLAW to modify PROMIS to create derivative works, as the appellate Review Panel for the U.S. Court of Federal Claims ruled On May 11, 1998: "Thus the license did not grant the government the right to prepare derivative works beyond translation of the PROMIS software." That court has exclusive authority over copyright infringement claims against the federal government.

Each intelligence version of PROMIS, inescapably based on unauthorized modifications to PROMIS, is a copyright-infringing derivative of PROMIS. As a consequence the United States is liable to INSLAW for copyright infringement damages.

Moreover, *willful* copyright infringement is a federal crime, in addition to being a civil tort and, as a consequence, subject to criminal sanctions.

While Casey Bemoaned Israel's "Betrayal," and Meese Prosecuted Pollard as a Nuclear Spy, Meese, the CIA, and Israel Apparently Colluded to Derail INSLAW's Lawsuit Over Justice's Theft of PROMIS.

In October 1986, four months after INSLAW, Inc. filed its lawsuit against the U.S. Department of Justice over the government's April 1983 theft of VAX 11/780 PROMIS, the law firm of Dicksteen, Shapiro and Morin, INSLAW's initial litigation counsel, asked Leigh Ratiner, the partner in charge of INSLAW's case, to leave the firm.

Ratiner immediately informed INSLAW he had been fired, and, moreover, that the firm's Managing Partner told him that Leonard Garment, a Senior Partner, had instigated the firing through the firm's Senior Policy Committee, to which Garment belonged.

Ratiner further told INSLAW he believed, but could not prove, Dicksteen fired him to curry favor with the Meese Justice Department. Garment had represented Meese in 1984 when Independent Counsel Jacob Stein investigated Attorney General-Designate Meese for failure to disclose his financial and business ties to Earl W. Brian on his mandatory White House Financial Disclosure Reports for 1981 and 1982, among other allegations of ethical improprieties by Meese in his capacity as Counselor to President Reagan..

Ratiner also warned INSLAW it needed to find new litigation counsel because Dicksteen could no longer be counted on to help INSLAW win its lawsuit.

Evidence soon emerged that Ratiner's fear was well founded. The Dicksteen lawyers who replaced Ratiner on the INSLAW case sent INSLAW a letter, on January 15, 1987, asserting there was not enough evidence to prove INSLAW's entitlement to PROMIS license fees, and requesting INSLAW's written authorization, by the close of business the same day, to negotiate a settlement with the government whereby INSLAW would drop its demand for PROMIS license fees, and the government would pay INSLAW at least $1 million of the almost $1.8 million owed the Company because of payments withheld on account of so-called contract disputes that arose immediately following INSLAW's delivery of VAX 11/780 PROMIS in April 1983.

Rather than accept Dicksteen's ultimatum, INSLAW retained new litigation counsel in early 1987. McDermott, Will, and Emery, INSLAW's new law firm, proved in two federal courts, the U.S. Bankruptcy Court for the District of Columbia in January 1988 and the federal district court in November 1989, that the government owed INSLAW PROMIS license fees. Each court ruled

that the U.S. Department of Justice "took, converted, stole" VAX 11/780 PROMIS from INSLAW in April 1983 through "trickery, fraud, and deceit;" that the government thereafter attempted "unlawfully and without justification" to force INSLAW out of business so it would be unable to seek redress in court; and that the United States owed INSLAW millions of dollars in license fees for the government's use of a derivative of the VAX 11/780 version of PROMIS in the 44 largest U.S. Attorneys Offices.

Of significant importance, Attorney General Meese replied under oath in the same litigation that he had a "general recollection of a conversation with Leonard Garment in which Mr. Garment mentioned that he had discussed INSLAW with [Meese's Deputy Attorney General] Arnold Burns." Meese did so in late 1987 in response to an interrogatory from INSLAW in federal bankruptcy court that INSLAW had pursued based on Ratiner's leads.

Leonard Garment ignored a letter from INSLAW's new litigation counsel seeking an explanation for his October 1986 INSLAW discussions about the INSLAW case with Attorney General Meese and Deputy Attorney General Arnold Burns, discussions Garment had never disclosed to either Ratiner or INSLAW.

Garment did, however, answer questions in early 1988 from at least two reporters. Garment confirmed to Maggie Mahar, a reporter for *Barron's,* that he and Attorney General Meese had met at the approximate time of Ratiner's October 1986 firing, but Garment insisted the meeting had been about a foreign policy matter about which Garment was about to travel to Israel, rather than about INSLAW as Meese had testified. (Maggie Mahar, *Barron's*, "Rogue Justice: Who and What Were Behind the Vendetta Against INSLAW?" April 4,1988). Barron's quoted Garment as follows: "look – I met with Meese around the date he mentioned, and I discussed with him a matter of foreign policy. I was on my way to Israel …"

Garment separately characterized his October 1986 meeting with Meese to a second reporter, later in the early 1988. The second reporter told INSLAW Garment said the following about his and Meese's October 1986 discussion: "a back channel effort to resolve a foreign policy issue within the jurisdiction of DOJ and in connection with a trip abroad—Israel, Pollard."

Garment's plan to travel to Israel on the Pollard case in October 1986, the month Dicksteen fired INSLAW's lead litigation counsel, would not have been the first time a trip by Garment to Israel on the Pollard case coincided with a development in the INSLAW affair.

In June 1986, the month when INSLAW filed its lawsuit against the U.S. Department of Justice over the theft of PROMIS, Garment reportedly traveled to Israel for consultations on Israeli Air Force Colonel Aviem Sella's role in Pollard's espionage.

Following the FBI's arrest of Pollard in November 1985 for stealing U.S. nuclear targeting secrets for Israel, the Government of Israel reportedly retained Garment to represent Israeli Air Force Colonel Aviem Sella in the Pollard case, with the objective of persuading the Meese Justice Department to abstain from prosecuting Sella, whom Rafi Eitan had appointed in the summer of 1984 to supervise Pollard's computer-based theft of U.S. nuclear targeting secrets. Colonel Sella was reportedly one of Israel's top experts on the targeting and delivery of nuclear weapons.

