

# The INSLAW affair

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## Introduction

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This paper focuses on fraud in government pertaining to computer software acquisition and redistribution. The case centers on the allegations of a software company called INSLAW<sup>1</sup> against the Justice Department of America (DOJ). The case was significant enough to warrant an investigative report by the Committee on the Judiciary for the House of Representatives to be presented to Congress. The final outcome of this twelve year battle ended with the DOJ being exonerated of all charges. However, there are many questions left unanswered about the conduct and the purpose of the actions of the DOJ. Many investigative journalists have probed for information that would clarify the involvement of the DOJ, and other intelligence agencies, in the illegal redistribution of the INSLAW software internationally. The most damning of the allegation was that the software had been modified by the DOJ to include a Trojan Horse subroutine that would allow access to the intelligence agencies of America into foreign Government information systems. In the scope of computer fraud this case, even though inconclusive, sheds light into the calculated misdeeds of Governments. The following paper is based on information collected for the official documents published by the Committee on the Judiciary for the House of Representatives<sup>2</sup> and various articles written by systems security experts.

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During the 70's the Department of Justice of the United States of America pursued various avenues to standardize management information systems. The goal of this search was to assist law enforcement offices across the country in the recordkeeping and tracking of criminal cases. To this end, the Law Enforcement Assistance Administration (LEAA) funded the development of the Prosecutors

Management Information System or PROMIS. The design of the software was initially undertaken on a nonprofit basis by INSLAW, a corporation funded almost entirely through Government grants and contracts. During the Carter administration LEAA was terminated. Subsequently INSLAW became a for-profit corporation commercially marketing PROMIS. The new corporation made several significant improvements to the original PROMIS software which later became known as Enhanced PROMIS.

In March 1982, the DOJ awarded INSLAW with a ten million dollar three year contract to supply and implement the original public domain version of PROMIS at 94 U.S attorney's offices. The contract quickly became embroiled in bitterness over the ownership of the privately funded Enhanced PROMIS software. The DOJ claimed they had unlimited rights to the software even after a contractual modification in 1983. All attempts by INSLAW to resolve the matter were met with hostility by the DOJ. Eventually the DOJ canceled part of the contract and withheld at least \$1.6 million in payments to INSLAW. As a result the company was on the brink of insolvency and was threatened by dissolution. The DOJ claimed that the case was a contractual disagreement that had been blown out of proportion, while the owners of INSLAW persisted with their belief that there was a high level conspiracy by the DOJ to steal the PROMIS software.

The allegations made by the proprietors of INSLAW centered on their belief that the contractual disagreement was intentionally concocted by the DOJ to force the company into bankruptcy. The investigation discovered high level officials including Edwin Meese and Attorney General Lowell Jensen were involved with these decisions. The insolvency of INSLAW would have forced the sale of all its assets, including Enhanced PROMIS to a rival computer company called *Hadron Inc.* The owner of Hadron Inc. was a Dr E. Brown who had previously worked with Attorney General Meese in the cabinet of the Governor of California Ronald Reagan. The ultimate goal of the conspiracy was to position Hadron and other companies owned by Dr. Brown to utilize the \$3 millions worth of automated data processing upgrade contracts planned by the DOJ.

Several sworn affidavits were obtained by the owner of INSLAW attesting to the fact that the Enhanced PROMIS software was criminally acquired by Dr. Brain for modification of the program for use in covert intelligence. Two of the sources for these affidavits came from Ari Ben-Menashe a former Mossad officer and Michele Riconosciuto who has links with covert intelligence agencies and allegedly programmed the Trojan Horse subroutine<sup>3</sup>. The software was modified to incorporate a Trojan Horse subroutine that could be used by U.S intelligence agencies to open a backdoor into the systems when required. Subsequently the software was distributed to several federal agencies, including the FBI, CIA and the DEA. Later the software was sold internationally to 88 different countries, according to Riconosciuto these countries included Iraq and Libya.

In 1986, INSLAW filed a law suit against the DOJ. A year later, the Bankruptcy Court ruled that the DOJ had stolen the Enhanced PROMIS software through "trickery, fraud and deceit"<sup>4</sup> and further attempted to cause the liquidation of

INSLAW. In 1989, Senior U.S District Judge W. Bryant upheld the \$8 million judgment, made by Bankruptcy Court, against the DOJ. He ruled that even the uncontested evidence virtually compelled the findings of the Bankruptcy Court “under any standard review”. He added:

The Government accuses the bankruptcy court of looking beyond the bankruptcy proceedings to find culpability by the Government. 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.* [emphasis added]

However, these rulings were overturned on narrow jurisdictional grounds in the Court of Appeals in 1991. The Court did not disturb any of the 399 findings of fact about the DOJ’s malfeasance against INSLAW. In 1992, the U.S Supreme Court of Appeals declined INSLAW a hearing on the decisions made by the U.S Court of Appeals.