Nicholas Kulibaba, a free-lance reporter, gave INSLAW the second account of Garment's October 1986 discussions with Meese, immediately after leaving what he said had been a several hour meeting with Garment and another partner at Dicksteen. Kulibaba was interviewing

Garment for an article in *Regardies Magazine* in Washington, D.C. but evidently never completed the article.

For his part, former Deputy Attorney General Arnold Burns later confirmed under oath that his October 1986 discussions with Garment had, in fact, been about INSLAW, as Meese had earlier claimed under oath. Burns told the Senate Permanent Subcommittee on Investigations (Senate Permanent Subcommittee on Investigations, *Staff Study Pertaining to the Department of Justice's Handling of a Contract with INSLAW, Inc.,* September 1988) that he had a "social luncheon" with Garment on October 6, 1986, the week before the law firm's Senior Policy Committee voted to fire Ratiner, and that, during that luncheon, he criticized Ratiner's litigation strategy against the Department of Justice, and "signaled" Garment that a change in that strategy could result in an early, and by implication, favorable settlement of INSLAW's suit.

Burns claimed to Senate investigators that his criticism of Ratiner's litigation strategy had been about Ratiner's alleged practice of trying the INSLAW case in the press. Burns had been much more candid, however, when, on August 29, 1986, Burns had written directly to Ratiner about the need for him to change INSLAW's litigation strategy. Burns wrote that a decision to drop INSLAW's demand for PROMIS license fees could lead to a quick and favorable settlement of the so-called contract disputes, and that INSLAW's PROMIS license fee claims were in his opinion "unjustified and unjustifiable."

The CIA and Israeli intelligence, in October 1986, simultaneously arranged to transfer $600,000 in funds from a CIA-Israeli slush fund, through Earl Brian's Hadron, Inc., to reimburse Dicksteen for its planned severance payments to Ratiner, according to a book published in 1991 by a former Israeli intelligence operative, Ari Ben Menashe (*Profits of War: Inside the Secret U.S.-Israeli Arms Network*): "A few weeks before Ratiner's dismissal, I had seen a cable that came in from the United States. It requested that a $600,000 transfer from the CIA-Israeli slush fund be made to Earl Brian's firm, Hadron, The money, the cable said, was to be transferred to Garment's law firm, Dicksteen, Shapiro, and Morin, to be used to get one of the INSLAW lawyers, Leigh Ratiner, off the case. Ratiner, it seems, was removed for doing too good a job for INSLAW."

These covert actions by the top two officials of the U.S. Department of Justice, in concert with both the CIA and Israeli intelligence, took place less than a year after the FBI's November 1985 arrest of Pollard for what the government has always claimed was one of the most serious cases in the history of espionage against the United States.

While Researching an Article on Nuclear Proliferation, a U.S. Investigative Reporter Told INSLAW a Former Senior NSA Official Raised the INSLAW Affair, Noting the Harm to INSLAW from President Reagan's Order to Attorney General William French Smith to Give PROMIS to Israel.

Investigative reporter, Seymour Hersh, published an article in the June 1994 issue of the *Atlantic Monthly Magazine* ("The Wild East") on nuclear proliferation in the former Soviet Union**.** Hersh telephoned INSLAW in February 1994 stating that one of his sources, whom he described as a former senior NSA official, had brought up the INSLAW affair on his own, stating as follows, in words or substance: *INSLAW was screwed big time but Edwin Meese was not the first Attorney General involved. The first Attorney General involved was Attorney General William French Smith, based on a decision by Ronald Reagan to give the INSLAW software to Israel. Meese was supposed to have settled with INSLAW when he became Attorney General. Every Attorney*

General since William French Smith has lied through his or her teeth about the INSLAW affair to the American people.

Hersh told INSLAW he had been told substantially the same things by another source in 1991, but that neither of his sources was willing to speak on the record, and he was not, therefore, planning to write about it. Later in 1994, Hersh checked with the same former senior NSA source about the intelligence uses of PROMIS INSLAW had learned about through its own sources. According to Hersh, his former senior NSA source stated that INSLAW was "right about everything, including the fact that its software is installed on the nuclear submarines." The source explained, according to Hersh, that the submarine PROMIS was used 'to track noises and sounds on the ocean floor," including, INSLAW presumes, the sounds of Soviet submarines.

During a September 1981 White House Meeting, Israeli Defense Minister Ariel Sharon Reportedly Asked President Reagan for the Same Nuclear Targeting Intelligence Information Sharon Later Ordered Rafi Eitan to "Steal" from United States.

Israeli Prime Minister Menachem Begin and Defense Minister Ariel Sharon came to the Reagan White House in September 1981 to lobby for "a far-reaching agenda for U.S.-Israeli strategic cooperation. Israel would become America's military partner – and military arm – in the Middle East and the Persian Gulf …," "against the threat to peace and security of the region caused by the Soviet Union …." according to Seymour Hersh's 1991 book on Israel's nuclear weapons program (*The Samson Option: Israel's Nuclear Arsenal and American Foreign Policy*).

Hersh wrote that "there was one sure way to meet the new and expanded Soviet threat" increase Israeli reliance on its nuclear arsenal. Nut that could not be accomplished without KH-11 satellite information and other intelligence from the United States."

Ariel Sharon gave a half-hour presentation about how the American and Israeli strategic alliance should be established, according to Hersh, who wrote that "one significant aspect was shared intelligence, including formal Israeli access to the KH-11 satellite, desperately sought by Israel – as most of the Americans at the cabinet-room meeting did not understand – for its nuclear targeting of the Soviet Union."

To make certain that Israel's nuclear-armed F-16 aircraft and Jericho missiles could penetrate Soviet aid defenses and reach targets in the Soviet Union, including military targets and oil fields in southern Russia, according to Hersh, Israel "would need the most advanced American intelligence on weather patterns and communication protocols, as well as data on emergency and alert procedures … American knowledge of the electromagnetic fields that lie between Israel and its main targets in the Soviet Union was also essential to the targeting of the Jericho."

Although President Reagan's reaction to Ariel Sharon's proposal was "not discernible," according to Hersh, other key Reagan national security cabinet officers present at Sharon's presentation in September 1981, including both pro-Israeli Secretary of State Haig and Defense Secretary Weinberger, were depicted to Hersh as aghast at the audacity of the request. Defense Secretary Weinberger "proceeded to 'entangle' Sharon in a negotiation …' "Israel would not get the access it wanted to American satellite intelligence. Sharon was told Israel would not be permitted a receiving station in Tel Aviv for the real-time KH-11 photography."

Ariel Sharon's reaction to the Reagan Administration's reported denial of his September 1981 request was to order Rafi Eitan by the end of 1981 to "steal" the intelligence information, an

assignment Rafi Eitan carried out, according to Hersh, by recruiting Jonathan Pollard for the spying work.

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Shortly after modifying INSLAW's three-year, $10 million PROMIS Implementation Contract with U.S. Attorneys Offices in April 1983 to obtain delivery of VAX PROMIS, even though no U.S. Attorney's Office ever had a VAX computer, Justice covertly gave VAX PROMIS to Israel. Israel immediately sold VAX 11/780 PROMIS back to the United States, allegedly for $30 million, to be modified by the two national nuclear warfare laboratories in New Mexico for the intelligence application on board U.S. nuclear submarines. Once the two national laboratories modified VAX PROMIS and packaged it for transfer to the nuclear submarines, the Navy's Underwater Systems Center in Newport, Rhode Island deployed it to every U.S. nuclear submarine.

Earl Brian's Hadron employed, at the time, approximately 75 computer systems engineers in Newport, Rhode Island under contracts with the Navy to support computer systems on board U.S. nuclear submarines.

The submarine-borne PROMIS intelligence application included tracking Soviet submarines, and computer-directed firing of submarine-launched ballistic missiles against threats and targets, including Soviet submarines, and military and economic targets in the Soviet Union.

Rafi Eitan was simultaneously the partner of the Justice Department and the CIA in the misappropriation of PROMIS and the Israeli spymaster for Jonathan Pollard, the U.S. Navy intelligence analyst who used a computer terminal on his desk at U.S. Navy Intelligence to

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"To my amazement they actually developed this automated program in only 120 days and at a cost of only $2.5 million. It was so advanced over any other program that the Air Force bought it for use in all their attack airplanes.

"At the heart of this system were two powerful computers that detailed every aspect of a mission, upgraded with the latest satellite-acquired intelligence so that the plan routes a pilot around the most dangerous enemy radar and missile locations. When the cassette was loaded into the airplane's system, it permitted "hands-off" flying through all turning points, altitude changes, and airspeed adjustments. Incredibly, the computer program actually turned the fighter at certain angles to maximize its stealthiness to the ground at dangerous moments during a mission, when it would be in range of enemy missiles, and got the pilot over his target after a thousand-mile trip with split-second precision. ..."

access U.S. intelligence database systems and steal U.S. nuclear warfare secrets for Israel. Pollard reportedly stole for Rafi Eitan and Israel U.S. techniques for tracking Soviet submarines, together with the entire U.S. nuclear attack plan against the Soviet Union.

The U.S. Justice Department, as noted earlier, had already been illegally copying other versions of PROMIS before November 1982, when it launched its scheme that month to obtain VAX 11/780 PROMIS, "through trickery, fraud, and deceit," as each of two different federal courts later ruled. The U.S. Justice Department, colluded with Israeli intelligence and the CIA in a covert operation to steal technology from an American software company.

The VAX 11/780 PROMIS theft is documented in detail in separate sections immediately following the section on the overall CIA misappropriation of PROMIS. There are two reasons for this.

First, INSLAW had never licensed VAX 11/780 PROMIS to any government agency when Justice set out to steal it in November 1982 for the CIA's deployment to nuclear submarines. O obtain VAX PROMIS, Justice had to emerge, temporarily, from the shadows of the highly classified but illegal PROMIS-centric intelligence projects. The Justice Department's dissembling about why INSLAW needed to deliver VAX 11/780 PROMIS under its U.S. Attorneys contract, despite the fact that no U.S. Attorney's Office ever had a VAX computer, eventually enabled INSLAW, the courts, and Congress to discover the government's massive misappropriations of PROMIS for intelligence projects.

Secondly, Justice's collusion with the CIA, Israeli Intelligence, and Rafi Eitan in stealing VAX PROMIS for U.S. nuclear submarines, created an incapacitating institutional conflict of interest for the Justice Department's prosecution of the Pollard espionage case. That conflict of interest should have forced Attorney General Meese to recuse the Justice Department from investigation and prosecution of Pollard's espionage for Rafi Eitan, and to request the U.S. Court of Appeals for the District of Columbia to appoint an Independent Counsel.

…

Government investigators of the Iran/Contra scandal in the late 1980s recovered this and other emails from the Reagan NSC's IBM mainframe computer after the Reagan NSC staff had deleted them as part of an attempted cover up of Iran/Contra. The National Security Archives later published a book of these email messages in a book entitled *White House Emails*.

‘’’

DAMAGE IN POLLARD SPY CASE TERMED SERIOUS BLOW TO U.S.

AP
Published: February 19, 1987

- Email
- Print

The secrets provided to Israel by Jonathan Jay Pollard, a former civilian intelligence analyst for the Navy who was convicted of spying for Israel, dealt as serious a blow to national security as any other espionage case in United States history, prosecutors said in court papers released today.

"The breadth and volume of the U.S. classified information sold by defendant to Israel was enormous, as great as in any reported case involving espionage on behalf of any foreign nation," Federal prosecutors said in a 16-page memorandum filed in the Pollard case.