On September 10, 1992, the Committee on the Judiciary of the House of Representatives concluded a three year investigation into allegations of a high level government conspiracy to pervert the course of justice. The findings of the committee corroborated the rulings of the two lower federal courts. It believed that the INSLAW software was stolen by the DOJ and that the plans to harm INSLAW had began no later than the first month of the three year contract. According to evidence uncovered by the committee these plans were masterminded by the highest-ranking officials of the Justice Department. Further evidence was found that corroborated the testimony of the former covert intelligence agents. The private sector associates of the leadership of the DOJ illegally sold PROMIS software domestically and internationally. The software was sold to intelligence agencies around the world for financial gain and to further the intelligence and foreign policy objectives of the United States. The committee concluded that the conduct of the DOJ “clearly raises the specter that the Departments actions taken against INSLAW in this matter represents an abuse of power of shameful proportions”.

The committee also probed allegations by newspaper journalist that the suicide of an investigative reporter, Mr. D. Casolaro was connected to the INSLAW affair. The lifeless body of Mr. Casolaro was found in a hotel. He lay in a bathtub with each of his wrists slashed seven times. He had just completed a manuscript of the INSLAW affair and had told his family that he would be traveling to Martinsburg to obtain the final crucial piece of evidence for his book. Mr. Casolaro met his death in Martinsburg and the manuscript of his book had vanished. The case was judged as suicide. After much campaigning by Mr. Casolaro’s brother the case was reopened, but the second verdict remained suicide. The committee believes that there is a link between Casolaro’s death and the INSLAW affair.

Throughout the whole investigation the DOJ were either reluctant to pass information over to the Committee or blatantly ignored requests. Consequently, there were no charges brought against Mr. Meese, Dr. Brian or any of the other high ranking officials accused of conspiring to cause the bankruptcy of INSLAW.

However, there is no dispute that the DOJ acted in bad faith and with hidden agendas.

## Conclusion

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Although this case may echo the makings of a box office hit worthy of the direction of Oliver Stone, all that has been included in this paper is fact. The obvious sensationalism associated with the wrongdoing of the US Government departments is incidental. The key issue here is the illegal vending of adulterated software by the DOJ to foreign countries with the intention of breaking into their computer systems through Trojan Horse subroutines. This would obviously constitute a severe breach of security for the Foreign Governments concerned. If at any point the US intelligence agencies had entered these computer system through PROMIS they would be able to access very important legal information stored in this program. But more importantly they would create an excellent opportunity to infiltrate other sensitive sections of their systems. The American Government could then change their foreign policy objective accordingly.

The second security issue is that of software piracy. The Enhanced version of the PROMIS software was undoubtedly the property of INSLAW. The court cases ruled that the software was redistributed to many installations locally and internationally without the permission of INSLAW. However, there were no charges brought against the US Government on narrow jurisdictional grounds.

There have been many conspiracy theories since the hearings, some with substantial evidence and others pure conjecture. There are many other conflicting statements given by officials of the DOJ which have not been include because they are beyond the scope of this paper. For instance there were several recantations of sworn depositions by officials, including a Supreme Court Judge, that have given the case a whole new dimension. This is one of many complications set in the path of the Committee that investigated the behavior of the DOJ towards INSLAW.

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<sup>1</sup> INSLAW, Inc is a Washington,DC, based software company engaged in computer software and systems analysis, particularly case management and decision support applications for legal and criminal justice oriented organizations.

<sup>2</sup> Union Calendar No. 491, House Report 102-857, The INSLAW affair, September 10, 1992, US Government Printing Office, Washington.

<sup>3</sup> Colin Brown, "Spies, Lies and Inslawgate", and "CIA Computer Consultant Alleges Massive Conspiracy", TC Technical Consultant, August-September 1192, pp.6, 10, 11, and 13.

<sup>4</sup> INSLAW, Inc, vs United States, 83 B.R 89 (Bankruptcy District Court 1988) at 158 (Findings 399).