The Government said the damage resulting from Mr. Pollard's spying exceeds that caused by Ronald W. Pelton, a former National Security Agency employee, who was convicted last year of selling classified electronic surveillance secrets to the Soviet Union.

"Pelton compromised specific intelligence-gathering methods in a specific area, and damaged the U.S. position relative to the Soviet Union," the prosecutors said. $500,000 in Payments Expected But they added, "Pollard compromised a breadth and volume of classified information as great as in any reported espionage case and adversely affected U.S. interests vis-a-vis numerous countries, including, potentially, the Soviet Union."

‘’’

A presidential commission declared that Hanssen had perpetrated “the worst intelligence disaster in US history.” In a sentencing memorandum, federal prosecutors described Hanssen’s crimes as “surpassing evil and almost beyond comprehension.”

…

January 30, 1996, Economist Magazine, Mainichi Shimbun Newspaper,, Baeel, Switzerland, “vombat money laundering and other criminal activities, including drug trafficking, securities and banking frauds, and political payoffs,” according to the article.

…

On Feb. 26 he issued a mystifying order: "The undersigned

bankruptcy judge hereby recuses himself from all further

proceedings in this case due to potential conflicts relating

to decisions yet to be rendered."

Last November Chief District Judge Aubrey Robinson held

a hearing. In response to a suggestion that the case be

referred to a bankruptcy judge in Alexandria, Va., he learned

"they wouldn't touch it with a 10-foot pole." In fact,

he said, "nobody wants to touch the case."

As I said, the stench gets worse. To my knowledge Dick Thornburgh

is a good man, but in the Inslaw case he is a good man with

a strong nose.

…
A Review of FBI Security Programs *(Webster Report) (March 2002). Commission for Review of FBI Security Programs, United States Department of Justice.*

On May 10, 2002 he was sentenced to fifteen consecutive sentences of life in prison without the possibility of parole (parole in federal sentencing was abolished by Congress in the 1980s). "I apologize for my behavior. I am shamed by it," Hanssen told U.S. District Judge Claude Hilton. "I have opened the door for calumny against my totally innocent wife and children. I have hurt so many deeply."[49] His wife, along with their six children, received the survivor's part of Hanssen's pension, $38,000 per year.

…
The software was originally intended to be deployed in mid-2004, and was originally intended to be little more than a web front-end to the existing ACS data.

The project was officially abandoned in April 2005, while still in development stage and cost the federal government nearly $170 million.
”,,

2012: The FBI has announced that, after 12 years and $600 million, it has finally abandoned paper records in favor of a computerized system called Sentinel. Resembling a browser, it offers question-and-answer forms, case tracking and an ability to share files across the bureau's network. Assistant director Jeffrey Johnson said that the biggest hurdle was convincing paper-loving agents to get on board, so the system is designed to nag users into adding relevant data that's still extant on dead-trees. With any luck, some enterprising young agent will take advantage of the extensive database to find out the real location of Area 51.

The project started in 2006 with a $451 million budget and, after several delays,[2] it was showcased on March 2012.

…

Zacarias Moussaoui: Some agents worried that his flight training had violent intentions, so the Minnesota bureau tried to get permission (sending over 70 emails in a week) to search his laptop, but they were turned down.[22] FBI agent Coleen Rowley made an explicit request for permission to search Moussaoui's personal rooms. This request was first denied by her superior, Deputy General Counsel Marion "Spike" Bowman, and later rejected based upon FISA regulations (amended after 9/11 by the USA Patriot Act). Several further search attempts similarly failed.

Ahmed Ressam, the captured al-Qaeda Millennium Bomber, was at the time sharing information with the US authorities, in an effort to gain leniency in his sentencing. One person whom he was not asked about until after 9/11, but whom he was able to identify when asked as having trained with him at al-Qaeda's Khalden Camp in Afghanistan, was Moussaoui.[23] The 9/11 Commission Report opined that had Ressam been asked about Moussaoui, he would have broken the FBI's logjam.[23] Had that happened, the Report opined, the U.S. might conceivably have disrupted or derailed the September 11 attacks altogether.[23]

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Friday, May 03, 2002
FOX NEWS

WASHINGTON — In July of last year, two months before the Sept. 11 terror attacks, FBI agents based in Arizona warned headquarters to be wary of Middle Eastern men studying at American flight schools.

Context of 'May 7, 1991: Appeals Court Overturns Rulings in Favor of Inslaw, Finds for Justice Department'

This is a scalable context timeline. It contains events related to the event **May 7, 1991: Appeals Court Overturns Rulings in Favor of Inslaw, Finds for Justice Department**. You can narrow or broaden the context of this timeline by adjusting the zoom level. The lower the scale, the more relevant the items on average will be, while the higher the scale, the less relevant the items, on average, will be.

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Between June 24, 1985 and September 2, 1987: Justice Department Installs Enhanced PROMIS at Attorneys' Offices despite Inslaw Protests

The Justice Department makes enhanced PROMIS software available at multiple locations, outside the framework of its contract with Inslaw on the application's installation and over protests by the company. The software is first installed at 25 US attorneys' offices in addition to 20 still covered by a contract between Inslaw and the department (see Between August 29, 1983 and February 18, 1985). According to Inslaw's counsel Elliot Richardson, an enhanced version of the software is then illegally copied to support an additional two sites. Finally, 31 additional sites are brought on line via telecommunications. These additional, smaller US attorneys' offices had initially been covered by the contract with Inslaw, but this portion of the contract was terminated in 1984 (see February 1984). Inslaw will repeatedly protest about this installation (see March 14, 1986), and a bankruptcy court will find it is in violation of the law (see September 28, 1987), although this ruling will be overturned (see May 7, 1991). *[US Congress, 9/10/1992]*

Entity Tags: Elliot Richardson, US Department of Justice, Inslaw, Inc.

Timeline Tags: Inslaw and PROMIS

September 28, 1987: Bankruptcy Judge Rules Justice Department Obtained Enhanced PROMIS by 'Trickery, Fraud, and Deceit'

Judge George Bason of the Bankruptcy Court for the District of Columbia issues an oral finding that the Justice Department "took, converted, and stole" the enhanced version of Inslaw's PROMIS software by "trickery, fraud, and deceit." The ruling is issued at the end

of a trial that lasts over two weeks and involves sworn statements from over 40 witnesses and thousands of pages of documentary evidence. Bason finds that a key departmental official, project manager C. Madison Brewer, was biased against Inslaw (see April 1982, April 14, 1982, and April 19, 1982). In addition, Brewer's boss Lowell Jensen (see December 29, 1983 and February 1984) is said to have "a previously developed negative attitude about PROMIS and Inslaw," because he had been associated with the development of a rival case management system while he was a district attorney in California, and this affected his judgment throughout his oversight of the contract. Further, the department violated bankruptcy protection legislation that applied to Inslaw by using and exercising control over Inslaw's property —the enhanced PROMIS software—without negotiating a license fee. This oral finding is confirmed in a written opinion issued on January 25, 1988. In the written finding, Bason adds, "[T]his court finds and concludes that the department never intended to meet its commitment and that once the department had received enhanced PROMIS pursuant to Modification 12 (see April 11, 1983), the department thereafter refused to bargain in good faith with Inslaw and instead engaged in an outrageous, deceitful, fraudulent game of 'cat and mouse,' demonstrating contempt for both the law and any principle of fair dealing." *[US Congress, 9/10/1992]*

Entity Tags: US Department of Justice, Lowell Jensen, George Bason, C. Madison "Brick" Brewer, Bankruptcy Court for the District of Columbia, Inslaw, Inc.

Timeline Tags: Inslaw and PROMIS

Between February 2, 1988 and November 22, 1989: Justice Department Appeals Adverse Bankruptcy Court Ruling in Inslaw Case

The Justice Department appeals an adverse ruling by the Bankruptcy Court for the District of Columbia in its dispute with Inslaw (see September 28, 1987). The main grounds of the appeal include the following claims:

- The bankruptcy court judge appeared to be biased and should have recused himself. In addition, he used the bankruptcy proceedings to find culpability by the government;
- Inslaw did not prove that automatic stay protection provisions had been violated;
- The bankruptcy court lacked jurisdiction over Inslaw's claim because the department had not waived its immunity from monetary judgements against the United States;
- The dispute is really a contract dispute, not a bankruptcy argument, and should therefore have been heard by the Department of Transportation Board of Contract Appeals;
- The court exceeded its authority in the field of damages, and no attorney fees should have been awarded.

The appeal court will find for Inslaw (see November 22, 1989), although its ruling will later be overturned (see May 7, 1991). *[US Congress, 9/10/1992]*

Entity Tags: US District Court for the District of Columbia, Inslaw,

Inc., US Department of Justice

Timeline Tags: Inslaw and PROMIS

November 22, 1989: District Court Upholds Bankruptcy Court Ruling in Favor of Inslaw

The US District Court for the District of Columbia upholds a bankruptcy court ruling in favor of Inslaw. The ruling concerned the dispute over the PROMIS software between Inslaw and the Justice Department, which was found to have violated bankruptcy protection provisions (see September 28, 1987 and February 2, 1988), but had appealed (see Between February 2, 1988 and November 22, 1989). Judge William Bryant finds that the department knew an enhanced version of PROMIS was Inslaw's central asset, that ownership of the software was critical to the company's reorganization in Chapter 11 bankruptcy, and that the department's unilateral claim of ownership and its installation of the enhanced version in offices around the United States violated automatic stay bankruptcy provisions in multiple ways. In addition, Bryant agrees with the bankruptcy court's conclusion that the department never had any rights to the enhanced version and that "the government acted willfully and fraudulently to obtain property that it was not entitled to under the contract." In addition, when Inslaw suggested mechanisms to determine whether the private enhancements had been made, the government rejected them, and "when asked to provide an alternative methodology that would be acceptable, the government declined." The department could have used established procedures to get relief from the automatic stay provisions, but simply chose not to do so. Bryant, who also finds that the department tried to convert Inslaw's bankruptcy to Chapter 7 liquidation, adds, "What is strikingly apparent from the testimony and depositions of key witnesses and many documents is that Inslaw performed its contract in a hostile environment that extended from the higher echelons of the Justice Department to the officials who had the day-to-day responsibility for supervising its work." Finally, Bryant finds that, as the case was grounded in bankruptcy law, the bankruptcy court was an appropriate forum to hear the dispute and it did not have to be submitted to the Department of Transportation Board of Contract Appeals, an arena for contract disputes. Although most of the damages awarded are upheld, as Bryant finds the bankruptcy court assessed damages based on the evidence it obtained, he reduces compensatory damages by $655,200.88. *[US Congress, 9/10/1992]*

Entity Tags: William Bryant, US Department of Justice, Inslaw, Inc., US District Court for the District of Columbia

Timeline Tags: Inslaw and PROMIS

October 12, 1990: Justice Department Again Appeals Adverse Ruling in PROMIS Case

The US Justice Department appeals an adverse decision of the US District Court for the District of Columbia in the dispute with Inslaw over the alleged theft of the enhanced PROMIS application (see

November 22, 1989). The department raises some of the same issues previously raised in its appeal of a bankruptcy court ruling to the District Court and requests a reversal on the basis of the facts found in the bankruptcy court, which it says made "clear errors." In addition, it argues:

- That its use of enhanced PROMIS did not violate automatic stay bankruptcy protection, so the argument should not have been in the bankruptcy court, but before the Department of Transportation Board of Contract Appeals under the Contract Disputes Act;
- That since no motion was filed to convert Inslaw from a chapter 11 bankruptcy to a chapter 7, there was no violation of the automatic stay protection in this respect;
- That the department has not filed a claim, so it is still entitled to sovereign immunity; and
- That damage awards for violation of the automatic stay can only be paid to individuals, not corporations.

The department will be successful and the District Court ruling will be overturned (see May 7, 1991). *[US Congress, 9/10/1992]*

Entity Tags: US Department of Justice, Inslaw, Inc., US Court of Appeals for the District of Columbia

Timeline Tags: Inslaw and PROMIS

May 7, 1991: Appeals Court Overturns Rulings in Favor of Inslaw, Finds for Justice Department

The US Court of Appeals for the District of Columbia reverses two rulings in favor of Inslaw in the dispute over enhanced PROMIS software, following an appeal by the Justice Department (see October 12, 1990). The rulings had been issued by Bankruptcy Court for the District of Columbia (see September 28, 1987) and the US District Court for the District of Columbia (see November 22, 1989). The reversal is granted on what a House Judiciary Committee report favorable to Inslaw will call "primarily jurisdictional grounds." The appeal court says the bankruptcy court was the wrong place to litigate the issues it decided and, in any case, the department has not violated automatic stay bankruptcy provisions. However, the appeal court notes that both lower courts found that the department had "fraudulently obtained and then converted Enhanced PROMIS to its own use," and that "such conduct, if it occurred, is inexcusable." *[US Congress, 9/10/1992]*

Entity Tags: House Judiciary Committee, Inslaw, Inc., US Court of Appeals for the District of Columbia, US Department of Justice

Timeline Tags: Inslaw and PROMIS

October 9, 1991: Inslaw Files Application for Hearing by Supreme Court in PROMIS Case

Following an adverse ruling in an appeals court, Inslaw files an appeal for a writ of certiorari to the Supreme Court. If the writ were granted, it would mean the Supreme Court agreed to hear a further appeal in the

case. The appeals court had reversed bankruptcy and district court rulings favorable to Inslaw in its dispute with the Justice Department over the enhanced PROMIS software (see September 28, 1987, November 22, 1989, and May 7, 1991). The application will be denied (see January 13, 1992). *[US Congress, 9/10/1992]*

Entity Tags: Inslaw, Inc., US Supreme Court, US Department of Justice

Timeline Tags: Inslaw and PROMIS

November 13, 1991: Judge Says Findings of Fact in PROMIS Case Have Left 'Cloud' over Justice Department

A judge hearing the PROMIS case for the Department of Transportation Board of Contract Appeals (DOTBCA) says that findings by the Bankruptcy Court for the District of Columbia and the US District Court for the District of Columbia have left a "cloud" over the Justice Department. The two courts originally found for Inslaw (see September 28, 1987 and November 22, 1989), which is in dispute with the department over an enhanced version of the PROMIS software, but these rulings were overturned on appeal, mostly on jurisdictional grounds (see May 7, 1991). At a hearing, counsel for the department says, "I think those trials speak for themselves, and every order has been vacated." However, the judge responds: "There is one problem. The fact that a judge or a court doesn't have jurisdiction doesn't mean that the court is completely ignorant. True, Mr. Bason [the bankruptcy court judge] and Mr. Bryant [the judge that heard the initial appeal] did not have jurisdiction, but they did make some very serious findings on the basis of sworn testimony. They had been truly vacated, and it may be that all the statutes to run have run and they can't go anywhere. Those cases may be dead forever. But it has left a cloud over the respondent [the department]." The House Judiciary Committee will comment: "As the DOTBCA judge concluded, there definitely remains a cloud over the department's handling of Inslaw's proprietary software. Department officials should not be allowed to avoid accountability through a technicality or a jurisdiction ruling by the Appeals Court." *[US Congress, 9/10/1992]*

Entity Tags: Department of Transportation Board of Contract Appeals, House Judiciary Committee, Inslaw, Inc., US Department of Justice

Timeline Tags: Inslaw and PROMIS

January 13, 1992: Supreme Court Denies Inslaw Leave to Appeal

The US Supreme Court denies an application for a writ of certiorari made by Inslaw, meaning that the court will not hear its case. The application had been filed the previous year (see October 9, 1991), as Inslaw wanted to overturn an adverse ruling by an appeals court in its dispute with the Justice Department over the alleged theft of enhanced

PROMIS software (see May 7, 1991). *[US Congress, 9/10/1992]*

Entity Tags: Inslaw, Inc., US Supreme Court, US Department of Justice

Timeline Tags: Inslaw and PROMIS

Oversight failures in the INSLAW affair resulted to serious harm to U.S. national security as the result of espionage against the United States carried out by individuals involved in the PROMIS scandal, including Rafi Eitan, the Israeli spymaster for Jonathan Pollard's computer-based theft of U.S. nuclear targeting secrets, and Robert Hanssen, the FBI agent who used the PROMIS-derivative FBI case management system to steal U.S. secrets for the Soviet Union and Russia between its inception within the FBI in 1985 and the FBI's arrest of Hanssen for espionage in February 2001.

Oversight failures in the INSLAW affair also resulted in harm to U.S. national security as the result of costly and dangerous delays in upgrading FBI and U.S. intelligence database systems following the intelligence failures on September 11, 2001. U.S. intelligence database systems, many of which were based on stolen copies of the 1980s generation of PROMIS, should have been upgraded prior to 2001 to take advantage of important advances in computing technology in the mid-1990s, especially the point-and-click graphical user interface that made possible dramatic improvements in the ease of use of online computer systems. Those kinds of software upgrades are typically available from the vendor that manufactures the software unless, of course, the software, as in the case of PROMIS, was stolen. Notwithstanding the urgency of the need in the immediate wake of the terrorist attacks, the Ashcroft Justice Department stonewalled oral and written software upgrade proposals from INSLAW's outside counsel, C. Boyden Gray. Gray made INSLAW's proposals directly to FBI Director Robert Mueller and Deputy Attorney General Larry Thompson, in December 2001 and January 2002, respectively, to upgrade the FBI and other U.S. intelligence community agencies from their copies of the stolen 1980s generation of the PROMIS software to the completely rewritten, but already fully tested and debugged, native, point-and-click graphical user interface generation of PROMIS. Gray made INSLAW's proposals after large public and private sector customers of INSLAW had already successfully completed the very same kind of PROMIS upgrades, and had also successfully converted their historical data from the old generation to the new generation of PROMIS.

Approximately two weeks before Buckley and his colleagues issued their decision, the top three lawyers of the National Security Agency had traveled from NSA headquarters at Ft. Meade, Maryland to a hotel in downtown, Washington, D.C. to hear Bill Hamilton=s luncheon address to the 20th Anniversary meeting of the nationwide Computer Law Association. NSA=s General Counsel Richard S. Surrey and two NSA Associate General Counsel, Robert N. Fielding and George B. Prettyman, registered for the two day conference on April 22 and 23, 1991 but attended only the luncheon address by Bill Hamilton. In the luncheon address, Hamilton explained that INSLAW had just begun to obtain information and affidavits indicating that the Justice Department=s misappropriation of the VAX version of PROMIS had been part of a U.S. intelligence operation to penetrate the intelligence and law enforcement databases of foreign governments. Hamilton did not then know about NSA=s use of the VAX version of PROMIS in the even more sensitive Follow the Money SIGINT penetration of banks or

about the apparently related NSA use of the VAX version of PROMIS to track the production of integrated circuits.

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FBI Director Mueller may have had reason for his expression of confidence that there was no longer any of INSLAW's software left at the FBI by the time of his December 2001 meeting with INSLAW Counsel Boyden Gray, because the FBI, under his predecessor, Louis Freeh, had taken the extreme measure in 1996 to disguise the PROMIS origins of the FBI's FOIMS case management software by converting it from the computer programming language in which INSLAW had written PROMIS, to the proprietary language of its contractor.

When the U.S. Court of Federal Claims ordered the FBI to produce a copy of the FBI's FOIMS case management software in January 1996, from as close as possible to the year of FOIMS' introduction at the FBI in 1985, for line-by-line comparison with PROMIS by court-appointed software experts, the FBI delayed production of the FOIMS software source code for half a year, attributing the unusual delay in executing a court order the FBI having to process security clearances for the outside software experts.

An FBI contractor, Software AG in Reston, Virginia, spent the first half of 1996 converting FOIMS from the COBOL computer programming language, in which INSLAW had written PROMIS, to Software AG's own proprietary computer programming language, known as NATURAL.

The conversion automatically shrank the number of lines of FOIMS source code by approximately 90%, destroying the probative value of the court-ordered line-by-line comparison with PROMIS.

A German investigative reporter, Egmont Koch, while preparing an article in 1996 for *Der Spiegel Magazine* on the U.S. Government's theft of PROMIS for intelligence projects, obtained from Software AG's German parent company a copy of a May 1996 email message from its Reston, Virginia subsidiary confirming the reporter's lead about the subsidiary's recent conversion of one of the unauthorized U.S. intelligence versions of PROMIS. The email message stated, in part, as follows: "Press Q.[Query] on PROMIS: To answer your questions, I would say 1. Yes. Our Federal Professional Service group is in the process of conversing [SIC] Promis from Cobol to ADABAS/Natural and has just started doing the final testing. So the software is not in use anywhere right now; it's just now getting up and running in the test phase. …" The Reston subsidiary thereafter ignored requests from the German reporter as well as from INSLAW's litigation counsel to identify its federal government customer. However, a decade later, in 2006, a retired senior counsel from the subsidiary confirmed to INSLAW that the customer had been the FBI.

The FBI produced in the second half of 1996 what it claimed was the 1996 version of "FOIMS," which was written in NATURAL, and informed the Court of Federal Claims for the first time since the issuance of its January 1996 court order that the FBI had never even retained copies of the first 11 years of FOIMS (1985 through 1995). The outside software experts, after completing their comparison of the 1996 NATURAL-language version of FOIMS to PROMIS, reported to the court that they had found similarities in structure and functions but no concordances between the software source codes.

Later, however, the FBI re-christened the NATURAL version of its case management software from FOIMS to ACS, and backdated introduction of the NATURAL=language version of the FBI's case management software to October 1995, evidently in an effort to obfuscate the connection between the conversion of PROMIS and obstruction of the January 1996 federal court order.

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> ...A year after the stealth fighter became operational, two computer wizards who worked in our threat analysis section came to me with a fascinating proposition: ABen, why don=t we make the stealth fighter automated from takeoff to attack and return? We can plan the entire mission on computers, transfer it onto a cassette that the pilot loads into his onboard computers, that will route him to the target and back and leave all the driving to us.
>
> To my amazement they actually developed this automated program in only 120 days and at a cost of only $2.5 million. It was so advanced over any other program that the Air Force bought it for use in all their attack airplanes.
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> …

In September 1989, the Senate Permanent Subcommittee on Investigations reported that its investigation into the INSLAW case had been **"hampered by the Department's lack of cooperation"** and that it had found Justice Department employees **"who desired to speak to the subcommittee but who chose not to out of fear for their jobs."**

> At the heart of this system were two powerful computers that detailed every aspect of a mission, upgraded with the latest satellite-acquired intelligence so that the plan routes a pilot around the most dangerous enemy radar and missile locations. When the cassette was loaded into the airplane=s system, it permitted Ahands-off@ flying through all turning points, altitude changes, and airspeed adjustments. Incredibly, the computer program actually turned the fighter at certain angles to maximize its stealthiness to the ground at dangerous moments during a mission, when it would be in range of enemy missiles, and got the pilot over his target after a thousand-mile trip with split-second precision. Once over the target, a pilot could override the computers, take control, and guide his two bombs to target by infrared video imagery. Otherwise, our autopiloted computer was programmed even to drop his bombs for him.
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> …

As agreed Messrs. Manichur Ghorbanifar, Adnan Khashoggi, and Richard Armitage will broker the transaction of Promise [sic] software to Sheik Klahid bin Mahfouz for resale and general distribution as gifts in his region contingent upon the three conditions we spoke of. Promise must have a soft arrival. No paperwork, customs or delay. It must be equipped with the special data retrieval unit. As before, you must walk the financial aspects through Credit Suisse into National Commercial Bank. If you encounter any problems contact me directly.

May 16, 1985

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Chief Judge Marvin E. Aspen of the U.S. District Court in Chicago, where the Bua grand jury met, agreed in 1996, based on a motion from INSLAW, to release to Judge Christine Miller of the U.S. Court of Federal Claims, for *in camera* review, testimony before the federal grand jury that the Clinton Justice Department had deleted from the Bua Report. The Chief Judge offered to make the evidence available so that Judge Miller could make a determination about whether INSLAW had a Aparticularized need@ for access to the testimony in order to have fair consideration of its claims. In an order dated February 20, 1997, Judge Christine Miller of the U.S. Court of Federal Claims declined to make a determination that there was Aa particularized need.@ Judge Miller stated in her order that the U.S. Court of Federal Claims Amay not be the appropriate forum to review the documents before the district court makes the initial determination called for by Fed. R. Crim. P. 6(e)(3)(E).@

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CIA Director William Casey is quoted by Bob Woodward in his book, *Veil,* as claiming that one of his proudest achievements as CIA Director was the “ penetration of the international banking system, allowing a steady flow of data from the real, secret set of books kept by many foreign banks.”

CIA Director William Casey viewed the interdiction of illicit technology transfers to the Soviet Union as one of the important successes of his tenure as CIA Director, according to

Bob Woodward's book, *Veil*: "For the first time, real attention had been paid to technology transfers by the hundreds of Soviet-inspired or Soviet-backed trading companies set up to circumvent the law and buy high technology equipment and plans."

Casey obtained approval from Reagan in 1983 to establish at CIA Headquarters in Langley, Virginia an entity known as the Technology Transfer Intelligence Committee whose sole purpose, according to *Victory*, was to track Soviet bloc technology acquisitions. As many as 22 federal agencies contributed manpower and other resources to this CIA-backed interagency Committee, according to *Victory*.

Improved tracking of Soviet submarines was one of the significant U.S. intelligence successes that CIA Director William Casey claimed for his tenure as CIA Director, according to Woodward's book, *Veil*: "Overall surveillance of the Soviet Union was improved. There were better techniques to monitor its ballistic-missile submarines."

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One apparent example of the scope of cooperation contemplated in the Wigg memorandum for joint efforts by U.S. and European governments in the SIGINT penetration of the banking industry was the implementation of PROMIS in the Bank of International Settlements in Basel, Switzerland. Such an implementation is alleged in an article in the January 30, 1996 issue of Mainichi Shimbun=s Japanese-language magazine, *Economist*. The Bank of International Settlements, often referred to as the central banks= central bank, produced the information on Soviet hard currency earnings on which the United States relied in the Reagan Administration=s economic warfare against the Soviet Union, according to Peter Schweizer=s *Victory*. The author of the Japanese article is Tsurumi Yoshihiro, a Professor of International Finance at the City University of New York. The banking industry version of PROMIS was also used in 1991 in the investigation of BCCI money laundering and political pay-offs, and later on in investigations of the Clinton Administration=s Whitewater and Madison Guaranty savings and loan scandal, according to the article. The following is an English-language translation of pertinent paragraphs of the Japanese-language article, whose overall focus was U.S. Government efforts to prevent Mafia influence in the economy:

PROMIS has been used since 1981 to track money flows in the New York financial markets and by CIA Ahackers@ secretly to keep track of transactions by banks and enterprises that have caught their attention. Originally PROMIS software was used by the U.S., Europe and Israel to counter terrorists and later was put to use against the Mafia and other international criminal groups engaged in drug trafficking, money laundering, etc. The system is now in use by the Bank for International Settlements in Basel in cooperation with the U.S. and European governments to protect the international financial system from criminal influence. Such surveillance led to discovery of Nomura Securities capital ratio problems and the Daiwa Bank scandal in the New York market.

PROMIS was used in 1991 in connection with the investigation of BCCI money laundering and political pay-offs. And it has come into play again in connection with the investigation of the Clintons' Whitewater involvement, the strange death of Vincent Foster and the Mafia money laundering by Madison Guaranty.

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Also during 1983, I.P. Sharp collaborated with Hadron, Inc., a U.S. intelligence contractor in Northern Virginia then controlled by Earl Brian, on a large sale of computer software to the Government of Canada, according to tape-recorded interviews of several individuals including D. George Davis, who was Hadron=s Vice President of Sales in 1983 and Paul Wormeli, who was a Hadron law enforcement software executive in 1983. The interviews were conducted by John Belton, a former stockbroker in Canada who is suing Earl Brian and others in the Canadian courts for securities fraud in the early 1980's connected to Hadron and other publicly trusted companies then controlled by Brian. Belton, who memorialized verbatim excerpts of the telephone interviews in a memorandum to INSLAW dated June 10, 1993, quotes Davis as denying any personal involvement in the software sale to the Government of Canada but as volunteering that both Earl Brian and Edwin Meese had been involved. Others, including Wormeli, told Belton that Hadron liaised with I.P. Sharp of Toronto and System House of Ottawa on the sale of the software to the Government of Canada and that Davis had resigned as Hadron=s Vice President for Sales in 1983 after being deprived improperly by Hadron of the payment of a large commission he had earned on this software sale to the Government of Canada. PIRS was expected to support 835 interactive terminals by Fiscal Year 1987-1988, according to a 1985 report by Canada=s Treasury Board. By January 1991, the RCMP

3. The Cabazon Band of Indians are a sovereign nation. The sovereign immunity that is accorded the Cabazons as a consequence of this fact made it feasible to pursue on the reservation the development and/or manufacture of materials whose development or manufacture would be subject to stringent controls off the reservation

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